

## **Fired for Being too Attractive**

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“Boy, they sure never taught us about anything like this in dental school,” Dr. James Knight thought as he sat in his office looking at the letter from the Iowa Civil Rights Commission (ICRC) which contained a “Notice of Intent to Sue”. His former dental assistant, Melissa Nelson, had filed charges of gender discrimination against him, alleging that her termination of employment was on the basis of her gender. “How had it all come to this?” he wondered. He knew from earlier discussions with his attorney that if the Commission’s investigation found probable cause (that discrimination probably occurred) that he would then receive the letter he did. This meant she could file a suit in an Iowa District court.

He reflected back to when he first learned that Nelson had filed a complaint. At that time, Dr. Knight thought the whole thing was a bad joke and that Nelson had gone too far. He felt he had done the right thing for her and her family as well as his own. “Besides” he pondered, “Iowa is an employment-at-will state and you can fire anybody, any time, and for any reason.” That aside, Knight still felt as he did before that Nelson knew darned well that he didn’t discriminate against her because she was a woman. “Why would she think that when all of my other employees, including my wife and the person I hired to replace Nelson are women? How could her discharge be considered illegal? She knew I had to fire her because it was her or my wife. There was nothing else I could do and it was probably the best thing for her to find a job somewhere else before things went too far between us. After all, she is married with two kids. Well, I guess I had better not waste any time and let my attorney know about the Commission’s findings and figure out if and how we can win this thing.”

### **Background**

Dr. Knight, a Fort Dodge, Iowa dentist, owned his own dental practice. His practice was not large, typically employing 8 or 9 full-time workers, including his wife who served as the Office Manager, a few dental hygienists, a couple of dental technicians, and two dental assistants. Dr. Knight considered himself to be a religious and moral person so the claim made against him was particularly disturbing (MailOnline, 2012).

Melissa Nelson had always wanted to be a dental assistant and she wanted to work for Dr. Knight’s office, so she had job shadowed there and everything fell into place for the twenty-two

year old Nelson. After completing her dental assistant degree at a local community college she was hired by Dr. Knight (Strauss, 2013, p. 1).

Nelson proved to be a very good worker and Dr. Knight considered her to be the best dental assistant he ever had. She loved her job and worked side-by-side with Dr. Knight eight hours a day for the ten years she worked there. She felt “it was a fun working environment” and she viewed Dr. Knight as a “father figure and mentor” (Strauss, 2013, p. 2) and “she believed him to be a person of high integrity” (*Nelson vs. Knight*, 2012, p. 2). Dr. Knight was 21 years her senior.

Nelson knew that she had a closer relationship with Dr. Knight than he had with his other employees and she was aware that one of her coworkers was jealous of the relationship that she had with Dr. Knight. After a frustrating incident with this worker, Nelson texted Dr. Knight informing him that the only reason she continued to work at his dental office was because of him (*Nelson vs. Knight*, 2013, p. 26).

Over the course of the last year and a half of her employment, Nelson noticed a general change in Dr. Knight’s appearance and behavior. He had begun to work out, appeared more confident and outgoing, and he was photographed proudly displaying a large tattoo on his upper arm. Nelson concluded he was going through some kind of a “midlife crisis” (Strauss, 2013, p. 3).

It was during this period that he began to complain about her attire. He informed her that she was dressing too provocatively and that she was wearing tighter and more revealing clothing. He told her this disturbed him and at times it became a distraction and made it more difficult for him to focus on his clients. On more than one occasion he had asked her to put on her lab coat so he could focus on his work. “I don’t think it is good for me to see you wearing things that accentuate your body” he told her. She claimed she wore the standard lab coat under which she wore a simple crew neck t-shirt but on humid days would sometimes remove the coat (Strauss, 2013, p. 2). Nelson did not think her clothing was too tight or inappropriate and she always put on a lab coat when Dr. Knight asked her to do so (*Nelson vs. Knight*, 2012, p. 2).

During this same period she and Dr. Knight began talking more about some of the intimate details of their personal lives, going far beyond things such as how their kids were doing. Dr. Knight asked her about how frequently she had sex to which she responded “not much”. No sexual propositions or advances resulted nor did she expect or want any of the kind. During this period he made a number of other sexually oriented comments that she tried to brush off hoping they would stop (Strauss, 2013).

A couple of weeks before Nelson was discharged, Dr. Knight went on a vacation with his kids. Upon his return, his wife Jeanne informed him that she had looked over his phone records because she was suspicious about his relationship with Nelson. Jeanne told him she knew that he had been texting back and forth with Nelson for a number of months and he admitted he had even texted Nelson while on the trip with their children.

Jeanne Knight was hurt and outraged and insisted that he terminate Nelson’s employment because “she was a big threat to their marriage” (*Nelson vs. Knight*, 2012, p. 4). She had several

complaints about Nelson including the texting, Nelson's clothing, Nelson's flirting with Dr. Knight, Nelson's alleged coldness at work toward her (Mrs. Knight), and Nelson's ongoing criticism of another dental assistant. She added that she found it odd that Nelson seemed to like to "hang around after work when it would be just her and Dr. Knight there." She thought it was "strange that after being at work all day and away from her kids and husband that she would not be anxious to get home like the other [women] in the office" (*Nelson vs. Knight*, 2012, p. 4).

At the insistence of his wife, Dr. Knight and Jeanne met with the senior pastor at their church. After a lengthy discussion, they decided that all interactions between Dr. Knight and Nelson needed to stop and therefore Nelson was to be terminated from her employment at the dental office.

After work on January 4, 2010, Dr. Knight called Nelson into his office. He had an assistant pastor present with him this time to serve as a witness and to provide moral support. Jeanne also sat in on the meeting. Dr. Knight read from a prepared statement informing Nelson that her employment at the dental office was terminated. He informed her that their relationship had gone too far and had become a detriment to his wife and family, and that in the best interests of both his and Nelson's families the two of them should not work together any longer. He then handed Nelson an envelope containing a check for one month's severance pay.

She was very upset and cried when she was fired and told Dr. Knight that she loved and needed her job. "I haven't done anything wrong to deserve being fired!" she told him, and she added that she was shocked to hear the reasons for her discharge, especially having worked so many years side-by-side with him. She claimed that she felt that the decision was "deeply unfair" and she didn't have any idea that an affair would have crossed his mind and that she was never interested in him romantically, regardless of his feelings. "Absolutely not!" she exclaimed, "I am a happily married woman" (MailOnline, 2012).

After hearing the news of his wife's firing, Steve Nelson phoned Dr. Knight to set up a meeting with him. Initially, Dr. Knight refused to meet or talk with Steve, but later changed his mind and phoned him to set up a meeting. They met at the dental office in the evening and this time Dr. Knight had his pastor present. Dr. Knight told Steve that Melissa had done nothing wrong or inappropriate and that she was the best dental assistant he ever had. However, Dr. Knight said he was worried that he was getting too personally attached to her and although nothing was going on between them, he feared that he would become sexually involved with her in the future if they continued to work together.

Nelson contacted the Iowa Civil Rights Commission and discussed what had happened to her with one of the agency's investigators. She was told that she could not file a federal complaint with the Equal Employment Opportunity Commission (EEOC) under Title VII of the Civil Rights Act of 1964 because the dental office employed fewer than 15 employees. Nevertheless Nelson learned that she could file a discrimination complaint under the Iowa Civil Rights Act of 1965 because the practice had at least five employees. After hearing all the facts, the investigator encouraged Nelson to file a complaint, which she did.

Subsequent to her discharge, Nelson could not find another job as a dental assistant and had to settle for a job as a waitress working six nights a week (MailOnline, 2012).

### **The Complaint**

Dr. Knight went over the charges outlined in the letter from the Iowa Civil Rights Commission. The complaint included some of the background described above but went into greater detail regarding the personal communications between Dr. Knight and Nelson.

The more he read of the complaint, the more he became concerned about the possibility that despite his doing what he thought was right from a moral perspective in order to save his marriage and family, his actions could be misinterpreted by others and ruled to be illegal.

He was shocked at the details in the complaint. While he realized that most of the facts were true, they seemed so different because of how they were stated in the complaint and taken out of context. The complaint described a time he had told Nelson that if she saw his pants bulging, she would know her clothing was too revealing. In addition, the complaint alleged that Dr. Knight once told Nelson that he could not look at her without becoming aroused because her clothes were too tight. It also described the time that he texted Nelson informing her that the shirt she had worn that day was too tight. He added that it was a good thing that she did not also wear tight pants as well because then he would “get it coming and going” (*Nelson vs. Knight*, 2012, p. 3). Once, after Nelson allegedly made a statement regarding infrequency in her sex life, he told her, “That’s like having a Lamborghini in the garage and never driving it” (*Nelson vs. Knight*, 2012, p. 3).

Nelson also included in the complaint the time Dr. Knight texted her to ask how often she had experienced an orgasm. Nelson noted that she did not answer the text. However, Nelson also stated that she does not remember ever telling Dr. Knight not to text her or telling him that she was offended.

Nelson stated that she considered Dr. Knight to be a friend and father figure, and that she never flirted with him or sought an intimate or sexual relationship with him.

The complaint recounted what Steve Nelson heard during his meeting with Dr. Knight and the pastor. In that meeting Dr. Knight had stated that Melissa had done nothing wrong and she was the “best dental assistant” he ever had. The next part of the complaint was particularly difficult for Dr. Knight to recall. The complaint also noted that Dr. Knight had told Mr. Nelson, in the presence of a witness (the pastor), that he was worried that he was getting too personally attached to her and that he would try to have an affair with her down the road if he did not fire her.

Nelson’s complaint alleged that Dr. Knight terminated her because of her gender and would not have terminated her if she was male. Therefore she was discriminated against on the basis of her sex.

### What Now?

Now that Dr. Knight knew that the Iowa Civil Rights Commission had completed its investigation and issued Nelson a “right to sue” letter, he phoned his attorney. His attorney informed him that it would probably not take Nelson’s lawyer very long to file suit in an Iowa District Court.

On August 12, 2010, Dr. Knight’s attorney’s prediction came true. Nelson filed a suit alleging her firing constituted sex discrimination. Dr. Knight was convinced he had done the right thing and that Nelson’s firing was legal. He did not want to settle her claim out-of-court and planned to fight it if he and his attorney thought they could win in court.

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