

## EMPLOYMENT LAW UPDATE

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***Peterson v. Hewlett-Packard Co.*** (9<sup>th</sup> Cir. January 6, 2004) 2004 WL 26580

***Employer Did Not Discriminate Against Employee Who Was Discharged For Refusing To Remove Anti-Gay Biblical Passages From His Workplace Cubicle.***

*By Jason A. Geller and David P. Borovsky*

Hewlett-Packard posted “diversity posters” in its Boise office, some of which portrayed gay employees, along with the slogan “Diversity is Our Strength.” In response, employee Richard Peterson, a devout Christian, conspicuously posted certain verses from the Bible above his cubicle describing homosexual activity as a sin. The Company ordered Peterson to remove the passages, and had several meetings with Peterson in which it attempted to resolve the conflict in an acceptable manner. However, Peterson refused to remove the passages unless Hewlett-Packard would also remove the “gay” posters from the workplace. Faced with Peterson’s refusal, Hewlett-Packard terminated Peterson for insubordination.

Peterson sued the Company, claiming disparate treatment under Title VII of the Civil Rights Act. He claimed that he was terminated on account of his religious views, and that the Company failed to accommodate his religious beliefs.

The Ninth Circuit Court of Appeal rejected Peterson’s claims, affirming an award of summary judgment in favor of Hewlett-Packard. The Court concluded that Peterson was not discharged on account of his religious beliefs. Rather, he was terminated (1) because he violated the Company’s harassment policy by attempting to generate a hostile and intolerant work environment; and (2) because he repeatedly disregarded the Company’s instructions to remove the postings from his cubicle. Furthermore, the Court held that the Company was not liable for failure to accommodate Peterson’s religious beliefs because the only accommodations that Peterson would have accepted would have created an “undue hardship” for Hewlett-Packard. Specifically, in order to accommodate Peterson, the Company would have been required to either permit him to post messages intended to demean or harass his co-workers, or to entirely exclude sexual orientation from its workplace diversity program, neither of which was “reasonable.”

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