



The Voice

And The Defense Wins

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On January 7, 2015, DRI members [Darrell Barger](#), [Brian Rawson](#), and [Roy McKay](#) of Texas law firm **Hartline Dacus Barger Dreyer LLP** obtained a complete defense award on behalf of a publicly traded hospitality company in a labor and employment arbitration held in Houston, Texas, involving allegations of sexual discrimination and retaliatory discharge.

The claimant was a waitress at one of the company's night clubs. She alleged that she was sexually harassed by a purported club employee in December 2012. Claimant testified that she reported this harassment to a supervisor and that she was terminated by the club's regional manager in retaliation for this report. The evidence presented by the club showed a different story: Claimant found a customer's phone inside of the club and left her position in an attempt to obtain a "reward" from the customer. An outside promoter and independent contractor for the club observed this and stepped in to ensure the customer's phone was immediately returned without the necessity of a "reward."

Claimant's counsel deposed multiple current and former employees, including former managers of the club, in an attempt to support her claims, which hinged upon an assertion that the outside promoter followed her inside and inappropriately touched her following this incident. Claimant asserted that she reported this incident to a manager and that she was subsequently terminated as a result of this report.

Eye witness testimony from one of the club's former employees directly contradicted Claimant's allegations and showed that no incident of sexual harassment occurred. Instead, this testimony confirmed that the waitress was observed attempting to extort money from a customer in return for the customer's phone. The club's former Regional Manager testified that Claimant was immediately terminated when he learned of this attempt.

Claimant's counsel asked the arbitrator for over \$100,000 in compensatory damages, plus punitive damages of another \$100,000, and attorneys' fees.

On January 7, 2015, the arbitrator returned a finding that Claimant was terminated for the cell phone incident and not because of her harassment complaint. The arbitrator expressly rejected testimony from a begrudged former club manager that supported the waitress's allegations and returned a complete defense verdict, denying all claims made by Claimant.

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