



Oakland City Attorney's Office

Press Advisory

October 1, 2007

U.S. SUPREME COURT: OAKLAND'S ANTI-DISCRIMINATION POLICY STANDS **Supreme Court denies review of challenge to City policy, upholds Oakland's right to** **promote a harassment-free workplace**

OAKLAND – The U.S. Supreme Court today declined to hear an appeal by two City employees who challenged Oakland's anti-discrimination policy after they were barred from posting a homophobic flier in a City Hall office.

The Supreme Court's denial validates the City's policy, which bans anti-gay harassment in the workplace. The Federal District Court and the U.S. Court of Appeals for the Ninth Circuit previously ruled in favor of the City's policy.

"Today's news from the Supreme Court vindicates the City's strong protection of all employees from discrimination and harassment," Oakland City Attorney John Russo said.

The conflict that led to the lawsuit began on National Coming Out day in 2002, when an openly gay City Councilmember sent out a celebratory message to City staff. The two plaintiffs, employees in the City's Community and Economic Development Agency, responded by posting a flier just outside the cubicle of a lesbian colleague. The flier, titled "Preserve Our Workplace Integrity," advertised a group called the Good News Employee Association, which was described as "a forum for people of faith to express their views ... with respect for the Natural Family, Marriage and Family Values."

Ninth Circuit Court Judge Richard Clifton correctly pointed out that the flier clearly viewed homosexuality as something that hurt the "integrity" of the workplace.

After reviewing the flier, office supervisors explained to the plaintiffs why it had to be removed. Plaintiffs were invited to submit a new flier without discriminatory language, but they declined and instead filed a lawsuit. In a deposition, plaintiffs admitted that they intended the flier to convey their belief that homosexuality is "wrong," and that they wanted "to keep [the workplace] from spoiling, to keep it from rotting, to keep it from deteriorating." One plaintiff testified that gay and lesbian employees were like "weeds" in the workplace.

The case gained national attention when conservative pundit George Will supported the plaintiffs and attacked the City's policy in his syndicated column. City Attorney Russo corrected Will's bizarre and misleading arguments in a [response](#) published in the San Francisco Chronicle.

Russo also gave special thanks Monday to attorneys Angela Padilla and David Melaugh from Morrison & Foerster for their pro-bono work on the case.