

CERTIORARI

Journal of Consumer Advocacy

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● **CASE FILE**

Police Chief Settles Wrongful Termination

Karen Raith had a respectable career in law enforcement in Locust Grove. She began work as a dispatcher for the Mayes County town's police department in 2005, and later became a police officer.

In May 2010, the town council voted to promote her to chief of Locust Grove's seven-officer police force ... but not unanimously. Councilor Heath Holman voted against the promotion because Raith was a woman. Later, Holman treated the chief disrespectfully, referring to her in derogatory, gender-based terms.

As police chief, there were no complaints about Raith's performance. But three months into the job, things changed.

In August 2010, Raith responded to a domestic disturbance call at the home of town Councilor Holman. Holman's step-daughter had called police saying the councilor was assaulting his wife and banging her head against a table.

Raith filed a report of the incident with the Mayes County District Attorney's office and on September 1, 2010, Holman was arrested.

Ironically, Raith's 90-day probation was coming to an end and the same night, September 1, the town council – less Holman who was in jail – voted to extend her review period for another 90 days.

When the second review period ended in November, the town council voted 3-2 to terminate Raith. Holman cast the deciding vote.

It appeared the termination vote was in retaliation for Holman's arrest. Later, a complaint surfaced that Raith had violated city policy by having another officer ride with her during her shift. Locust Grove allowed this practice when the force was fully staffed. However, the town's position was that the

force strength had fallen to five officers and two officers in a patrol car was not justified. Interestingly, Raith's successor – a male – was allowed to be accompanied by another officer while on duty, although the force's strength had dropped to four officers.

Raith hired Frasier, Frasier & Hickman, LLP, to investigate her case. The firm found that her termination was illegal because it was

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● CONSUMER

About Take Justice Back

Powerful corporations have spent billions to evade accountability when they hurt and kill Americans. Take Justice Back is a public education and grassroots campaign to restore accountability, promote safety and ensure Americans have access to justice.

For too long, access to justice and accountability through our courts has been under attack by powerful corporate interests. Their goal is to evade accountability when they injure and kill Americans. The consequences for us can be deadly because when no one is accountable, no one is safe.



Take Justice Back is a grassroots campaign launched by the American Association for Justice to restore accountability, promote safety and ensure Americans have access to justice.

The fact is, our environment is cleaner, our medicine is better and our cars are safer today, thanks to Americans who stood up to big corporations and held them accountable in the courts.

Take Justice Back uses straightforward facts to directly take on the myths and propaganda pushed by corporate front groups like the U.S. Chamber of Commerce. The campaign encourages Americans to join the fight to take back their rights.

The Take Justice Back website includes easy-to-read information about how the Constitution's 7th Amendment (see companion article) guarantees citizen access rights to the courts that are under attack by big corporations.

Information is bountiful on the easy-to-navigate website and includes such topics as corporate groups that promote so-called "tort reform", the campaign to replace court access with forced arbitration and other ways citizens' rights are threatened. The increasing number of deadly truck accidents, asbestos and questions of liability regarding generic drugs are among the issues explored at www.TakeBackJustice.com.

When Americans' access to justice is denied, unscrupulous insurance companies, Wall Street banks, reckless drivers, dangerous hospitals and other wrongdoers can get away with the worst. We must act to make sure they clean up their acts.

Frasier, Frasier & Hickman, LLP, wholeheartedly supports Take Justice Back and encourages our friends and clients to use this important on-line tool.

Please join the effort to Take Justice Back. Sign up at their website at www.takejusticeback.org. Follow the organization on social media. And learn how you can make a difference! www.TakeJusticeBack.com

7th Amendment Creates Corporate Accountability Through Access to Courts

The 7th Amendment is your right to a trial by jury. It allows you to access the civil justice system and hold corporations accountable when they injure and kill innocent Americans, pollute our environment and endanger our children. As we know all too well, if no one is accountable, no one is safe.

Do you know of products that have been made safer because of the 7th Amendment? Have you exercised your right to a trial by jury to uphold justice? If so, tell us your story! E-mail info@takejustice-back.com.

Reprinted from TakeBackJustice.com.

● CASE FILE

Case Settled for Molested Student

A.D. was in second grade at Tulsa Public Schools when he was molested on the playground by another student. The playground was understaffed with adults, who had the students return to the classroom at the end of recess without making sure everyone was there.

Just a few months later into the school year, when again the playground was understaffed with adults, A.D. was molested again during recess while other students watched.

As a result, A.D. has received and will continue to receive counseling.

The school district was aware of the danger, since A.D. and the other students were in a program especially designed for children with behavioral challenges. Still, twice in one year was too much.

The family contacted Frasier, Frasier & Hickman, LLP, and a lawsuit was initiated against Tulsa Public Schools.

After mediation, the school district agreed to settle. Pursuant to state law, the bulk of the settlement has been placed at a bank, where it cannot be touched except by A.D. after he turns 18.

Our elected officials are proud of their Workers' Compensation "reform." They say the new system will cost much less. Certainly, money will be saved by denying benefits to large numbers of people hurt on the job.

The new definition of an injury which is covered through Workers' Compensation is that there must be an accident that was "unintended, unanticipated, unforeseen, unplanned and unexpected."

Recently, a firefighter went into a burning building, as his job required. He suffered smoke inhalation and filed for Workers' Compensation. The claim is being denied on the grounds that it could be anticipated or foreseen that a firefighter in fulfilling his duties might suffer smoke inhalation.

Similarly, it might be anticipated or foreseen that a truck driver would be hurt in an accident, that a stocker at a grocery store might lift something heavy and hurt his back, or that a data entry person might develop carpal tunnel syndrome. Indeed, there would be very few injuries on the job that could not be anticipated or foreseen in some way.

The situation is made worse because most medical insurance excludes coverage for any injury that is job-related. This leaves the employee and family completely on their own.



"The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little."

**-Franklin D. Roosevelt
January 20, 1937**

On another front, an employer is required to report any injury to the Oklahoma Workers' Compensation Commission (OWCC). When it does so, the Commission sends a letter to the employee that they do not need a lawyer; the OWCC will help them through the process. Certainly, injured employees may have a hard time finding representation even if they want it, as the statute prohibits a lawyer from being paid.

To see what kind of an experience an injured worker might have, our office called the OWCC, both in Oklahoma City and Tulsa, to see about reporting an injury and getting help for a client. For two days, no one could be reached – a call-back was requested in Oklahoma City and never returned; and the one "injury counselor" in Tulsa was on vacation for two weeks. The secretary made clear that the "injury counselor" was not there to represent the injured

worker, but might be able to help walk them through the system.

The OWCC wanted the injured person to come in to fill out a Form 3, but when would someone be there to help him? The form could be filled out on-line, but is supposed to be printed out on aqua paper. Since the injured person lived in a rural town in Oklahoma, it was doubtful that aqua paper was available.

Given that it is likely to be weeks before anyone is available at OWCC to help, doubt is raised as to the effectiveness of this system. People will just give up.

Workers' Compensation was adopted in Oklahoma over 100 years ago on the idea that if someone gets hurt working for their employer, he or she should be taken care of. Modern employers are turning that on its head – they want to use up workers and then throw them out on the street.

-Frank W Frasier

● WORKER

Worker Accepts Job Offer, Then Laid Off

Derrick Benson had a good job but thought he had found a better one.

In May 2013, Flint Energy Services, Inc. offered Benson a job that was too good to pass up. Flint's offer not only included better wages, but also accrual of vacation, participation in a retirement plan and other benefits. Benson quit a job to accept Flint's offer.

After two days of safety training, Flint notified Benson the company had no work and he was dismissed without further explanation.

Benson contacted Frasier, Frasier & Hickman, LLP and the firm investigated his case and filed a lawsuit in Tulsa County District Court. In the suit, Benson sought to recover his lost wages and benefits. But before trial, the case was settled out of court.

"Employers are obligated to operate in good faith when hiring employees but too often we find this is not the case," said Jim Frasier. "We stand by workers and their families, when they are abused by employers."

"Each case is different. Fortunately, we were able to help Mr. Benson recover some of his losses."



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● CASE FILE

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based on her gender and the fact she had enforced the law.

Raith could not find employment in law enforcement after her dismissal. Suspecting she had been “black balled” in the law enforcement profession, she went back to school and became a nurse.

Frasier, Frasier & Hickman, LLP, filed a lawsuit in Mayes County District Court. Ultimately, it was settled out of court.

“Although we live in the 21st Century, some people are still living in the past when it was all right to discriminate against women, people of color, the disabled and old folks,” said Steve Hickman. “The kind of conduct faced by Chief Raith is not only unkind and out of place in today’s world – it is illegal.

“Persons who face discrimination have rights that are sometimes difficult to enforce. Our firm stands ready to work with any person who finds themselves harmed by wrongful behavior,” Hickman said.

certiorari, (ser-she-eh-ra-re) noun [Latin, to be informed]; to be informed as a means of gaining appellate review; a common writ.

When at least four of the nine U.S. Supreme Court justices vote to hear a case, the court issues a writ of certiorari.

● WORKER

File Workers’ Compensation Claims

The Workers’ Compensation laws in Oklahoma changed as of Feb. 1. Even though the new law covering workplace injuries is pathetic, any person hurt on the job after Feb. 1 should still file a claim.

For persons who were injured prior to Feb. 1, 2014 (or became aware of a wear and tear injury prior to that date), the old law still applies, notwithstanding the legislative changes. Accordingly, if you were injured before Feb. 1, 2014, or became aware of a wear and tear injury prior to that date, you can still file a claim and it will still be governed by the old law.

We know this is confusing, and we are here to help. Feel free to contact us and we will help you get what the law allows.