

NYSHRL allows individual liability claims for 'Conspiracy to retaliate'

There's a new concern for managers and supervisors in New York state. Those who give out bad references or otherwise bad-mouth a former employee who claimed discrimination can be held *personally* liable for a conspiracy to retaliate.

Recent case: Corinne Pasqualini worked as a mortgage underwriter for MortgageIT until she was fired for alleged poor performance. But what appears to have spurred her declining performance were persistent sexual harassment complaints she made against a loan officer who was a major rainmaker in the office where Pasqualini worked. Pasqualini claimed the loan officer grabbed, slapped and propositioned her regularly. In other instances, he spit on her, put his hands down her pants and grabbed her buttocks, and generally behaved like an animal.

When Pasqualini complained, supervisors told her no one was going to fire the loan officer. She called police and he was arrested. Shortly thereafter, Pasqualini was terminated, and supervisors distributed an e-mail saying she had been fired for incompetence and disloyalty.

But that's not all. Even after Pasqualini sued the company and the supervisors personally, one of them told a prospective employer that Pasqualini was "a psychopathic liar and whore who repeatedly makes fraudulent complaints ... to cover up her own laziness and incompetence."

The court ordered a trial, rejecting the supervisors' arguments that they couldn't be sued personally under the New York State Human Rights Law, or for conspiracy to defame. A jury now will decide whether the supervisors will have to pay big bucks for making derogatory comments. (*Pasqualini v. MortgageIT, et al.*, No. 05-Civ-9714, SD NY, 2007)