

Keep Your Nude Photos At Home, Or They May End Up In Court

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Last week, a New York state court directed a defendant to produce a disc of nude photos that are at the middle of a sexual harassment lawsuit. Danielle Pecile and Cristina Culicea both were employed by Titan Capital Group. According to Pecile and Culicea, Titan principal Russell Abrams gave each of them a CD of photos and asked them to take them to the drug store to develop the photos at the photo machine. Unbeknownst to each woman at the time, each CD allegedly contained several nude photos of Abrams' wife, and Pecile and Culicea allege that when they returned to the office with the photos, Abrams smirked at them, taking pleasure in their embarrassment. Although Titan Capital fought to keep the photos from being produced, the court held that the photos were material to the case and must be produced to Pecile and Culicea, who surely will place them front and center throughout the remainder of the case. This is not a case like many covered in BT Currents, as it does not involve a high-profile change of the law. But that is what makes it interesting – our sexual harassment laws are well defined and have been in place for many years, and yet employees continue to put their companies at risk by sharing inappropriate materials and engaging in inappropriate acts in the workplace. The Titan Capital case is solid proof that training employees on the company sexual harassment policy one time when they are hired and assuming they will comply throughout their employment is insufficient. Companies must be vigilant to make sure their sexual harassment policies are being enforced at all times and that inappropriate materials and acts have no place in the office. If they do not, they may face costly and embarrassing litigation because their employees failed to follow the rules. Moreover, companies must remember that like Abrams, it is often supervisors – the very people tasked to enforce the rules – who are often the ones accused of violating them. In fact, due to vicarious liability, it is even more critical that high-level employees receive regular training and follow the rules. Similarly, employees must remember that there are consequences to their actions, and that their transgressions will be put on embarrassing display for all to see if they do not follow the rules. If you don't keep your workplace-inappropriate behavior at home where it belongs, it may be exposed as clearly as Mrs. Abrams has been.

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