

“Too Cute” New York Yoga Instructor To Join “Irresistible” Iowa Dental Assistant?

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Just in time for Valentine’s Day.... The regular readers of this blog might remember a case that the Iowa Supreme Court handed down last summer, *Nelson v. Knight* (Case No. 11-1857). It revolved around a dentist’s decision to fire his assistant because he felt that she was a threat to his marriage. As you might recall, his assistant was not romantically interested in him. He found her to be “irresistible,” though, and he was afraid of what might happen if he continued to employ her. The Iowa Supreme Court found that the dentist’s decision to fire his assistant was legal because it was based on the fact that she was a threat to his marriage rather than on the fact that she is female. We were intrigued by the decision – and we discussed it in this blog – because, at first blush, it seems to be counterintuitive. The assistant was only a threat to the dentist’s marriage because of her sex, right? So wasn’t she fired – at least indirectly – because of her sex? That was our thinking. But the Iowa Supreme Court didn’t see it our way, and we wondered if other states would follow its lead. One may soon do so. In *Edwards v. Nicolai* (Case No. 160830/2013), a Manhattan yoga instructor alleges that she was fired by her boss because her boss’s husband found her to be “too cute.” The yoga instructor’s boss and her husband have filed a motion to dismiss which makes the same basic argument that the dentist made in *Nelson*. Being fired for being “too cute,” they say, is not the same thing as being fired because of your sex. The New York trial court has yet to decide the motion. Rest assured, however, that we will follow the case and provide an update once it has. Until then, consider whether you – as your company’s human resources director – would have guessed that it might be legal to fire an employee because she (or he) is “too cute.” And take a hard look at your company’s “no romantic relationships between employees” policy while you’re at it!

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