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Beyond the Aura

A former teacher wins a \$1 million verdict claiming a Catholic elementary school decided not to rehire her because she became pregnant.

Cite: Hagan K Archdiocese of Los Angeles, BC146615 (L.A. Super. Ct., verdict May 29, 2001)

Type: Pregnancy discrimination

Result: \$1 million jury verdict, later reduced to \$335,000

Attorneys: Plaintiff - Mark Weidmann, Century City's Law Offices of Mark George Weidmann

Defendant - Lawrence R. Ramsey, Craig A. Huber, Los Angeles' Bowman & Brooke

Judge: Helen I. Bendix

BY ERON BEN-YEHUDA

Even the Roman Catholic Church can stray from the righteous path, a Los Angeles Superior Court trial concluded recently.

The jury found the religious organization liable for \$1 million. The suit alleged that one of its parish schools had discriminated against a former eighth-grade instructor by refusing to renew her one-year employment contract after learning she had become an expectant mother. Hagan v. Archdiocese of Los Angeles, BC146615 (L.A. Super. Ct., verdict May 29, 2001).

The plaintiff's attorney, Mark Weidmann, helped jurors look beyond the aura surrounding the institution.

"They don't just go, 'Gee, that's the Catholic Church so we won't find liability,'" Weidmann says.

The jurors considered the all too human individuals involved before delivering its final judgment, he says.

"We're not going to penalize women for having children," Weidmann says. "Hopefully, this [verdict] will make more employers cognizant of that."

The defense argues that the archdiocese, responsible for running the school in Pacific Palisades, doesn't need any legal lessons in tolerance.

"We acknowledge the verdict, but we disagree with it," defense attorney Lawrence R.

Ramsey of Los Angeles' Bowman & Brooke says. Ramsey refuses to comment about the specifics of the case, but court documents show the archdiocese contended that the plaintiff's pregnancy had "nothing to do" with the school's decision not to rehire her for another year.

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Rather, Hagan's poor performance and bad attitude is to blame for the schism with the religious school, the defense alleges.

The plaintiff's transgressions include showing an R-rated film to her 13- and 14-year-old students and allowing them to give oral reports on "How to Play Cards" and "How to Do a [Cosmetic] Makeover."

'Don't You Dare Get Pregnant'

In late 1994, before plaintiff Nina Hagan began working at the St. Martin of Tours parish school, she discussed terms of her employment in a meeting with principal Cecile Oswald.

During their discussion, Hagan alleged that Oswald said, "We have a maternity policy here, but don't you dare get pregnant."

Oswald admitted that she may have said that, but contends that she spoke only in jest.

At the time, the 35-year-old Hagan was married, but did not have any children. However, things changed over Christmas vacation.

On the first day that school resumed, Oswald learned from Hagan that she had become pregnant.

From then on, Hagan claims she noticed a "drastic change" in the principal's treatment of her, court documents attest.

Before Christmas, Oswald "was very, very pleased with what was happening in the class," Hagan testified at trial, according to the transcript.

"[Oswald] would mention different students and say, 'He has always been a "D" student. He is a "C" student. Now [they are] excelling. You have brought out the life in them,'" Hagan said on the stand, according to court papers.

Oswald gave Hagan a positive written evaluation dated Oct. 26, 1994, in which the principal praised the "great rapport" Hagan enjoyed with her students.

Before the holiday break, Oswald gave Hagan a Christmas card complementing her on the support she's given to "our team."

But once Oswald learned that Hagan had become an expectant mother, their relationship fell apart, Hagan asserts.

According to the plaintiff, Oswald first tried to convince Hagan to voluntarily agree not to return to her teaching position at the school by allegedly making statements suggesting Hagan would prefer to spend her days caring for the newborn.

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At one meeting, Hagan says that Oswald told her, "I know you will leave me high and dry. I don't know what I will do."

Hagan's assurances that she wanted to continue working didn't convince Oswald, Hagan asserts.

"No," Oswald said, according to Hagan. "Once you hold that baby in your arms, I know you will not come back."

"I don't recall saying that," Oswald said on the stand, when Weidmann asked if she had made those statements.

After Oswald's attempts at persuasion didn't appear to work, Hagan claims Oswald "embarked on a crusade" to find a reason not to rehire her.

Hagan claimed that her lesson plans, which previously were acceptable and had not changed, suddenly didn't pass muster. Oswald also began coming into Hagan's classroom at least once a day, instead of the two or three times a week Oswald used to visit. And

Oswald started criticizing Hagan in front of students, parents and colleagues.

"It just became really merciless in that it seemed that I couldn't do anything right," Hagan says.

With the baby due in late August 1995, just before the new school year would begin, Hagan alleged that Oswald didn't want the school to rehire Hagan because the institution would lose her for at least a few months of maternity leave. In 1992, two teachers had left and never returned after their pregnancies.

No Commitment to 'Catholic School Values'

The defense denies that Hagan's pregnancy had anything to do with not renewing her contract. The school had accommodated other teachers who became expectant mothers, Oswald testified at trial. And finding substitute teachers to replace temporarily those on maternity leave is easy, she said, according to the transcript.

Even before Hagan broke the news, Oswald said she and others had observed problems with Hagan's performance.

According to the defense, Hagan didn't regularly teach science, she frequently left children unsupervised, her exams were not challenging enough, and she allowed students to give oral reports on "How to Play Cards" and "How to Do a [Cosmetic] Makeover."

Hagan also allegedly undermined Oswald's authority during a class field trip to Knott's Berry Farm before Christmas.

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Oswald had told Hagan that the children had to wear their school uniforms at the amusement park so she could easily identify them in case they got lost. But Hagan permitted them to bring a change of clothes.

The last straw came in January 1995 when Hagan showed the children the beginning of the R-rated film, "Four Weddings and a Funeral." The students heard an actor use an obscenity.

After about 30 minutes, Hagan said she turned off the movie because she realized her class shouldn't view an upcoming sex scene.

Oswald said she gave Hagan plenty of verbal warnings about her performance before the pregnancy. But Oswald didn't indicate any problems in writing until after she learned that Hagan expected a baby.

In March 1995, for the first time, Oswald gave Hagan a written critique of her work.

On April 11, 1995, the school gave Hagan written notice that the administration would not renew her contract.

"Your job performance to date has not evidenced an understanding of and commitment to Catholic School [sic] values," Oswald wrote.

After successfully appealing the granting of a summary judgment motion in the case, Weidmann took the matter to trial.

On May 29, a jury awarded \$1 million. Because federal law, known as Title VII, places a cap on non-economic damages, the court later reduced the verdict to \$335,000.

Christmas Card Contradicts Defense

The jury lost faith in the defense partly because Oswald didn't follow her custom when disciplining the plaintiff, Weidmann says.

If a teacher's performance fell below standards, Oswald typically would offer written suggestions about how to improve.

Although Oswald claimed she had concerns with Hagan "right from the beginning," she didn't prepare her first written criticisms until about six months after Hagan started working at the school.

The fact that Oswald didn't create a paper trail shows she's making up "after-the-fact" justifications for not renewing the plaintiff's contract, Weidmann says.

"If the problems are that serious, she would have followed her normal practice," Weidmann says.

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Oswald explained at trial that she didn't always follow the exact same disciplinary procedure.

What Oswald did write down came back to haunt her, especially the Christmas card, Weidmann says.

In general, a cheery holiday message from an employer shouldn't surprise anyone, he says.

"We all expect a Christmas card to be positive," he says.

But the language in Oswald's card went "well beyond" common pleasantries, he says.

"Sure glad that you are on our team. Thanks for your support," the card states.

That kind of praise contradicts Oswald's claim about Hagan's performance disappointing Oswald early and often, Weidmann says.

Oswald testified that the plaintiff shouldn't mistake a note meant to express the joy of the season for a performance evaluation.

"It had nothing to do with her job," Oswald said on the stand.

Witness 'Twisting' On the Stand

The archdiocese suffered another serious setback after Oswald admitted she may have jokingly said to Hagan that she shouldn't "dare" become pregnant, Weidmann says.

I never would have said anything like that seriously," Oswald said in her testimony.

Weidmann says he couldn't imagine any juror laughing at such an offensive statement.

To milk the moment for all it's worth, Weidmann pressed Oswald to explain the joke so the jury could watch her "twisting" uncomfortably on the stand, he says.

Oswald dug herself even deeper into a hole, Weidmann says, by not unequivocally refuting the claim that she said Hagan would leave her "high and dry" after the baby's birth.

"It doesn't help when a person is not definitely flat-out denying it," Weidmann says.

Defense Takes A Puritanical Approach

The R-rated movie created the biggest hurdle for the plaintiff, Weidmann says.

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If Hagan had allowed her students to watch a sexually explicit or violent scene then that would have shown a "significant lack of discretion," Weidmann says.

"That could be a serious offense," which may have justified not renewing his client's contract,

But Oswald conveyed an almost puritanical attitude to the film's content.

When Weidmann asked Oswald to point out the objectionable material Hagan let slip by before stopping the film, Oswald didn't offer any specifics. She didn't think that made any difference.

"I repeat, it doesn't matter," she said on the stand. "It is an R-rated, and it is not to be shown in a Catholic School."

Weidmann knew he had the upper hand after that.

"She couldn't identify one [offensive] thing," he says. "To me, that's case closed."