



Government Orders Company To Stop Computer-Based Training

BY ANN F. KIERNAN, ESQ.

One of the worst industrial disasters in recent U.S. history occurred on March 23, 2005, at the BP Texas City Refinery, the third-largest oil refinery in the United States. Explosions and fires killed 15 people and injured another 180. Houses were damaged as far away as three-quarters of a mile from the refinery, and 43,000 neighbors were locked down in their homes until toxic fumes passed by.

The incident resulted in financial losses of more than \$1.5 billion.

What does this have to do with employment law training? Plenty!

After a two-year investigation involving nearly 400 witnesses and more than 30,000 documents, the U.S. Chemical Safety and Hazard Investigation Board, (CSB) an independent federal agency charged with investigating industrial chemical accidents, issued its final report

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Ask the Lawyers

- *Can we force employees to go to training on holidays?*
- *Why is it important for manager to have a good understanding of employment law?*
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- *Employee says new carpet makes him sick – is this a workers comp claim?*
- *Can employees be forced to give us a way to contact them after hours?*
- *Our new system will short employees for 3 days pay – can we pay them when they leave?*
- *Can we subpoena employee's cell phone records?*
- *Is bereavement counseling a disability under ADA?*

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about the causes of the disaster. The CSB concluded that a combination of cost-cutting, production pressures, and failure to invest caused a progressive deterioration of safety at the refinery, leading to the explosion.

One of the key findings of the CSB was that BP's cost-based decision to replace live trainers with computer-led training was a substantial contributing cause of the disaster. In the seven years leading up to the explosion, the budget for the Texas City refinery training department was cut in half and its staff reduced from 28 to eight. To make up for fewer trainers, BP Texas City went to computer-based tutorials. The CSB found that computers effectively provided factual information such as which alarm corresponded to which piece of equipment, but they did not give operators an understanding of the processes they were performing, or the ability to ask questions about abnormal situations. What was lacking, said the CSB, was "training that goes beyond fact memorization and answers the question 'Why?'"

One of the CSB's key recommendations was that BP Texas City should replace the computer tutorials with "face-to-face training conducted by personnel with process-specific knowledge and experience who can assess trainee competency."

What this means to you: If you want to prevent employment law issues from blowing up in your workplace, legal training for managers is too important to leave to computer-based training. Whether in live classes or our webinars, Fair Measures trainers are all experienced employment attorneys and expert facilitators who allow managers to ask questions about abnormal situations, and answer the question "Why?"

Read our White Paper, "Live Training Vs. E-Learning: Which is Best?" at

http://www.fairmeasures.com/ask/white_papers/docs/LiveTraining_Whitepaper.pdf

and then make sure your managers take one of our training programs.



Big Money*



\$57 million paid by Sprint for age bias claims arising from a reduction in force between 2001 and 2003.

\$55 million agreed to be paid by FedEx for racial harassment and discrimination against blacks and Latinos.

\$53 million paid by Albertsons grocery store for failing to pay overtime.

\$15 million paid for whistleblower who revealed Medicare fraud by a Houston hospital.

\$4.5 million for failing to pay workers for time they take to put on and take off protective clothing and walk to their work area paid by Toyota Motor Manufacturing Kentucky.

\$3.6 million to be paid by the City of Emeryville for racial discrimination and harassment against a city employee.

\$2.3 million settlement by a car dealership for 39 women who were not hired for open positions.

\$2 million paid by Cracker Barrel for sexual harassment.

How much does training cost?

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*We report only settlements and judgements upheld on appeal - never jury verdicts.

DOD Loses Harassment Case for Failure to Train Harasser

A U.S. Department of Defense IT employee who endured 12 years of harassment from a co-worker won her case because the employer did nothing in response to her complaints and had no harassment prevention training program.

The woman complained to four supervisors, a manager, and finally filed a formal EEO complaint. The government never investigated the complaints, never reprimanded the harasser, and incredibly never even required him to take harassment prevention training.

Andreoli v. Gates (3rd Cir 04/06/2007)

What this means to you: If the man had been forced to attend harassment prevention training, it might not have made a bit of difference in his behavior. However, it would have gone a long way towards helping the employer win the case.

Harassment prevention training is required for most California managers this year. Contact us about training your managers.
<http://www.fairmeasures.com/training/harassment/>

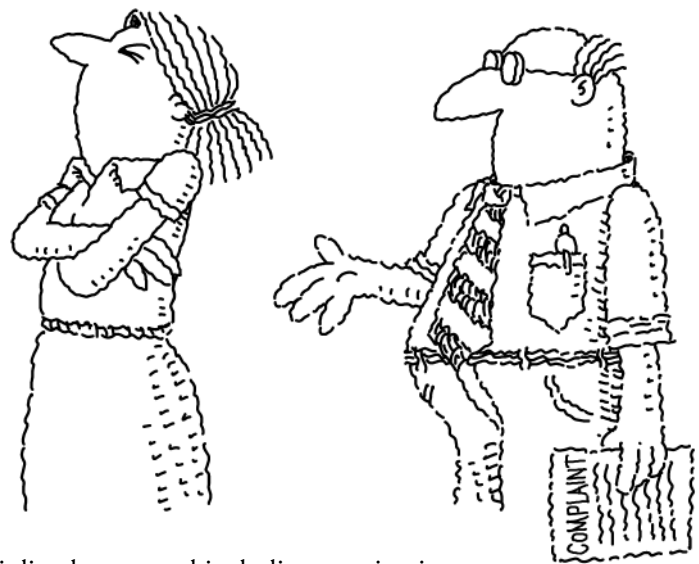


Company Wins Harassment Case When Victim Refuses Counseling

A federal Court of Appeals recently ruled against a victim of harassment who was fired for refusing to work with the accused harasser.

Ms. Baldwin was a sales rep for Blue Cross in Huntsville, Alabama. She alleged her boss sexually harassed her. She filed a complaint with HR, which fully investigated the claim.

As a result of the investigation, HR concluded that it was a "he said, she said" situation. The boss was told if he did do it, not to do it again, and if it was found that he did, he would be



disciplined up to and including termination.

Ms. Baldwin was told the result. She informed the company that she could no longer work for that boss. Since he was the only manager of sales reps in that office, the company offered her two choices: she could stay in that office and the company would hire a psychologist to work with the two of them to resolve their relationship, or she could transfer to the Birmingham office.

Ms. Baldwin refused both options, and refused to report to work for the boss, so the company terminated her employment. She sued for harassment and retaliation.

The court found the employer's investigation was reasonable, its conclusion was reasonable, and its offer of counseling or transfer was reasonable under the circumstances. The court ruled her refusal to accept one of these options was unreasonable.

What This Means to You: Companies that promptly and fairly investigate claims of harassment and offer reasonable options to complainants will be protected by the courts.

Fair Measures specializes in training executives, managers, human resources professionals and individual contributors in practices that prevent costly employee lawsuits, and create respectful workplaces for all employees. Since 1982, we have trained over 50,000 managers and employees at over 250 of the most respected corporations in America.



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P.O. Box 2146
Santa Cruz, CA 95063
tel 831-458-0500
toll free 800-458-2778
fax 831-458-0181

www.FairMeasures.com
info@FairMeasures.com

Fair Measures is a management law training company with attorneys Jonathan Levy, Ann Kiernan, Rita Risser, Elizabeth Birch, Steve Duggan, Lynne Eisaguirre, Julie Crane, Joelle Ryssemus & Michele Huff
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