

SUPREME COURT OF TEXAS

Hoffmann-La Roche Inc. v. Zeltwanger

144 S.W.3d 438 (Tex. 2004) · No. No. 02-0120 · Decided August 27, 2004

SUMMARY

The Texas Supreme Court considered whether workplace conduct involving sexual harassment and abusive behavior supported a claim for intentional infliction of emotional distress. The concurrence agreed that the evidence was legally insufficient under the exceptionally high standard for extreme and outrageous conduct in the employment context, but disagreed with the Court's proposed categorical gap-filler approach. The opinion emphasizes that liability generally requires a regular pattern of severely abusive, intimidating, or threatening conduct.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Harriet O'Neill; Justice Smith
JURISDICTION	Texas
DECIDED	August 27, 2004
DOCKET	No. 02-0120
DISPOSITION	other
PROCEDURAL POSTURE	Hoffmann-La Roche petitioned the Supreme Court of Texas for review from the Court of Appeals for the Thirteenth District of Texas, challenging the legal sufficiency of the evidence supporting an intentional-infliction-of-emotional-distress claim arising from alleged workplace sexual misconduct.
STANDARD OF REVIEW	Legal sufficiency of the evidence reviewed as a matter of law; whether the alleged conduct could legally constitute extreme and outrageous conduct sufficient to support intentional infliction of emotional distress.
PRECEDENTIAL VALUE	Published Texas Supreme Court concurrence; the concurrence's reasoning is nonbinding, although the judgment is controlling to the extent reflected in the Court's disposition.
PARTIES	Hoffmann-La Roche Inc., a/k/a Roche v. Joan Zeltwanger, a/k/a Joan Gonzales

TOPICS

intentional infliction of emotional distress

sexual harassment

employment law

damages

PRACTICE AREAS

torts

employment law

remedies

QUESTIONS PRESENTED

1. Whether the alleged workplace conduct was legally sufficient to constitute extreme and outrageous conduct supporting an intentional-infliction-of-emotional-distress claim.
2. Whether the workplace conduct met Texas's exceptionally high threshold for intentional infliction of emotional distress in the employment context.
3. Whether a categorical gap-filler approach should determine the availability of an intentional-infliction claim when the same facts may support a sexual-harassment claim or another available remedy.

HOLDINGS

1. The alleged conduct, although vulgar, repugnant, and reprehensible, did not as a matter of law constitute extreme and outrageous conduct sufficient to support an intentional-infliction-of-emotional-distress claim.
2. Justice O'Neill declined to adopt a categorical gap-filler approach in this case, while not foreclosing the possibility that such an approach might be appropriate in another case.

KEY QUOTATIONS

"To recover damages for intentional infliction of emotional distress, a plaintiff must establish that: (1) the defendant acted intentionally or recklessly; (2) the defendant's conduct was extreme and outrageous; (3) the defendant's actions caused the plaintiff emotional distress; and (4) the resulting emotional distress was severe." (144 S.W.3d at 438)

"But only when such behavior repeatedly becomes so forceful and intimidating that a reasonable person would feel immediately threatened or afraid can a court conclude with sufficient certainty that the actor intended to cause severe emotional distress or that severe emotional distress was the primary risk of the actor's conduct." (144 S.W.3d at 438)

FACTUAL BACKGROUND

Joan Zeltwanger alleged that supervisor Webber engaged in sexually offensive and abusive workplace conduct, including dirty jokes, sexual comments, discussion of body parts, boasting of sexual prowess, hair-related remarks, and delivering a cash prize in a manner suggestive of a topless bar. She also alleged public humiliation, verbal oppression, physical threats, abuse of power, and mistreatment based on her susceptibility to emotional distress. The record included evidence that Webber pounded on the dashboard of Zeltwanger's car, touched her hair, searched through her underwear drawer, and acted abusively during her performance review, but the concurrence found no evidence of the regular physical assault, intimidation, and threats present in *GTE Southwest, Inc. v. Bruce*.

PROCEDURAL HISTORY

The case reached the Supreme Court of Texas on Roche's petition for review from the Thirteenth Court of Appeals. The concurrence states that the court of appeals evaluated Roche's conduct separately from the supervisor's conduct and that the Supreme Court affirmed or otherwise rendered a judgment with which Justice O'Neill concurred, although she disagreed with the majority's gap-filler reasoning.

DISPOSITION

other

CASES CITED

- Twyman v. Twyman, 855 S.W.2d 619 (Tex. 1993)
- Standard Fruit & Vegetable Co. v. Johnson, 985 S.W.2d 62 (Tex. 1998)
- GTE Southwest, Inc. v. Bruce, 998 S.W.2d 605 (Tex. 1999)