

***Rogers v. Metal Fabricators, Inc.***

A Case File

by

Ralph Adam Fine

[www.win-your-trial.com](http://www.win-your-trial.com)

Author of

How to Win Trial Manual (Juris, 5<sup>th</sup> ed. 2011)

How to Win Appeal (Juris, 3d ed. 2012)

Fine's Wisconsin Evidence (Juris, Updated Annually)

© 1994 Ralph Adam Fine\*

\* This case file may be reprinted and used for educational purposes by law schools without payment of royalties, provided the copyright notice appears on all copies.

(REVISED VERSION)  
FEBRUARY, 1994

Note: This file has been modified.

UNITED STATES DISTRICT COURT

---

Lynn Rogers,

Plaintiff,

vs.

Complaint

Metal Fabricators, Inc.,

Defendant.

---

Lynn Rogers complains as follows:

**Jurisdiction and Venue**

1. This complaint alleges a violation of section 703(a)(1) of Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U.S.C. § 2000e-2(a)(1). Jurisdiction of the court is founded upon section 706(f)(3) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f)(3). The plaintiff has satisfied the preconditions established by section 706 of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f), to the maintenance of this action. Venue properly lies in this district pursuant to section 706(f)(3) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f)(3), because the unlawful practices alleged in this complaint were committed within this State.

**Parties**

2. Lynn Rogers is the plaintiff in this action, is an adult resident of this state, and resides at 3333 West Elm Street, Westphalia.

3 Metal Fabricators, Inc., is a corporation duly organized under the laws of this state, with its principal place of business at 1616 Second Avenue, Westphalia. It is in the business of fabricating metal and plastic parts for the automotive and toy industries, and has employed more than 100 but fewer than 201 persons in each of twenty or more calendar weeks in the current year.

4. Metal Fabricators, Inc. is a publicly held company. Its President and Chief Executive Officer at all times relevant to this complaint was Georgia Heath.

5. From July 1, YR- 13 through December 30, YR -2 plaintiff was employed by Metal Fabricators, Inc., as Director of Purchasing.

### **Claim for Relief**

6. During the relevant times herein and through December 30, YR -2 Alex Goodings was the immediate supervisor of the plaintiff Lynn Rogers, and had the authority to terminate her employment with the defendant Metal Fabricators, Inc.

7. Starting shortly after Easter, YR -2, and during the normal business hours of the defendant Metal Fabricators, Inc., Alex Goodings misused his position of authority over the plaintiff Lynn Rogers in the following manner: (a) by making sexually suggestive comments; (b) by repeatedly proposing that he, Alex Goodings, and that she, the plaintiff Lynn Rogers, engage in sexual activity, both during the normal business hours of the defendant Metal Fabricators, Inc., and after normal business hours; (c) by leaving a picture of a sexually explicit nature in a place he knew, or in the exercise of reasonable judgment, should have known, the plaintiff Lynn Rogers would see it. All this created a hostile and abusive work environment.

8. After the first few incidents described in paragraph 7 of this complaint, the plaintiff Lynn Rogers complained to Georgia Heath, President and Chief Executive Officer of the defendant Metal Fabricators, Inc. Georgia Heath replied in words or substance: “Don't be so sensitive,” “Boys will be boys,” “Alex is a personal friend of mine,” and “Alex is one of my most valued employees.”

9. The plaintiff Lynn Rogers rebuffed and rejected the sexual advances by Alex Goodings described in paragraph 7 of this complaint.

10. On December 23, YR -2, Alex Goodings sent to the plaintiff Lynn Rogers a notice terminating her employment with the defendant Metal Fabricators, Inc., effective December 30, YR -2.

11. The actions alleged in paragraphs 7 through 10 of this complaint constitute a violation of section 703(a)(1) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2(a)(1), and were done with either malice or reckless indifference to the plaintiff Lynn Rogers' federally protected rights, within the meaning of 42 U.S.C. § 1981a.

12. As a result of the incidents alleged in paragraphs 7 through 10 of this complaint, the plaintiff Lynn Rogers has sustained severe and disabling physical and mental disability, emotional distress, and loss of income, which are expected to continue for the foreseeable future.

WHEREFORE, the plaintiff Lynn Rogers demands the following relief: (1) an order directing the defendant Metal Fabricators, Inc., to reinstate her to her position of employment with the defendant Metal Fabricators, Inc., with back pay to be determined by the court; and (2) an award of compensatory and punitive damages, and reasonable attorney's fees against the defendant, Metal Fabricators, Inc., in an amount to be determined; and (3) the costs, fees and disbursements of this action.

**Plaintiff Demands a Trial by Jury**

s/ June Beech  
Attorney for Lynn Rogers

UNITED STATES DISTRICT COURT

---

Lynn Rogers,

Plaintiff,

vs.

Answer

Metal Fabricators, Inc.,

Defendant.

---

Metal Fabricators, Inc. answers the complaint as follows:

1. In response to paragraph 1 of the complaint, denies that it has violated Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended.

2. Admits the allegations set forth in paragraph 2 of the complaint.

3. Admits the allegations set forth in paragraph 3 of the complaint.

4. Admits the allegations set forth in paragraph 4 of the complaint.

5. Admits the allegations set forth in paragraph 5 of the complaint.

6. Admits the allegations set forth in paragraph 6 of the complaint.

7. Denies each and every allegation set forth in paragraph 7 of the complaint.

8. Denies each and every allegation set forth in paragraph 8 of the complaint.

9. In response to paragraph 9 of the complaint, denies that Alex Goodings ever made the sexual advances alleged in paragraph 7 of the complaint, and, accordingly, denies that there were any “sexual advances” for the plaintiff to rebuff.

10. Admits the allegations set forth in paragraph 10 of the complaint.

11. Denies each and every allegation set forth in paragraph 11 of the complaint.

12. Denies each and every allegation set forth in paragraph 12 of the complaint.

### **Defenses**

As defenses to the claims asserted by the plaintiff, Lynn Rogers, Metal Fabricators, Inc., avers as follows:

1. The complaint fails to set forth any claim upon which relief can be granted.
2. The plaintiff, Lynn Rogers, was an at-will employee with the defendant Metal Fabricators, Inc., and, therefore, could be discharged without cause.
3. Any relationship between the plaintiff, Lynn Rogers, and Alex Goodings was mutually consensual.
4. The plaintiff, Lynn Rogers, was discharged from her position as an at-will employee with Metal Fabricators, Inc., because of her gross inefficiencies, her acts of gross insubordination, her failure to fulfill the duties of her employment, her inability to cooperate with fellow employees, and her general inability to do the job for which she was being compensated.

WHEREFORE, the defendant, Metal Fabricators, Inc. demands that the complaint be dismissed and that it recover the costs and fees of this action.

s/ S. Harrison Dewey  
Attorney for the defendant.

The parties have stipulated to the following instructions.

### **JURY INSTRUCTIONS**

Members of the jury, these instructions set forth the law which you must follow in your deliberations. In this case, the plaintiff, Lynn Rogers, alleges that the defendant, Metal Fabricators, discriminated against her in violation of federal employment law.

It is an unlawful for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's . . . sex.” Harassment on the basis of sex is unlawful discrimination.

Metal Fabricators has stipulated, which means that it has agreed, that it is responsible for any actions of Alex Goodings. Thus, if you find improper conduct on the part of Alex Goodings, Metal Fabricators is responsible for that conduct.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual. If the plaintiff was fired by Metal Fabricators because she refused to engage in sexual relations with Alex Goodings, that would be unlawful conduct on the part of Metal Fabricators.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature also constitute sexual harassment when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. In assessing the hostility of an environment, you must look to the totality of the circumstances. Circumstances to be considered include the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance. No single factor is determinative.

The burden is on the plaintiff to prove sexual discrimination by a preponderance of the evidence, which means it is more likely than not that the defendant is responsible for unlawful discrimination. The plaintiff must also prove by a preponderance of the evidence the harm that resulted from the sexual discrimination. For example, the plaintiff alleges that she suffered harassment in the workplace and was terminated from her job as a result of her refusal to submit to illegal sexual demands. It is for you to decide whether she has proved these

matters. If you find that the plaintiff has proved sexual discrimination and harm by a preponderance of the evidence, your verdict must be for the plaintiff. If you do not so find, your verdict must be for the defendant.

If you find for the plaintiff, you must decide what damages will make the plaintiff whole. In making your decision, you should ignore whether the plaintiff should receive back pay. Any determination of back pay is made by the court rather than the jury. You must decide what amount, if any, is required to compensate the plaintiff for future financial losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonfinancial losses. You must also decide whether to award punitive damages. You may award punitive damage if you decide that it is more likely than not that the defendant not only discriminated against the plaintiff, but also that it did so with malice or with reckless indifference to the plaintiff's right to be free from unlawful discrimination.<sup>1</sup>

---

<sup>1</sup> Counsel should be aware that 42 U.S.C. 1981a limits the total recovery for compensatory and punitive damages against an employer of this size to \$100,000 but provides that the jury shall not be informed of the limitation.



## VERDICT FORM

LYNN ROGERS )  
 )  
I. ) Civil No. 99-101  
 )  
METAL FABRICATORS, INC. )

We, the jury, having been instructed that we are to decide whether the plaintiff has proved that is more likely than not that the defendant is responsible for sexual harassment and retaliation hereby return our verdict for:

Check Verdict for Plaintiff or Defendant (and fill in amount of damages if verdict is for Plaintiff)

Plaintiff \_\_\_\_\_ \$\_\_\_\_\_ compensatory damages

\$\_\_\_\_\_ punitive damages

Defendant \_\_\_\_\_

## **Statement of Lynn Rogers (September 10, YR-1)**

(The following is a condensation of Lynn Rogers' deposition testimony given under oath. Her trial testimony must be consistent with her deposition; additional facts, however, that are not *inconsistent* with the deposition may be elicited, either on direct- or cross-examination.)

My name is Lynn Rogers. I was born in Kansas City, Kansas, on June 15, YR -38. I attended high school in Kansas City, and graduated in YR - 20. From YR - 18 until YR -15 I worked as a waitress in Kansas City, first part-time and then full-time. In YR -15, I enrolled at Kansas City's community college. Two years later, I received an associate degree in business administration. My major was in marketing and purchasing. In YR -14, I married Jim Rogers, who was in sales for Braker Bearing, Inc., a ball-bearing manufacturing company with offices in Kansas City, and in this State. In the latter part of YR -14, after I graduated from the community college, I joined Braker Bearing as an assistant traffic manager. It was my responsibility to help make sure that orders obtained by our sales people were processed efficiently so that our customers would receive on time the ball bearings they needed. It was a very important job because a delayed shipment of ball bearings could stop production and cost our customers a lot of money.

I did the traffic job well, and, after approximately seven months, was promoted to the purchasing department. Purchasing is also very important. If the factory doesn't get the needed materials on time, things get delayed and it costs us money. If they get the materials too soon, it also costs us money. Also, of course, a good purchasing person has to be a good shopper. You have to be able to get the right things for the right price, and, as I've said, at the right time.

Three persons worked in the purchasing department of Braker Bearing: Harry Kane, Charlie Wolfram, and myself. Harry was the head of the department, and Charlie was basically his assistant. I worked for both Harry and Charlie, and helped them with whatever needed to be done. Within months of my promotion to the purchasing department, Harry died. He had had heart problems for a number of years. I was promoted to take his place even though Charlie had worked there longer. Charlie was angry, and started to spread rumors that I was having an affair with the company's president, Robert Braker. Ultimately, the heat got too great for Mr. Braker, and I was asked to leave. I did not sue because I liked and respected Mr. Braker, and I didn't want to create any problems for him. Also, Mr. Braker transferred Jim to the Braker Bearing office in this State, and gave him a big raise. Jim went from \$24,000 a year to well over \$40,000, I don't remember the exact figure. That's how we ended up here.

Let me tell you, the rumors were totally false. But things were not working out between Jim and me, and we were divorced in YR -11. We had no

children. I have not remarried. I date occasionally but am not seeing anyone specially.

In May of YR -13, I joined Metal Fabricators, Inc., as an assistant director of purchasing. In September of that year, I was promoted to director of purchasing. The man I replaced, Tom Wilson, left the company, but I don't know why. I was hired by Alex Goodings, whom I had met at a picnic Braker Bearing gave as sort of a way to keep in good with the customers. Braker sells a lot of ball bearings to Metal Fabricators. Alex had been recently divorced, and my marriage was then on the rocks. We became friends. For a time, in the middle YR - 6, our friendship blossomed into something more serious and Alex and I dated and had an exclusive relationship. For a time, we were engaged to be married. We had mutually consensual sexual relations during that time. Our relationship did not work out, however, and we stopped seeing each other socially in early YR -3. Alex got married around Easter of that year. I was not invited to the wedding. Alex and I remained good friends until the spring of YR -2, when he started pressuring me to have sex with him.

When I refused to resume a romantic relationship with Alex, he became abusive at work. He kept trying to find things wrong with my work and kept berating me in front of other employees of Metal Fabricators. He even left a pornographic picture in my top desk drawer with his handwritten comments about the things he felt we should be doing together. I didn't save the picture—it was too disgusting. I did find one letter he sent me though. It is marked as Exhibit 1.

At first, I tried to reason with Alex. I explained to him that I did not love him, did not want to have sex with him, and felt that because of that, and because he was married, he should leave me alone. When he persisted in harassing me, I complained to our boss, Georgia Heath. She did nothing about the problem. She told me that I was being too sensitive, that Alex Goodings was a friend of hers, and that he was a valued employee. She told me to stop making trouble.

On September 29, YR -2, I was in a meeting with Alex Goodings, Sam Smith and Jane Clark. Sam is a sales person for Metal Fabricators, Inc. One of his accounts is Tiny Tot Toys. Tiny Tot Toys is one of Metal Fabricators' biggest customers, and had ordered four and a half million teflon-coated plastic sleeves for a robot it was making. Jane was in charge of plastic production for Metal Fabricators. Unfortunately, Capek Chemical Company, our supplier of a binding agent for the teflon veneer, had a problem with its shipments because of OSHA, and this caused a delay beyond the contracted-for August 15, YR -2, date by which I expected Capek to deliver all of the binding agent we needed. I managed to get DuPont to ship us the remainder of the binder we needed by October 10, YR -2. Because of the rush, it cost 45% over what we had been paying Capek. I had originally selected Capek Chemical because it had been a reliable shipper in

the past, and because the price of its generic teflon binder was thirty-percent cheaper than the DuPont version. In fact, both Georgia Heath and Alex Goodings had complimented me on my finding Capek as a supplier. When I explained at the September 29th meeting Capek's unexpected problems with OSHA, Alex Goodings just blew up. He interrupted me and shouted: "God damn it, I don't believe it. This is another example of how you've lied to me." I just looked at him in disbelief, and walked out of the room. Frankly, I was so upset that I went to the ladies room and cried. From that day until the day I was fired, Sam and Jane, who had been friendly co-workers, essentially avoided me. When communication between us was necessary, they would send written memoranda rather than just call me up on the telephone.

The day before Christmas eve, Alex Goodings sent me a note telling me that I was fired, effective seven days later. Until the time I was fired, I was making \$88,000 a year plus benefits worth another \$22,000 a year. Additionally, on January 2, YR -2, I received a year-end bonus for YR -3 in the amount of \$6,000. I had earned \$82,000 a year in YR -3 plus benefits worth another \$20,000. On January 2, YR -3, I received a bonus of \$5,000 for YR -4. I had earned \$76,000 for YR -4 plus benefits worth another \$19,000. YR -3 was the first year selected employees of Metal Fabricators got bonuses for their work the previous year. Under the bonus program, an employee has to work the full calendar year to be eligible. Georgia Heath and Alex Goodings decide who gets the bonuses. Bonuses are paid in January of the next year.

There was no change in my work habits in YR -2. The only change in my personal life was that my father, who lost my mother in YR -5, developed Alzheimer's in YR-4. I visited him every other weekend during Yrs -4 and -3. He lived about 200 miles from me. At the beginning of YR -2, I had to put him in a nursing home about 175 miles away from here. I tried to visit him most weekends that year, but it had no effect on my work.

I have looked for work unsuccessfully. I know of one time where Alex gave me a bad recommendation. It was a bad recommendation to Harry Sparks of Sparks Manufacturing Company. I know that Alex is bad-mouthing me. At every place I've applied, I'm asked about the Capek Chemical thing. When I explain, I get polite smiles but no job. I have never had an affair with anyone at Capek. I am at my wits end. My savings are almost depleted. I can't sleep. My doctor says I am developing an ulcer as result of my worry about my future.

**Exhibit 1 to the deposition of Lynn Rogers**  
(handwritten)

Tuesday

Lynn—

Why do you treat me this way? I'm not the kind of person to be toyed with. I would think you would know that by now. Remember, I run things around here. Sometimes, when I think of the good times we had together and how cold you've been lately, I could go crazy. If we could only talk. That's all I want to do, talk.

## **Statement of Alex Goodings (September 11, YR-1)**

(The following is a condensation of Alex Goodings' deposition testimony given under oath. His trial testimony must be consistent with his deposition; additional facts, however, that are not *inconsistent* with the deposition may be elicited, either on direct- or cross-examination.)

My name is Alex Goodings. I am married and the father of a little girl. She is the cutest thing you ever saw. My wife does not work outside the home.

I am an executive Vice-President of Metal Fabricators. I report directly to our president and chief executive officer, Georgia Heath. In the early YR -13 I hired Lynn Rogers to work in our purchasing department. She had an impressive track record with Braker Bearings, and Bob Braker personally vouched for Lynn's ability. Tom Wilson, who was then head of the department, left the company several months later, and Lynn took over his job. Tom never really liked Lynn. She can be pretty abrasive at times, as I've discovered.

At or around the time I hired Lynn, we were friends. But, after she worked with me for a number of years, we discovered a mutual attraction that ultimately grew into what we both believed was love. I had been divorced from my first wife for several years, and, I guess, I was lonely. We were going to get married, but it just didn't work out. I was careful, however, not to let our personal relationship, either before or after the break-up, affect our business responsibilities. First, it would be unprofessional. Second, there are laws against it. In the mid-YR -5, in fact, our company had a training program that was run by this consulting firm out of Washington, D.C. They gave us all the dos and don'ts.

I married my second and current wife in April of YR -3. Although our relationship had been dead for some time, Lynn seemed surprised that I was getting married. In fact, she seemed to take it quite hard. She kept reminding me of all the fun times we had, and repeatedly asked how I could "do this" to her. Lynn kept harping on this and it quickly became obvious that she was fixating on my love for another woman. Yes, she was jealous. The fixation became so bad that her work suffered a great deal. She let things slip. In fact, other department heads reported to me that they were having trouble with her department; things weren't being ordered on time, they weren't being delivered on time, and we were paying too much for some things because Lynn no longer really shopped around as she should. The Tiny Tot Toys teflon binder problem was really the last straw. Toy companies are at the mercy of the calendar -- if they don't get their product from us in a timely manner they could lose most of the season's business. Tiny Tot Toys had a huge best-seller in their Robbi Robot and were running the factory literally day and night in order to meet the pre-Christmas demand, which

had suddenly turned out to be greater than Tiny Tot had anticipated. I heard from Jane Clark, the head of our plastics production division, that the teflon binder had been promised for weeks and weeks. Finally, I called Lynn into my office, together with Jane and Sam Smith, who was in charge of the Tiny Tot order, so we could see what the problem was. Tiny Tot was threatening to get the plastic sleeves from another supplier, and we just couldn't afford to lose such a valuable customer. We not only would have lost that sale, but we probably would have lost Tiny Tot forever. Sam gets the bulk of his commission income from Tiny Tot, and he was beside himself. I called the meeting, so Lynn could explain what was going on. She gave us some cock and bull story that was obviously untrue. I may have said something that indicated that I didn't believe her, but I deny emphatically using the words that she claims I used. Frankly, I have heard rumors that she is sleeping with one of the guys over at Capek Chemical. It doesn't bother me in a personal way, but if it is true, that might explain why Capek was getting our business even though they were not delivering on time. After that meeting, and after discussing the problem with Sam, Jane, as well as Georgia, we all became convinced that it was in the best interest of our company to let Lynn go.

I don't remember this too clearly, but I recall that Harry Sparks asked me for my evaluation of Lynn's performance with our company. In light of the Tiny Tot order screw-up, I had to be truthful and tell him that I did not believe she had worked out good for us.

I deny emphatically that I was pressuring Lynn to resume our romantic relationship. As I said, I am happily married, and we have a little girl. I deny emphatically that I sexually harassed Lynn, or harassed her in any way. Her charges are totally untrue. Her charges have caused me and my wife a lot of anguish. I just can't believe she is saying these things about me.

I admit that Exhibit 1 to the Lynn Rogers deposition was written by me. I wanted to talk to her about the crazy idea she had that we should resume our relationship. As I mentioned, I am a happily married man and she was, since that term has been used here, harassing me. I wanted her to stop. That was why I wanted to talk to her. I thought that by reminding her of the good times we had together, she would come to her senses. That's what I meant when I wrote "I could go crazy." I was going crazy out of worry that my wife would think I was still having an affair with Lynn or that she still meant something to me. Yes, I guess in a sense the letter can be taken as a threat -- but I just wanted her to leave me alone and now it's all been twisted.

**Statement of Sam Smith** (September 12, YR -1)

(The following is a condensation of Sam Smith's deposition testimony given under oath. His trial testimony must be consistent with his deposition; additional facts, however, that are not *inconsistent* with the deposition may be elicited, either on direct- or cross-examination.)

I am a salesman employed by Metal Fabricators, Inc. I work exclusively on commission. One of my major accounts is Tiny Tot Toys. In the fall of YR -2, Tiny Tot Toys was awaiting delivery on their order of four and a half million teflon-coated plastic sleeves. Jane Clark was the Metal Fabricators executive in charge of the production of that order. During that time, Lynn Rogers was in charge of purchasing for us. For some reason, production of the sleeves was delayed. Tiny Tot threatened to take its business elsewhere. I complained to Jane about the hold-up in production, and she referred me to Lynn. Lynn told me not to worry about it as "everything is taken care of." After she told me that two or three times, I complained to Alex Goodings. Alex called a meeting with Lynn. Jane and I attended. I don't remember his exact words, but Alex was unhappy with Lynn's handling of the teflon-binder purchase. He also indicated that this was not the first time Lynn had let things slide, or something to that effect. I think I may have mentioned to some of my buddies that our purchasing director had screwed up. I don't really remember specifically what I said. They were just passing comments.



**Statement of Jane Clark** (September 12, YR -1)

(The following is a condensation of Jane Clark's deposition testimony given under oath. Her trial testimony must be consistent with her deposition; additional facts, however, that are not *inconsistent* with the deposition may be elicited, either on direct- or cross-examination.)

I am retired. Until August of YR -1, I worked for Metal Fabricators, Inc. During my last five years with the company I was in charge of plastics production. My memory is somewhat hazy, but I recall that there was some sort of problem with getting a teflon binder for some plastic sleeves that we were producing for a big customer, Tiny Tot, as I recall. I spoke to Lynn Rogers about it a number of times. I don't recall what the specific problem was, but not getting the binder stopped production. I remember that Sam Smith was very angry. He was afraid of losing a big customer. I don't remember attending any meeting at which Alex Goodings called Lynn a liar. I'm surprised that he would, if he did. He was always a love sick puppy around Lynn, or at least that's the way it seemed to me. I guess he never got over their affair of a couple of years earlier even though he's married. I don't think that Lynn liked his constantly harping on how things used to be. I don't know if this has anything to do with it, but one day I was walking by Lynn's office and Alex was in there. I heard Lynn say in a fairly loud voice for Alex to stop something, like "stop bothering me" or something like that. It was really none of my business, so I didn't pay too much attention to it at the time. All this commotion, I guess, has brought it back. I feel sorry for his wife. I never told anyone that Lynn was a liar, or that Alex had said she was a liar. I also never told anyone that Lynn was not a good co-worker. My memory isn't real good these days.

**Statement of Georgia Heath** (September 13, YR -1)

(The following is a condensation of Georgia Heath's deposition testimony given under oath. Her trial testimony must be consistent with her deposition; additional facts, however, that are not *inconsistent* with the deposition may be elicited, either on direct- or cross-examination.)

My name is Georgia Heath. I am President and Chief Executive Officer of Metal Fabricators, Inc. I have held that position since YR -12. Alex Goodings is a very good employee and is Executive Vice-President of our company. He has worked for Metal Fabricators since he graduated from college in YR -25. Let me be emphatic about this, I do not recall Lynn Rogers ever complaining to me, either in writing or in person, that Alex Goodings was bothering her, sexually or any other way. Alex is not the type of person to do that. He's married, you know, and is a very devoted family man. He has one child, a little girl named Mary Grace. She must be eighteen months old now. I see him and his wife socially frequently. If Alex, or any other employee, sexually harassed anyone working for us he would be dismissed. We have no written policy on that; it is my policy.

Until this lawsuit business started I always thought very highly of Lynn. Although I had heard rumors that she might be involved with someone over at Capek Chemical, I never gave those rumors much credence. Lynn has always acted professionally. While Capek has given us good service in the past, and their prices are very competitive, the problem with the Tiny Tot order should never have happened. Tiny Tot's business is critical to our profitability. I don't know why Lynn let them hang on so long. In this business only fools will let a supplier string you along and Lynn is no fool. I do not want to believe that Lynn was showing them favoritism because of some friend she might have had over there. I remember that in the summer, I think it was August . . . mid-August, I believe, Alex Goodings mentioned to me that Lynn was not keeping on top of business. You know, letting the little things pile up. Frankly, I didn't pay too close attention because Lynn had always done such a good job for us. I think I told Alex that he was being too picky, or something. In retrospect, I guess, I should have been more alert. I can understand why someone would not want to hire her as a result of the Tiny Tot problem. That's why we let her go. We almost lost the Tiny Tot account. In fact, Tiny Tot was on the edge as to whether they would keep us on. They wanted changes made and, also, we had to eat the extra expense of getting the DuPont binder. Let me tell you, it cost us a bundle. It was really touch and go until we assured Tiny Tot that we had made changes to make sure that there would be no further problems.

## **Memorandum**

**To:** Lynn Rogers

**From:** Alex Goodings

**Date:** December 23, YR -2

**Subject:** Termination of Employment

Please be advised that your employment with Metal Fabricators, Inc., is hereby terminated, effective December 30, YR -2.

## Memorandum

**To:** Lynn Rogers  
**From:** Sam Smith  
**Date:** September 1, YR -2

**Subject:** Tiny Tot Order

Jane tells me that there is a problem getting a binder for the teflon-coating process. As you know, Christmas is a big time for Tiny Tot, and it is essential that we get the sleeves out as quickly as possible. The orders for the robots are incredible. They need the sleeves! Please let me know when the binder will arrive so I can keep Tiny Tot up to date.

---

## Memorandum

**To:** Sam Smith  
**From:** Lynn Rogers  
**Date:** September 3, YR -2

**Subject:** Tiny Tot Order — Your memo of 9/1

I've spoken with our supplier for the teflon veneer binder, Capek Chemical. There was an unexpected glitch. OSHA made an unexpected inspection and shut them down for a while. Things should be back to normal soon.

## Memorandum

**To:** Lynn Rogers  
**From:** Sam Smith  
**Date:** September 3, YR -2  
**Subject:** Tiny Tot Order Delay

When will we get the binder? TT wants the sleeves, not excuses. Time is fleeting. They have a Christmas market to meet! If we had gone with DuPont this would not have happened. Jane tells me that production must have the binder by October 1!

---

## Memorandum

**To:** Sam Smith  
**From:** Lynn Rogers  
**Date:** September 5, YR -2  
**Subject:** Tiny Tot Order

I've sent your memo of September 3 to the folks at Capek. They tell me not to worry. Tell TT the deadline will be met.

---

## Memorandum

**To:** Lynn Rogers  
**From:** Jane Clark  
**Date:** October 1, YR -2  
**Subject:** Teflon Binder

Capek only shipped us half an order! What gives?

## **Memorandum**

**To:** Jane Clark and Sam Smith

**From:** Lynn Rogers

**Date:** October 3, YR -2

**Subject:** Tiny Tot Order -- Teflon Binder

Capek's OSHA problem was more serious than expected. I've placed an emergency order with DuPont. The balance of our requirements will be in-house by 10/10.

## Memorandum

**To:** Lynn Rogers

**From:** Georgia Heath

**Date:** January 2, YR -3

**Subject:** Bonus for Calendar Year YR -4

Attached is your bonus for YR -4. You've done a wonderful job during the past year—especially saving us money by seeking out reliable second-tier suppliers like Rossum Steel and Capek Chemical. Keep up the good work. Happy New Year!

---

---

## Memorandum

**To:** Lynn Rogers

**From:** Georgia Heath

**Date:** January 2, YR -2

**Subject:** Bonus for Calendar Year YR -3

Attached is your bonus for YR -3. Your work continues to be excellent. I am proud to have you as part of the team. Happy New Year!

## **Affidavit of Harry Sparks**

(Harry Sparks may be out of the country at the time of trial. The parties have stipulated that the following affidavit may be used at trial if he is unavailable.)

Harry Sparks, first being duly sworn on oath, deposes and says:

1. I am the President and Chief Executive Officer of Sparks Manufacturing Company.
2. Six months ago, our company was looking for a director of purchasing, and Lynn Rogers applied for the job. I was impressed with her credentials and her recommendation from Robert Braker.
3. I would have hired Lynn Rogers as director of purchasing for our company if I had not learned from Alex Goodings that Lynn had, in Alex's words, "screwed up." Alex would not be specific, but he told me that his company almost lost a very good customer because of something Lynn had done.

Sworn before me this  
30<sup>th</sup> of December, YR - 1

***Harry Sparks***

***Lance Kral***

Lance Kral, Notary Public

My commission expires on July 18, YR + 3.



**Statement of Dr. Pat Stevens**

(September 30, YR -1)

I am a doctor of internal medicine. I graduated from the University of Pennsylvania in YR -15 with a B.S. and a major in biology. I attended medical school at the University of Virginia, graduating in YR -11. I did my internship at Jefferson Hospital in Philadelphia. I have been practicing internal medicine in Westphalia since YR -8.

Lynn Rogers became my patient in YR -5. She has a yearly physical and is in generally good health. However, she came to me early this year complaining about stomach problems. I diagnosed her as suffering from an ulcer. She also complained about depression. I learned she had been fired from her job. I decided to prescribe Prozac for her. She has been taking it since March and will be on the medication for a minimum of 18 months.