TOPIC:

PARAMOUR FAVORITISM IN THE COLLEGE WORKPLACE

INTRODUCTION:

In April of this year, in a much-publicized story, the University of Arkansas fired its head football [illegible] misleading his boss about everything from their relationship to her presence at the motorcycle accident that ultimately cost him his $3.5 million-per-[illegible] [1] The University discovered that the coach had hired the young woman with whom he had been having an affair for the position of student-athlete development coordinator, selecting her over 159 other applicants for the position just sixteen days after it was posted ± much quicker t[illegible] -day hiring process. [2] In May, the University of California at Berkeley faced a similar incident and fired a former vice chancellor who had tripled the pay of her subordinate ± and secret lover ± from $41,000 to $120,000 in just five years. [3]

DISCUSSION:

when employees claim that an adverse action was taken against them for speaking out against alleged paramour favoritism. For example, in 2006, a Georgia district court found that an employer was not liable for retaliation under Title VII for any actions it took against a female employee for complaining that her male supervisor gave preferential treatment to a female co-worker with whom the supervisor had a romantic relationship. The court reasoned that: (i) the female employee did not have an objectively reasonable belief that the employer violated the law, given the unanimity with which courts have declared favoritism of a paramour to be gender-neutral; (ii) a reasonable person

the supervisor and co-worker; and (iii) the employee did not allege that she was evaluated or judged on the basis of her sexuality. [29]

The Fifth Circuit rejected a similar claim in *Wilson v. Delta State University*, [30] where a male sued, contending that the University declined to renew his contract in retaliation for his complaints to the president that an unqualified female received an appointment to a high level position because she was having an affair with a vice-president. The plaintiff argued that he reasonably believed the female

harassment policy may address situations that rise to the level of traditional sexual harassment, it does little to help institutions recognize and address workplace relationships that may not rise to that level, but are nonetheless unfair or harmful to the institution by causing conflicts of interest or creating the beginnings of a hostile work environment. Moreover, having no policy at all can cloud the position of the university if an adverse action against one of the employees ever becomes necessary in the future.

42 U.S.C. § 2000e, *et. seq.*

FN6.
Michael J. Phillips, *The Dubious Title VII Cause of Action for Sexual Favoritism*, 51 WASH. & LEE L. REV. 547, 559 (1994).

FN7.
See Douglas R. Richmond, *Changing Times and the Changing Landscape of Law Firm Disputes*, 2009 PROF. LAW 73 (2009).

FN8.
EEOC, NOTICE N-915.048, POLICY GUIDANCE ON EMPLOYER LIABILITY UNDER TITLE VII FOR SEXUAL FAVORITISM (1990).

FN9.
See, e.g., Augustus B. Cochran, SEXUAL HARASSMENT AND THE LAW (2004); Billie Wright Dziech & Michael W. Hawkins, SEXUAL HARASSMENT IN HIGHER EDUCATION (1998); Michele A. Paludi (ed.), SEXUAL HARASSMENT ON COLLEGE CAMPUSES (1996); Ellen J. Wagner, SEXUAL HARASSMENT IN THE WORKPLACE: HOW TO PREVENT, INVESTIGATE, AND RESOLVE PROBLEMS IN YOUR O