

# PUBLICATION

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## Legal to Fire Female Employee for Being Irresistible?

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July 11, 2013

**The Iowa Supreme Court has recently withdrawn its December 21, 2012 opinion in the sex discrimination suit, *Nelson v. Knight*, and has declared that it will review the case. The court's opinion drew national attention to the Corn State, declaring that it is not unlawful sex discrimination for a male employer to terminate a female employee because the employer's wife viewed her as a threat to their marriage, or because, as the court also phrased it - "the boss views the employee as an irresistible attraction."**

The plaintiff had worked for the defendant for over ten years when the defendant's wife learned that the two were sending text messages to each other outside of work. The defendant's wife also testified that the plaintiff flirted with her husband, which the plaintiff denies. Both parties deny any sexual relationship. The wife demanded that the defendant fire the plaintiff, and the couple's church pastor agreed. The defendant, in the presence of a different pastor, fired the plaintiff and gave her one month's severance. The defendant hired a female to replace the plaintiff.

The plaintiff brought suit and argued that she would not have been terminated but for her gender. The defendant argued that he did not terminate the plaintiff because of her sex, but because of the perceived threat to his marriage. The plaintiff did not disagree with the defendant's motive, but emphasized that she did not do anything to get fired except exist as a female. The District Court granted summary judgment in favor of the defendant. The state's high court affirmed, finding that the defendant acted lawfully because he terminated the plaintiff based on "individual feelings and emotions regarding a specific person" and not based on the plaintiff's gender. Such a termination might be unfair, the court opined, but not unlawful.

The case was resubmitted on the briefs alone on June 26. As of June 28, when the court's 2012-2013 term came to an end, a new decision had not yet been issued.