

# KNOW YOUR RIGHTS

## LEGAL UPDATES

### RECENT CASE SUMMARIES AND BLOGS



### TERMINATED FOR REFUSING TO PARTICIPATE IN A DISCRIMINATORY PRACTICE; DON'T WORRY, YOU'RE PROTECTED!

Recently, the [EEOC](#) sued San Antonio-based Whataburger for retaliation against a former manager who refused to hire only white applicants. According to the lawsuit, Whataburger general and area managers demanded that a white restaurant manager in Florida hire only white applicants because Whataburger wanted “the faces behind the counter to match the customer base.” After the manager opposed and refused to participate in the racially discriminatory hiring practice, she was subjected to an ongoing pattern of retaliatory conduct including verbal abuse, intimidation, threats, a drastic change in schedule and unwarranted disciplinary.

Such alleged conduct violates Title VII of the Civil Rights Act of 1964. This law prohibits punishing job applicants or employees for asserting their rights to be free from employment discrimination. Asserting these rights is called “protected activity” and it is unlawful to retaliate against an employee who “refuses to follow orders that would result in discrimination.”

If you believe you have been retaliated against for refusing to follow a discriminatory practice, contact Law JBH to see what options you have against your employer.

### SAME JOB DUTIES, BUT NOT SAME PAY?



The Equal Pay Act provides that an employer may not pay unequal wages to men and women who perform jobs that require substantially equal skill, effort and responsibility, and that are performed under similar working conditions. The jobs need not be identical, but they must be substantially equal. It is the actual job duties performed, not job titles, that determines whether jobs are substantially equal. The [EEOC](#) summarizes the factors used under a EPA claim:

- **Skill:** measured by factors such as the experience, ability, education, and training required to perform the job;
- **Effort:** the amount of physical or mental exertion needed to perform the job;
- **Responsibility:** the degree of accountability required in performing the job; and
- **Working conditions:** this encompasses two factors: (1) physical surroundings like temperature, fumes and ventilation; and (2) hazards.

If you feel you are being compensated differently because of your sex, contact Law JBH to discuss.



## FINANCIAL STRUGGLES: THINKING BANKRUPTCY MIGHT BE YOUR ONLY OPTION

There are four types of bankruptcies under the law. The most common are Chapter 7 and Chapter 13, which will be discussed below.

### Chapter 7 Bankruptcy

In a bankruptcy case under Chapter 7, you file a petition asking the court to discharge your debts. The basic idea in a Chapter 7 bankruptcy is to wipe out (discharge) your debts in exchange for your giving up property, except for “exempt” property which the law allows you to keep. In most cases, all of your property will be exempt. But property which is not exempt is sold, with the money distributed to creditors.

To qualify for a Chapter 7, you must meet the “means test.” The means test is a way of figuring out if a person should be able to pay back some debts. The means test looks at a debtor’s income and property. If the debtor’s income and property are too high, the person might not qualify for a Chapter 7 and might have to file a Chapter 13.

### Chapter 13 Bankruptcy

If you want to keep property like a home or a car and are behind on the payments on a mortgage or car loan, then you may need to consider filing a Chapter 13 bankruptcy. In a Chapter 13 case you file a “plan” showing how you will pay off some of your past-due and current debts over three to five years. The most important thing about a Chapter 13 case is that it will allow you to keep valuable property – especially your home and car – which might otherwise be lost, if you can make the payments which the bankruptcy law requires to be made to your creditors.

For more information, contact Law JBH to schedule a free consultation to determine whether bankruptcy is right for you.

## MYTHS ABOUT FILING BANKRUPTCY



Law JBH understands that filing bankruptcy can be a very scary process, especially because of all the stigma that comes with it. Here are some common bankruptcy myths, dispelled, to put you at ease in order to consider whether this is the best option for you.

1. **Myth: You’ll lose everything.** You may think filing bankruptcy means giving up your house, car, and any other assets you may have. In fact, you’re likely to keep a lot of your possessions. The vast majority of Chapter 7 cases are no-asset cases, meaning the debtor gives up no possessions. There are two reasons for this. First, you can carve out some basic assets, called exemptions, that are necessary for day-to-day life. And for your possessions that aren’t covered under exemptions? Well, the creditors likely don’t want them.
2. **Myth: All of your debts will be discharged.** Both Chapter 7 and 13 will provide you relief from most forms of debt, but there are some exceptions. Such debts that are not discharged include: taxes, child or family support, student loans and debts that are a result of fraud you have committed.
3. **Myth: Everyone will know you filed for bankruptcy.** Unless you’re a prominent person or a major corporation, the chances are very good that the only people who will know about a filing are your creditors. While it’s true that bankruptcy is a public legal proceeding, the numbers of people filing are so massive, very few publications have the space, the manpower or the inclination to run all of them, although some local newspaper do print the names of those that have filed in that community.

4. **Myth: You will never get credit again.** Actually, the opposite tends to occur. Depending on the type of bankruptcy you file, you may receive a discharge in as little as 3 months. Afterwards, credit card companies will start reaching out to you, though these lenders will charge very high interest rates.

5. **Myth: Married, both spouses have to file for bankruptcy.** Not necessarily. It's not uncommon for one spouse to have a greater amount of debt in their name only. But, if both spouses have debts they want to discharge in which they are both on the hook for, they should file together. If not, the creditor would more than likely go after the spouse who did not file to collect payment.

6. **Myth: Only deadbeats file for bankruptcy.** Quite the contrary (look at the picture on the previous page). Most people file for bankruptcy after a life-changing event, such as a divorce, the loss of a job or a serious illness. At no fault of their own, these individuals struggle to pay pays and keep falling further behind. Filing bankruptcy gives these individuals a "fresh start."

7. **Myth: You can only file for bankruptcy once.** The truth is, you can only file for Chapter 7 bankruptcy once every eight years. For Chapter 13, you can file more often than that.

## LOCAL NEWS – SAN ANTONIO

### FORMER ALAMO HEIGHTS ISD COACH'S SAME-SEX DISCRIMINATION AND RETALIATION CLAIMS BEFORE TEXAS SUPREME COURT



The Texas Supreme Court recently heard oral arguments in the case of *Clark v. Alamo Heights ISD*. The San Antonio Court of Appeals recognized same-sex harassment in that case under the Texas Commission on Human Rights Act. In *Clark*, a new female coach at a middle school was harassed by two senior, female coaches. The two senior female coaches discussed Coach Clark's buttocks, her breasts almost daily and even blocked her exit from a room on occasion. The school district argued that while offensive, the coaches directed their sexual banter and harassment at both men and women. Yet, the court disagreed, finding that most of the harassment related to Coach Clark as a woman.

Should the Texas Supreme Court uphold the lower court's decision, it could be a huge victory for employees who have been victims of same-sex harassment in the workplace. Law JBH will keep you updated on the Court's ruling.

## LOCAL NEWS – WHARTON

### DEADLINE EXTENDED TO APPLY FOR DISASTER UNEMPLOYMENT BENEFITS

TWC has extended the deadline to file for Disaster Unemployment Benefits until **October 31, 2017**. Individuals who live in, work in, or travel through these the following counties can apply online ([ui.texasworkforce.org](http://ui.texasworkforce.org)) or by calling a TWC Tele-Center Monday through Friday between 8 a.m. and 5 p.m. at 800-939-6631: Aransas, Bee, Brazoria, Calhoun, Chambers, Fort Bend, Galveston, Goliad, Harris, Jackson, Kieberg, Liberty, Matagorda, Nueces, Refugio, San Patricio, Victoria and Wharton Counties.

For more information related to the recovery process, follow the Wharton County Hurricane Harvey Facebook page at

<https://www.facebook.com/whartoncountyhurricaneharvey/>



## October Holidays You May Not Know Of

October is Adopt a Shelter Dog Month. Visit your local animal shelter to find your forever dog. We got our forever dog (Riley, brown and white dog) from the [Animal Defense League](#).



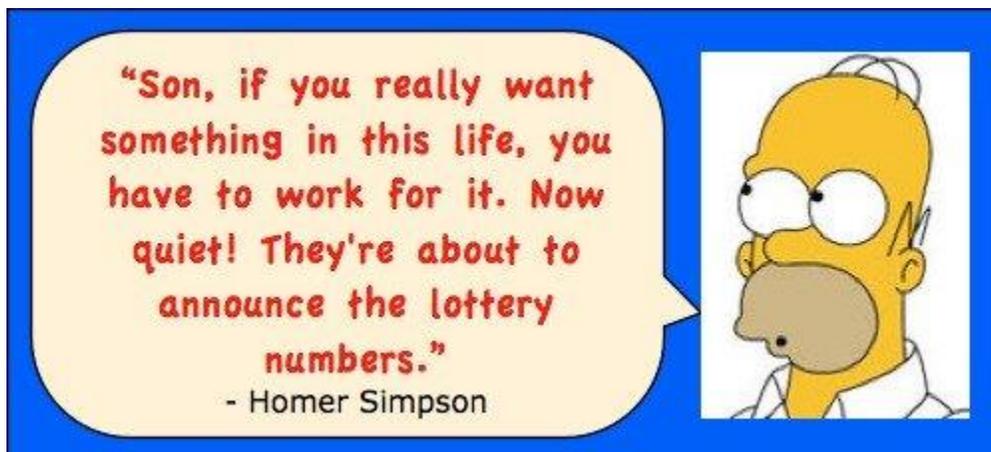
**October 4** – “National Frappe Day” – Who doesn’t enjoy a good frappe from time to time. My favorite is a peppermint mocha with non-fat milk, no whipped cream. Mmmmm. Mmmmm. Good!

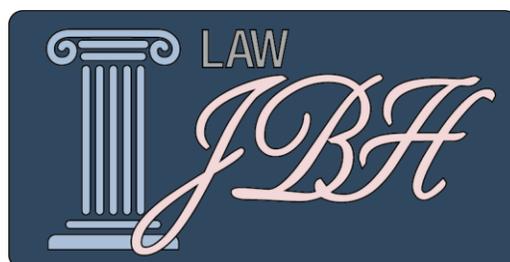
**October 5** – “Do Something Nice Day” – Doing something nice for someone almost always evokes a very pleasant response. At the very least, it results in a smile 😊.

**October 11** – “Take Your Teddy Bear to Work” – Though if he is anything like the one pictured below, you might want to reconsider.



## Quote of the Month





FOR MORE INFORMATION PLEASE VISIT:

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[WWW.FACEBOOK.COM/LAWJBH](http://WWW.FACEBOOK.COM/LAWJBH)

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OR

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