

IN THE SUPREME COURT OF CALIFORNIA

AMAANI LYLE,)	
)	
Plaintiff and Appellant,)	
)	S125171
v.)	
)	Ct.App. 2/7 160528
WARNER BROTHERS TELEVISION)	
PRODUCTIONS et al.,)	
)	Los Angeles County
Defendants and Respondents.)	Super. Ct. No. BC239047
_____)	

Plaintiff was a comedy writers' assistant who worked on the production of a popular television show called *Friends*. The show revolved around a group of young, sexually active adults, featured adult-oriented sexual humor, and typically relied on sexual and anatomical language, innuendo, wordplay, and physical gestures to convey its humor. Before plaintiff was hired, she had been forewarned that the show dealt with sexual matters and that, as an assistant to the comedy writers, she would be listening to their sexual jokes and discussions about sex and transcribing the jokes and dialogue most likely to be used for scripts. After four months of employment, plaintiff was fired because of problems with her typing and transcription. She then filed this action against three of the male comedy writers and others, asserting among other things that the writers' use of sexually coarse and vulgar language and conduct, including the recounting of their own sexual experiences, constituted harassment based on sex within the meaning of the

Fair Employment and Housing Act (the FEHA) (Gov. Code, § 12900 et seq.; all further statutory references are to this code unless otherwise indicated).

The Court of Appeal reversed the trial court's order granting summary judgment on plaintiff's sexual harassment action. We granted review to address whether the use of sexually coarse and vulgar language in the workplace can constitute harassment based on sex within the meaning of the FEHA, and if so, whether the imposition of liability under the FEHA for such speech would infringe on defendants' federal and state constitutional rights of free speech.

Here, the record discloses that most of the sexually coarse and vulgar language at issue did not involve and was not aimed at plaintiff or other women in the workplace. Based on the totality of the undisputed circumstances, particularly the fact the *Friends* production was a creative workplace focused on generating scripts for an adult-oriented comedy show featuring sexual themes, we find no reasonable trier of fact could conclude such language constituted harassment directed at plaintiff because of her sex within the meaning of the FEHA. Furthermore, to the extent triable issues of fact exist as to whether certain offensive comments were made about women other than plaintiff because of their sex, we find no reasonable trier of fact could conclude these particular comments were severe enough or sufficiently pervasive to create a work environment that was hostile or abusive to plaintiff in violation of the FEHA. Accordingly, we remand the matter with directions to affirm the summary judgment order insofar as it pertains to plaintiff's sexual harassment action, without addressing the potential of infringement on defendants' constitutional rights of free speech.

FACTUAL AND PROCEDURAL BACKGROUND

After receiving a right to sue letter from the Department of Fair Employment and Housing, plaintiff Amaani Lyle filed this action against organizations and individuals involved in the production and writing of the

