

https://www.santafenewmexican.com/news/local_news/waitress-sues-santa-fe-county-ex-probate-judge-claiming-offensive-sexual-overture/article_2c44b1f7-1e4d-58de-8ec2-6aa4ca88c572.html

Waitress sues Santa Fe County ex-probate judge, claiming ‘offensive sexual overture’

★ Follow Phaedra Haywood

By Phaedra Haywood | phaywood@sfnewmexican.com

Sep 11, 2018



Mark A. Basham

Former Santa Fe County Probate Judge Mark Basham is being sued by a woman who says he touched her “on her buttocks in a manner that was offensive and sexually motivated” while she worked as a waitress at a Santa Fe restaurant three years ago.

Basham — who served as probate judge from 2006-14 and is also a former city attorney and one-time assistant district attorney — in an interview this week didn't deny touching the woman. But says he did nothing wrong, that his accuser thinks he is someone with deep pockets and "wants to make money," and that she is capitalizing on the burgeoning #MeToo movement to do so.

"Yes, I touched her. I didn't grab her," the attorney said. "I drug my finger across her lower back near her buttocks, just to acknowledge I was leaving, nothing more, nothing less. It was so subtle. She was talking and I didn't want to interrupt her. ... And now this. I'm willing to go to a jury and tell that story and they can tell me what her damages are."

ADVERTISEMENT

Report Ad

Plaintiff Oceana Mendoza could not be reached for comment, and her attorney, Michael Hart, said he was not authorized to discuss the matter on her behalf. But her complaint, filed Sept. 6 in state District Court, says Basham's "offensive sexual overture" caused her "extreme mental anguish" for which she sought treatment.

Mendoza seeks unspecified actual and punitive damages.

Basham said the encounter took place in 2015 when he and a friend went to lunch at the Pecos Trail Cafe, a place he frequented.

"I was not married at that point in time, and I said, 'You're new here. I just want to warn you: I'm the biggest flirt,'" Basham recalled Tuesday. "She said, 'That's OK. I'm a bigger flirt.'"

He continued, “She took my order and as she would walk by, she would blow me kisses. And I said ‘Gee, she’s a young gal. I don’t want to be flirting with someone’s kid that I know.’ So I asked her who her parents were, and she said they weren’t from Santa Fe.”

Basham said he touched the woman as he was leaving because he wanted to “acknowledge the banter” without interrupting her as she went about her work.

He said that was the first and last time he ever saw Mendoza.

Basham also said that when #MeToo movement, which supports victims of sexual harassment and assault, exploded last year and he saw powerful men in the entertainment and other industries losing jobs and credibility after being accused of sexual misconduct, it occurred to him the incident with the waitress could come back to haunt him.

“It got a little bit crazy, you know,” Basham said. “And I just thought in the back of my mind this incident may resurface and it did.”

Basham said that in certain situations — such as a boss requiring a woman to have sex to keep her job or get a promotion — the sentiment behind #MeToo is “well conceived.”

But he said “It’s also have a very chilling effect on just simple interactions.”

Pecos Trail Cafe owner Jorge Antuna said Mendoza did tell him at the time that Basham had touched her, and he recorded that in a daily log he keeps with the intention of investigating it later, but Mendoza soon quit and moved away.

“She said she was taking an order and he went by and touched her,” Antuna remembered. “She was upset, definitely. She was like mad, you know?”

Antuna said Basham was a regular customer and he had never had any complaints about Basham’s behavior before, so he wanted to find out more before confronting him.

“We’d never had an incident like that before. She was a nice, respectful girl, to be honest with you. She was very nice to people. And that really was strange,” Antuna said when asked to comment on the lawsuit. “I’m just confused. I’m surprised she didn’t do it sooner. It’s sad that happened.”

Kate Ferlic, a Santa Fe attorney who has litigated a number of sexual harassment claims but did not review this case, agreed to speak only generally on the topic. She said the #MeToo movement is “the beginning of another huge dialogue for our country about the way we behave with one another, about power dynamics and the ways we perpetuate gender inequalities.”

ADVERTISEMENT



Report Ad

“The paradigm may be shifting to a starting place of believing women,” Ferlic said, “not questioning what a woman did to provoke harassment.”

Phaedra Haywood

Courts Reporter