

## No Privacy Right in Email Submission to Gossip Website

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Recently, an arbitrator determined that Mario Lavandeira, operator of the gossip website PerezHilton.com, was not liable for breach of contract and other claims brought against him because he published an inflammatory email sent to him by a reader. In 2007, an individual used her work email account to send an email to Lavandeira that insulted both Lavandeira and the actress Angelina Jolie. Lavandeira published the email to PerezHilton.com, including the person's full name and email address. Her employer determined that the email violated its Computer and Internet Policies, which prohibited emails that were "disruptive, offensive to others or harmful to morale" and forbade the transmission of offensive materials, and terminated the individual's employment. The individual then sued Lavandeira, arguing that the website's privacy policy included a promise of privacy for email communications, and that the publication of her email breached this promise and was the cause of her termination. The website's terms of use stated that website visitors who submitted material "grant [the site] a nonexclusive, royalty-free, perpetual...right to use, reproduce, modify, adapt, publish...distribute, and display such content throughout the world in any media. [Visitors] grant [the site the] right to use the name that [visitors] submit in connection with such conduct." The arbitrator found that in light of this language and the fact that the website was in the business of publishing "raunchy gossip," there was no reasonable expectation of privacy in email submissions. Although the website did have a privacy policy, the arbitrator found that it was intended to protect the information of customers of the site, who paid for advertising, and who were distinct from website visitors such as this particular individual. The arbitrator also found that the individual should not be able to recover for injuries caused by her own misconduct.

**TIP: This case reminds companies to have clear policies about how information they receive will be treated. Here the website was successful because it included in its terms a license and right to publicly display any information that was submitted. Similarly, the case is a reminder that employers should maintain appropriate electronic communication and internet use policies to give themselves the greatest flexibility in the event of a termination.**

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