

## News Story

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### Woman wins \$3.5M for 'defamatory' evaluation

By [Paul Fletcher](#)

A woman who claims she was defamed in a performance evaluation and fired as a result has won a \$3.5 million verdict from a Fairfax County jury.

Companies enjoy a number of immunities when it comes to evaluating and critiquing the job performance of an employee. But the plaintiff here alleged that her boss had it in for her after she had made a number of candid and she thought, confidential, remarks about him to an executive coaching firm.

That retaliatory animus, she alleged, led him to make false statements about her and her operating unit in her annual review, leading to her ultimate discharge.

The case is *Hyland v. Raytheon Corp.* A Verdict & Settlement Report in the case, submitted by the plaintiff's lawyers, Peter C. Cohen and Elaine Charleson Bredehoft of Reston, appears on page 31.

The Supreme Court of Virginia will have an opportunity to review the issues in the case if it chooses. The defendants have noted an appeal and presently are preparing their petition.

### Longtime employee

The plaintiff, Cynthia Hyland, had been with Raytheon Corporation, the defense contractor, and its predecessor for 21 years. She was named senior vice president of a Raytheon subsidiary that provides technical services to implement Raytheon's projects, according to Cohen.

She was one of about 10 employees asked to participate in an executive coaching exercise for the man who had been named her boss, Bryan Even. A recruiting firm came in and interviewed the employees, asking questions about Even and his way of doing things.

According to Cohen, Hyland was assured anything she said about Even was confidential. She made a number of comments about him, both positive and "not so positive."

The words got back to Even. Cohen contended that Even then proceeded "to use the company's performance evaluation procedure to end a 20-year career."

Cohen alleged that Even made defamatory remarks in Hyland's review about her and about her business unit's performance.

The evaluation came after a previous "string of stellar reviews," Cohen said. Hyland ultimately was fired.

Before disclosure of the comments, Cohen said, Even had been lavish in his praise for Hyland and her work. But afterwards, "it was just black and white" in the way his attitude changed.

"It was a night and day thing," Cohen said. "And I think the jury got that."

The jury returned a verdict of \$3.5 million in favor of Hyland, with \$1.5 million in compensatory damages and \$2 million in punitives.

The punitives award was reduced to the statutory limit of \$350,000, leaving the plaintiff with an award of \$1.85 million, which Cohen said was upheld by Judge Arthur B. Viereggs Jr. following post-trial motions.

Fairfax lawyer Craig J. Franco, one of the defense attorneys in the case, said that a notice of appeal had been filed with the Supreme Court and that he was preparing the petition for appeal, which is due with the court next month.

"We're confident the issues in the case will be interesting to the Supreme Court," he said, adding that he hopes that the court will accept the appeal.

### **Employers beware**

Cohen said that the case tells a cautionary tale for employers. Performance evaluations are common, and a boss with a retaliatory animus could get the company in trouble.

Also, he noted executive coaching firms are frequently used by larger employers. Their pledges of confidentiality may or may not be worth much.