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Rocky Cola sex lawsuit dismissed

■ Woman and her attorneys who filed the suit are fined \$15,000 by judge.

By Paul M. Anderson, *News-Press*

MONTROSE — Despite the fact that a judge threw out her sexual harassment case and even fined her attorneys \$15,000, a former waitress at Rocky Cola Cafe may continue her legal battle against the restaurant.

Krista Lynn Bollman filed a \$5.5 million suit against Rocky Cola Cafe and her former shift manager last year.

But Los Angeles County Superior Court Judge Charles W. Stoll threw the suit out Dec. 6 and then sanctioned Bollman and her attorneys Michael Miller and Molly Walker with a whopping \$15,000 fine.

Still, Bollman may appeal, Walker said. Neither Miller nor Walker will represent her because their firm has been dissolved and Miller has retired, Walker said.

"The firm is no longer in business so I don't think it's proper for me to comment on anything right now, especially, considering the fact that, as far as I know, she's planning on filing an appeal," Walker said in a message left with a News-Press reporter.

Further efforts to reach Walker or Miller were unsuccessful. Bollman could not be reached for comment.

When contacted, Stoll would not comment on why he sanctioned the lawyers because he believes Bollman is appealing his ruling.

Bollman filed her lawsuit Nov. 24, 1998 in Glendale Municipal Court. In it she alleged her shift manager, Christopher Vitolo, used his authority to persuade her to have sex with him.

Stoll rejected those arguments, relying on the fact Bollman admitted she had a consensual sexual relationship with Vitolo for at least a month.

But in her lawsuit, Bollman accused Vitolo of criticizing her physical appearance and making unwanted sexual advances

to her for months after the breakup.

What principally earned the sanction was Bollman's insistence on naming Vitolo's father in the lawsuit for allowing the two to have sex in his home, according to Stoll's ruling.

"The imposition of sanctions is also appropriate because there was no evidence whatsoever to support bringing a claim against Carl Vitolo — the alleged harasser's father — who was improperly added as a doe defendant in this case," Stoll wrote in his decision.

Among the reasons Stoll threw out the case were:

- Vitolo did not make sex a condition of Bollman's continued employment;

- Vitolo's comments "were not sexual in nature, were not unwelcomed by (Bollman), and did not establish a sexually pervasive working environment of harassment as a matter of law," Stoll wrote;

- Vitolo did not force himself on her or require her to stay after work.

Stoll also ruled that the comments Vitolo made about Bollman were not defamatory.

For instance, Bollman argued Vitolo defamed her when saying she was "sexually promiscuous and a calculating bitch," according to Stoll's ruling. But Stoll noted that Bollman admitted Vitolo's comment was a matter of opinion rather than fact.

Stoll threw out the case 10 days before it was set to go to trial, said Lisa G. Sherman, the other attorney representing Rocky Cola.

Bollman rejected a \$1-million settlement offer before Stoll threw the case out, Sherman said.

"The judge gave them as many bites at the apple as they needed to oppose our motion for summary judgment," Sherman said. "And we had two settlement conferences before the motion, but they wouldn't budge off \$1 million."