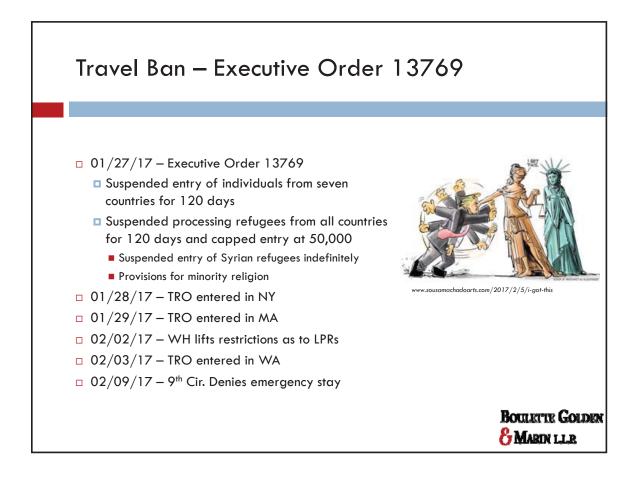
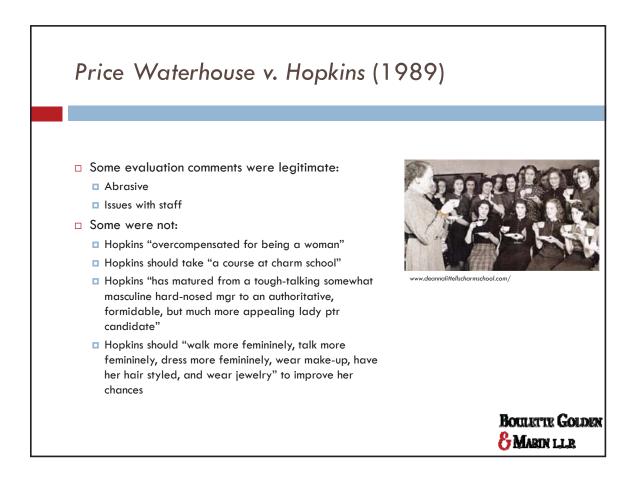
FROM PARTIES TO PRESIDENTS:

DEALING WITH DECISION-MAKER COMMENTARY

University of Texas Continuing Legal Education Page Keeton Civil Litigation Conference Austin, TX • 2017







Price Waterhouse v. Hopkins (1989) (plurality)

But-for causation is a hypothetical construct. In determining whether a particular factor was a but-for cause of a given event, we begin by assuming that that factor was present at the time of the event, and then ask whether, even if that factor had been absent, the event nevertheless would have transpired in the same way. ... The critical inquiry ... is whether gender was a factor in the employment decision at the moment it was made. Moreover, since we know that the words "because of" do not mean "solely because of," we also know that Title VII meant to condemn even those decisions based on a mixture of legitimate and illegitimate considerations. Supreme Court Ruling in Sex-Bias Case Hailed by Women's Rights Groups



BOULETTE GOLDEN

Washington Post, 1989

Price Waterhouse v. Hopkins (1989) (plurality) Supreme Court Ruling in Sex-Bias Cas Remarks at work that are based on sex stereotypes do Hailed by Women's Rights Groups not inevitably prove that gender played a part in a particular employment decision. ... [T]he stereotyping in this case did not simply consist of stray remarks. On the contrary, Hopkins proved that Price Waterhouse invited Washington Post, 1989 partners to submit comments; that some of the comments stemmed from sex stereotypes; that an important part of the Policy Board's decision on Hopkins was an assessment of the submitted comments; and that Price Waterhouse in no way disclaimed reliance on the sexlinked evaluations. This is not, as Price Waterhouse suggests, "discrimination in the air". ... BOULETTE GOLDEN C MARIN LLR

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First appeared as part of the conference materials for the 41st Annual Page Keeton Civil Litigation Conference session "From Parties to Presidents: Dealing With Decision-Maker Commentary"