

Jury Verdicts Weekly

Barbara Haider v. Byer California et al.

Number: 939-093

Plaintiff Attorney: Eggleston, Siegel and LeWitter, Oakland, by Jonathan H. Siegel and Jody I. LeWitter

Defendant Attorney: Willoughby, Stewart and Benning, San Jose, by Randall E. Willoughby and Mary Ann O'Hara

Plaintiff Medical: John H. Epstein, M.D. (Dermatologist) San Francisco

Defendant Medical: None

Plaintiff Expert: Margo Rich Ogus, Ph.D. (Economist) Mountain View

Defendant Expert: None

Trial Judge: Hon. Donald Mitchell

WRONGFUL TERMINATION – SEX DISCRIMINATION

February 28, 1991, plaintiff, a 37-year-old credit manager from San Bruno, was terminated from her employment with defendant company in San Francisco by defendant supervisor, Gary Schwartz. She had been employed by defendants since May of 1987 and was seven months pregnant at the time of her termination.

Haider v. Byer California et al. continued — San Francisco County

Plaintiff contended that defendants wrongfully terminated her in violation of FEHA pursuant to California Government Code section 12900 et seq.; that she was discriminated against because of her sex and because she was pregnant; that she had always been a satisfactory employee; that after her supervisors learned that she was pregnant and she had requested a pregnancy leave under California law, they secretly sought a replacement for her position and informed her that she was terminated only after a replacement had been secured; that defendants violated her state constitutional right of privacy; and that defendant supervisor told her that she would thank him in the future for her termination, as it would allow her to spend more time with her child.

Defendants contended that there was no discriminatory motive for plaintiff's termination; that plaintiff was a substandard performer who had been warned for months that her job was in jeopardy; that her longstanding work performance problems related to credit networking, attendance, and relations with her co-workers and she was terminated because of continued poor performance and attitude; and that, if anything, plaintiff's pregnancy made them more cautious about terminating her.

Plaintiff attorneys asked the jury to award specials plus \$750,000 for emotional distress and a finding of liability on punitive damages.

Jury out one and one-quarter hours after a ten-day trial, according to plaintiff attorneys.

Jury out three hours after a three-and-one-half-week trial, according to defendant attorneys.

Injuries:

Dr. Epstein testified that plaintiff suffered from a dermatological condition, including hair loss and skin disorders, which could have been exacerbated by the stress associated with the termination and anxiety related to searching for new employment.

Specials:

Past and future wage loss \$225,938, based on plaintiff reaching parity with her former job in wages and benefits after ten years of future employment.

Settlement talks:

Demand \$410,000 to \$425,000.

Offer \$150,000, according to plaintiff attorneys.

Offer \$150,000 before trial, raised to \$200,000 on day of trial, according to defendant attorneys.

Result:

PLAINTIFF VERDICT \$225,938 (economic damages). 9-3

PLAINTIFF VERDICT \$225,938 (non-economic damages). 10-2

The jury found 10-2 in favor of plaintiff on pregnancy discrimination, and 9-3 that defendants were guilty of fraud, oppression or malice by clear and convincing evidence.

Plaintiff attorneys report that the jury also found 9-3 in favor of plaintiff on violation of state constitutional right to privacy, but when the jury was polled, the verdict became 8-4, and plaintiff voluntarily dismissed the claim since it did not affect the damages award.

The case settled prior to the punitive damages hearing for a confidential amount.

November 20, 1992