

FILED
APR 11 2007
RICHARD W. HENNING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHARLOTTE BOSWELL,

Plaintiff,

v.

FEDEX CORPORATION,

Defendant.

No. C 04-0098 SI

Related Case C 04-0099 SI

SPECIAL VERDICT

We, the jury in the above entitled action, find the following for our special verdict:

(1) SEXUALLY HOSTILE WORK ENVIRONMENT (SEXUAL HARASSMENT)

Question No. 1: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that Norman Stites was her supervisor and that he subjected her to a sexually hostile work environment at FedEx, as defined in these instructions?

Yes ☒ No ☐

If the answer to Question No. 1 is "no," please proceed directly to Question No. 6. If the answer to Question No. 1 is "yes," please proceed to Question No. 2.

Question No. 2: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that as a result of sexual harassment by Norman Stites, she suffered a tangible employment action, as defined in these instructions?

Yes ☒ No ☐

If the answer to Question No. 2 is "no," please proceed to Question No. 3. If the answer to Question No. 2 is "yes," please proceed directly to Question No. 5.

Question No. 3: Did defendant FedEx prove, by a preponderance of the evidence, that FedEx exercised reasonable care to prevent and promptly correct the sexually harassing behavior?

Yes _____ No _____

If the answer to Question No. 3 is "no," please proceed directly to Question No. 5. If the answer to Question No. 3 is "yes," please proceed to Question No. 4.

Question No. 4: Did defendant FedEx prove, by a preponderance of the evidence, that plaintiff unreasonably failed to take advantage of any preventive or corrective opportunities provided by Fed Ex or unreasonably failed to otherwise avoid harm?

Yes _____ No _____

If the answer to Question No. 4 is "no," please proceed to Question No. 5. If the answer to Question No. 4 is "yes," please proceed to Question No. 6.

(2) CONSTRUCTIVE DISCHARGE

Question No. 5: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that her working conditions were made so intolerable by the sexually hostile work environment that a reasonable person in plaintiff's position would feel compelled to resign?

Yes ☒ No _____

Please proceed to Question No. 6.

(3) RETALIATION

Question No. 6: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that she engaged in activities protected under federal law, such as opposing sexual advances, requests for sexual conduct or other verbal or physical conduct of a sexual nature?

Yes ☒ No _____

If the answer to Question No. 6 is "no," please go directly to Question No. 9. If the answer to Question No. 6 is "yes," please proceed to Question No. 7.

Question No. 7: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that defendant FedEx subjected plaintiff to an adverse employment action, as defined in these instructions?

Yes ☒ No ☐

If the answer to Question No. 7 is "no," please go directly to Question No. 9. If the answer to Question No. 7 is "yes," please proceed to Question No. 8.

Question No. 8: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that her protected activity was a substantial or motivating factor in causing defendant FedEx to take the adverse employment action?

Yes ☒ No ☐

Please go to Question No. 9.

Instructions for Question No. 9: If you answered Question No. 1 "no" and you answered either Question No. 6 or No. 7 or No. 8 "no," do not answer this question or any further questions; instead, go directly to the end of this form, sign and date it where indicated. Likewise, if you answered both Questions No. 3 and No. 4 "yes" and you answered either Question No. 6 or No. 7 or No. 8 "no," do not answer this question or any further questions; instead, go directly to the end of this form, sign and date it where indicated. Otherwise, please answer the next questions

Question No. 9: What amount of damages, if any, did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, was caused to her by FedEx's actions?

Lost earnings: \$ 300,000

Other damages, including mental or emotional pain and suffering: \$ 250,000

Question No. 10: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that defendant FedEx's conduct toward her were malicious, oppressive or in reckless disregard of her rights, as those terms are defined in these instructions?

Yes ☒ No ☐

If your answer to Question No. 10 was "no," do not answer the next question; instead, go directly to the end of this form, sign and date it where indicated. Otherwise, please answer the next question.

1 **Question No. 11:** What amount of punitive damages, if any, did plaintiff Charlotte Boswell prove, by
2 a preponderance of the evidence, should be awarded in this case?

3 \$ 2,450,000
4

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6 Dated: 4/11/07
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8 FOREPERSON

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