

# VERDICTS & SETTLEMENTS

www.dailyjournal.com

FRIDAY, FEBRUARY 13, 2009

## EMPLOYMENT LAW

### HOSTILE WORK ENVIRONMENT Wrongful Termination

VERDICT: Defense.

CASE/NUMBER: Theresa Schaefer, Jonathon Schaefer v. American Medical Response / RCV 100519.

COURT/DATE: San Bernardino Superior / Jan. 16, 2009.

JUDGE: Hon. Barry L. Plotkin.

ATTORNEYS: Plaintiff - Linda M. Battram (Law Offices of Linda M. Battram, Claremont).

Defendant - Yuk K. Law (Law + Brandmeyer, LLP, Pasadena).

MEDICAL EXPERTS: Plaintiff - Marcia Lasswell, MFCC, Claremont.

TECHNICAL EXPERTS: Plaintiff - Jules H. Kamin, Ph.D., economics, Los Angeles.

Defendant - John Henderson, Esq., human resources and labor relations, Santa Monica.

FACTS: American Medical Response (AMR) is a national ambulance company with operations in Southern California, where plaintiff Theresa Schaefer worked as a human resource generalist. In the latter part of 2005, AMR announced it was restructuring operations in the Western part of the United States, and there would be a reduction in the number of human resources department employees. The plaintiff was laid off in January 2006 following the restructuring. She was 42 years old at the time of her termination.

PLAINTIFF'S CONTENTIONS: The plaintiff contended that she was subjected to unwanted harassment during the first half of 2005 by her supervisor Chris Gordon due to gender discrimination. She claimed Gordon was overly critical of her work performance; that he demeaned and verbally harassed her. Additionally, she claimed that the company restructuring was a pretext to terminate her due to her age and gender. Specifically, the plaintiff contended that there was a company policy or procedure to terminate women and employees over 40 years of age, and she was the target of discrimination due to her desire to get pregnant. She, in fact, was pregnant when AMR terminated her.

### DEFENDANT'S CONTENTIONS:

With respect to harassment claim, AMR contended that at best, plaintiff and Gordon had a personality conflict and plaintiff was unwilling to accept Gordon's constructive criticisms of her work performance.

As to the wrongful termination claims, AMR claimed that the restructuring of the human resources department necessitated a reduction of employees, and plaintiff's poor work performance was the reason she was laid off.

INJURIES: The plaintiff claimed she experienced severe emotional distress and major depression as a result of the alleged wrongful termination.

DAMAGES: At least \$250,000 for past and future non-economic damages sustained by Theresa Schaefer.

Jonathan Schaefer did not specify the amount of non-economic damages sought in connection with his loss of consortium claim.

### SPECIALS IN EVIDENCE:

MEDS: \$2,500 for counseling and therapy sessions  
Future MEDS: \$2,500 for counseling and therapy sessions  
LOE: \$197,000  
Future LOE: \$245,111, which includes loss of earnings from the trial date to the end of September 2011, when plaintiff will have finished her education in pursuit of her registered nurse license.

JURY TRIAL: Length, eight days; Poll, 12-0 (no harassment), 9-3 (no wrongful termination based on age), 12-0 (no wrongful termination based on gender/plans to get pregnant), 12-0 (no wrongful termination based on gender/pregnancy), 10-2 (no disparate impact based on age); Deliberation, 2.5 hours.

### SETTLEMENT DISCUSSIONS:

The plaintiffs demanded \$75,000 to defendant before trial, and at least \$100,000 during trial.

AMR offered \$10,000 before trial, and \$20,000 during trial.

### RESULT: Defense verdict

OTHER INFORMATION: At the end of the presentation of evidence, the court granted AMR's motion for nonsuit on plaintiffs' punitive damages claims. The court denied defendant's motion in limine and judgment on the pleadings, as well as its motion for nonsuit in the loss of consortium claim.