

EMPLOYMENT

Race Discrimination — Disability Discrimination — Retaliation

County denied retaliating against complaining employee**VERDICT** Defense**CASE** Jesse Dampier v. County of Los Angeles, County of Los Angeles Department of Public Works, Rueben Ahmada, Joe Gonzalez, Ivory Johnson, Dean Lehman, Stuart Lillich and Doe Defendants 1-5, No. BC442477**COURT** Superior Court of Los Angeles County, Los Angeles**JUDGE** Joanne O'Donnell**DATE** 8/9/2012**PLAINTIFF****ATTORNEY(S)** Helena S. Wise, Law Offices of Helena S. Wise, Burbank, CA**DEFENSE****ATTORNEY(S)** Jeffrey M. Hausman, Hausman & Sosa, LLP, Tarzana, CA

FACTS & ALLEGATIONS Plaintiff Jesse Dampier, 42, a black Department of Public Works maintenance worker for the county of Los Angeles, claimed that starting in 1999, supervisors and co-workers operated a conspiracy directed by Dean Lehman, the district engineer, to use racial slurs or make insensitive remarks to others. He also claimed they disciplined him differently for his misconduct, did not promote him, failed to give or delayed in giving him a key to work yards and facilities, and delayed in getting him a long-sleeved orange work shirt. Dampier further claimed that when he complained about the discrimination, he was passed over for promotions and later discharged solely because of his race.

Dampier sued his employers, the County of Los Angeles and the county of Los Angeles' Department of Public Works, as well as various supervisors he had at different facilities and times over several years, including Rueben Ahmada, Joe Gonzalez, and Stuart Lillich. Dampier also sued Lehman and Ivory Johnson, who was the investigator assigned to investigate two separate incidents of Dampier's misconduct which resulted in discipline. Dampier alleged race and disability discrimination based on being black, and his perceived disability that he has hypertension, a sleeping disorder, depression and anxiety. He also alleged that the defendants' actions constituted harassment and retaliation in violation of the Fair Employment and Housing Act.

Claims against the supervisors, Lehman and Johnson, were dismissed on a demurrer and the claims of racial and disability discrimination, and harassment against the county were dismissed on summary adjudication. Thus, the sole cause of action was the claim of retaliation.

Dampier claimed that in 1999, he questioned the use of language after Lehman told a predominantly minority yard that he would be on them like a "fly on sh-t." Dampier claimed that, in turn, he was issued a reprimand for insubordination and transferred. He claimed that he, along with his colleagues, was subjected to racial remarks from a newly promoted superintendent. Dampier claimed that this prompted him to complain directly to the Board of Supervisors, which demoted the superintendent after an investigation. However, the individual was then re-promoted to superintendent by Lehman shortly thereafter. Dampier alleged that this re-promotion made him complain again, but that from that point forward, he was "non gratis," was denied promotions, was fired and reinstated with full back pay, and was subjected to a hostile work environment following reinstatement. He also alleged that he filed grievances for what he perceived was racial discrimination and harassment, including a refusal to issue long-sleeved orange shirts during inclement weather and a denial of keys needed to perform his duties at two yards for more than three years. In addition, he alleged that he contested a three-day and 15-day suspension, as well as contested a refusal to allow him to work overtime until after Lehman was transferred.

Plaintiff's counsel noted that the county refused to allow the jury to read Dampier's written complaints to the Board of Supervisors, as well as underlying investigative reports. Counsel added that the county allegedly prevented testimony from Dampier's colleagues, including Union stewards. Finally, plaintiff's counsel argued that the county claimed that business reasons justified its actions, including that Dampier did not make himself available for overtime, despite his prior request for overtime.

Defense counsel argued that the discipline enacted by the county was motivated by sound business reasons, due to Dampier's improper conduct. Counsel further argued that any delays in getting Dampier the keys were not motivated by discriminatory or retaliatory reasons, but were due to business and policy reasons in one yard and a mere administrative

oversight in the other. Defense counsel similarly argued that the delay in providing Dampier the long-sleeved shirt was merely an oversight and that he waited for months before bringing it to the county's attention by filing a grievance, at which time the mistake was immediately rectified.

INJURIES/DAMAGES Dampier sought recovery of damages for his loss of earnings and benefits, future loss of promotional opportunities, and medical care.

RESULT The jury determined that Dampier's complaints about race discrimination were not the motivating reason for him being disciplined for 3 and 15 days, for him not working overtime for a period of time, and for him not being given keys to the work yard. Plaintiff's counsel noted that the court declined to permit the jury to consider promotional decisions and evidence concerning the orange shirts. Thus, the jury rendered a defense verdict.

DEMAND \$300,000
OFFER \$35,000

TRIAL DETAILS Trial Length: 10 days
Trial Deliberations: 1 day
Jury Vote: 11-1
Jury Composition: 6 male, 6 female; 5 Asian, 3 black, 3 Latino, 1 white

**PLAINTIFF
EXPERT(S)** Jeffrey A. Davis, M.D., psychology/counseling,
Montclair, CA (treating physician)

**DEFENSE
EXPERT(S)** Julie A. Armstrong, Psy.D., RNCS,
psychology/counseling, Beverly Hills, CA
(qualified medical examination, clinical and forensic psychology)

EDITOR'S NOTE This report is based on information that was provided by plaintiff's and defense counsel.

-Priya Idiculla