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Fifth Circuit Vacates $365 Million Punitive Damages Award for Title VII Discrimination and Retaliation Claims

Law and the Workplace on **February 27, 2024**

In *Harris v. FedEx Corp. Servs., Inc.*, No. 23-2003, a Fifth Circuit panel vacated a $365 million punitive damages award in race discrimination and retaliation case, finding that the plaintiff Jennifer Harris ("Harris") failed to show that Fedex Corporate Services, Inc. ("Fedex") acted with malice or reckless indifference when it terminated her for poor performance.

Background

In March 2019, Harris' supervisor suggested that Harris, a black woman, step down from her role as a District Sales Manager due to low team sales. Shortly after, Harris made an internal complaint accusing her supervisor of race discrimination. Fedex launched an internal investigation into Harris' accusations and concluded that the accusations were unsubstantiated. During the course of the internal investigation, Harris' supervisor sent her a letter that notified Harris that she would be required to create a performance improvement plan that highlighted goals and activities to improve her team's performance. The letter also advised Harris that additional declining performance from her may result in her termination. Harris then submitted a second internal complaint against her supervisor, alleging that the supervisor's letter was in retaliation for Harris' first internal complaint. Fedex launched another internal investigation, and again concluded that Harris' claims were unsubstantiated.

Harris' supervisor then sent Harris a second letter, which required Harris to submit another performance improvement plan and informed Harris that her failure to improve her performance may result in her termination. Harris then submitted a third internal complaint against her supervisor, which FedEx investigated and found to be unsubstantiated. In January 2020, Harris was terminated at her supervisor's request due to poor performance.

Harris filed suit in the U.S. District Court for the Southern District of Texas in May 2021, alleging race discrimination and retaliation under 42 U.S.C. § 1981 (“Section 1981”). Fedex moved for summary judgment, arguing that Harris’ Section 1981 claims were time-barred due to a provision in her employment contract which required Harris to bring legal action against Fedex within the time prescribed by law or six months from the date of the event that forms the basis of her lawsuit, whichever expires first. The district court denied Fedex’s motion and Harris amended her complaint to include claims for discrimination and retaliation under Title VII.

At trial, the jury found that Fedex had not discriminated against Harris, but that it had retaliated against her. Harris was awarded $1,160,000 in damages for past and future pain and suffering, and an additional $365,000,000 in punitive damages.

Fedex then appealed to the Fifth Circuit on the following issues: (1) whether the limitation provision in Harris’s employment contract barred her Section 1981 claims; (2) whether Harris presented sufficient evidence at trial to support her retaliation claim; (3) whether the Court’s maximum-recovery rule limits Harris’s compensatory damages; (4) whether Harris presented sufficient evidence at trial to warrant punitive damages and whether the punitive damages awarded were unconstitutionally excessive; and (5) whether Fedex is entitled to a new trial based on expert testimony.

Fifth Circuit’s Ruling

First, the panel reversed the district court’s denial of Fedex’s motion for judgment as a matter of law, finding that the limitation provision in Harris’s contract was enforceable because (1) Harris knowingly and voluntarily signed the contract and accepted the provision; (2) the provision was broad enough to encompass retaliation and discrimination claims; and (3) the six-month limitation period was not unreasonable as to Section 1981 claims because such a period is included in various other federal laws and has been found to be reasonable by other courts in the Fifth Circuit. As a result, Harris’s Section 1981 claims were barred and she was only entitled to recover up to $300,000.

Second, the panel found that Harris presented enough evidence at trial to support her retaliation claim, as she offered evidence that she was treated less favorably than similarly situated employees, and evidence of the temporal proximity between her internal complaints and her supervisor’s disciplinary actions.

Third, the panel remitted Harris's damages to $248,619.57 using the maximum recovery rule, which requires the court to look at its other published decisions involving comparable facts to determine the amount of damages. The panel determined that based on relevant case law, Harris was entitled to a base sum of $100,000, which equaled $248,619.57 when adjusted for inflation.

Fourth, the panel vacated Harris's $365,000,000 punitive damages award, finding that Harris failed to meet the burden required for punitive damages in Title VII cases. Specifically, the panel concluded that Harris failed to show that Fedex acted with malice or reckless indifference when it retaliated against her, including because the evidence suggested that Harris's supervisor disciplined Harris for her performance and insubordination, not in retaliation for her internal complaints. Further, the panel found that Fedex made good-faith efforts to comply with Title VII when it investigated all of Harris's internal complaints.

Fifth, the panel found that Fedex was not entitled to a new trial based on testimony from an expert who conceded that she did not have any knowledge of Fedex's policies and procedures, as the expert's testimony did not affect Fedex's substantial rights, and Fedex had an opportunity to cross-examine Harris' expert.

Significance

The jury's $365 million punitive damages award was one of the largest ever awarded to a single plaintiff in a workplace retaliation case. The Fifth Circuit's opinion, however, is a good reminder that the burden for punitive damages in such a case is high and will not be satisfied unless a plaintiff can proffer compelling evidence of an employer's actual malice or reckless indifference in the alleged adverse employment action. As evident by the Fifth Circuit's outcome, evidence of an investigation into the claims raised is a best practice to mitigate punitive damages.

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