



Punitive Damages For Sexual Harassment: Still in Vogue

By: Richard D. Glovsky and Nathanael Nichols

When an employer is put on notice of workplace sexual harassment, it must take adequate steps to investigate and take proper remedial action or risk punitive damages. That is the import of a recent ruling by the Massachusetts Supreme Judicial Court, which reinstated a \$500,000 punitive damages award against a Lexus dealership in *Gyulakian v. Lexus of Watertown*.

At trial, the plaintiff presented evidence of repeated, ongoing sexual harassment by her supervisor. She testified that her supervisor commented daily on her breasts, touched her butt, attempted to throw coins down her blouse and emailed her sexual innuendos. Gyulakian complained to the assistant general sales manager, but he took no action. The general sales manager also witnessed at least some of the supervisor's conduct about which Gyulakian had complained but failed to stop the harassment. Finally, Gyulakian complained directly to senior management, but her employment was terminated because "her relationship with her coworkers had deteriorated." After her employment was terminated, Lexus investigated her claims but failed to interview anyone in the finance department aside from her supervisor. Several members of the finance department corroborated Gyulakian's claims at trial.

The court held that failure to investigate a sexual harassment complaint strongly supports a punitive damages award. Similarly, it ruled that an inadequate or sham investigation will not insulate employers from punitive damages awards. Lexus' belated attempt to investigate Gyulakian's claims failed to protect it from punitive damages liability because it did not interview the relevant personnel, and the manager conducting the investigation testified that he did not believe Gyulakian's claims at the outset.

The court's message is clear: employers in Massachusetts need to respond promptly to complaints of sexual harassment and fairly investigate them. Failure to do so means exposure to significant punitive damages.

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