

35 Trials Digest 20th 2, 2017 WL 3712924 (Cal.Super.) (Verdict and Settlement Summary)

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Superior Court, Riverside County, California.

Lave v. Charter Communications L.L.C.

TOPIC:

Synopsis: Communications company fires technician after FMLA leave

Case Type: Labor & Employment; Retaliation; Labor & Employment; Family & Medical Leave; Labor & Employment; Disability/Medical Condition; Labor & Employment; Discrimination; Labor & Employment; Termination/Constructive Discharge; Labor & Employment; Violation of Public Policy; Intentional Torts; Infliction of Emotional Distress

DOCKET NUMBER: RIC-15-08865

STATE: California
COUNTY: Riverside

Related Court Documents:

Plaintiff's complaint: [2015 WL 13466411](#)

Verdict form: [2017 WL 2909672](#)

Judgment: [2017 WL 2901375](#)

Verdict/Judgment Date: May 19, 2017

JUDGE: [John W. Vineyard](#)

ATTORNEYS:

Plaintiff: [Jeffrey A. Rager](#), The Rager Law Firm, Torrance, CA; [James Y. Yoon](#), The Rager Law Firm, Torrance, CA

Defendant: [Zack I. Domb](#), Fisher & Phillips L.L.P., Los Angeles, CA; [Regina A. Petty](#), Fisher & Phillips L.L.P., San Diego, CA

SUMMARY:

Verdict/Judgment: Plaintiff

Verdict/Judgment Amount: \$575,000

Range Amount: \$500,000 - 999,999

\$575,000 to plaintiff from defendant for past noneconomic losses

The jury found for plaintiff on his claims for retaliation in violation of CFRA, violation of [Cal. Lab. Code Sec. 233 et seq.](#), disability discrimination, wrongful termination in violation of public policy, failure to remedy and/or prevent discrimination and retaliation, and intentional infliction of emotional distress.

Post-trial, the court awarded plaintiff \$400,800 for attorney fees and \$70,548 for costs, for a total judgment of \$1,046,348.

Defendant's motions for judgment notwithstanding the verdict and new trial were denied.

Trial Type: Jury

Trial Length: 20 days

Deliberations: 1.5 days

Jury Poll: Mixed poll

EXPERTS:

Plaintiff: [Anthony Reading](#), Ph.D., Psychology/Counseling, Beverly Hills, CA; Allison West, Esq., Human Resources Policies, Employment Practices Specialists, Pacifica, CA

Defendant: [James Rosenberg](#), M.D., Psychiatry, Woodland Hills, CA; Amy Oppenheimer, J.D., Human Resources Policies, Law Offices of Amy Oppenheimer, Berkeley, CA

FACTS/CONTENTIONS:

According to the plaintiff's lawyer: On Jan. 5, 2015, plaintiff Anthony Lave, 53, a broadband technician for defendant Charter Communications L.L.C., took a day off for a pre-existing back condition. He was counseled the following day for attendance. On Jan. 8, 2015, plaintiff filed an internal Ethics Point complaint of retaliation with defendant. From Jan. 9, 2015 to Jan. 22, 2015, plaintiff took leave under the California Family Rights Act (CFRA) / Family Medical Leave Act (FMLA) for his back condition. When plaintiff notified defendant of his back injury and need for leave, his supervisor responded in writing to human resources that he was speechless and shaking his head. The same supervisor suspended plaintiff on Feb. 10, 2015. Plaintiff never returned to work after the suspension, as he was fired a week later on Feb. 17, 2015. Defendant contended that plaintiff acted inappropriately in front of a customer.

Plaintiff sued defendant and alleged claims for retaliation in violation of CFRA, violation of [Cal. Lab. Code Sec. 233 et seq.](#), disability discrimination, wrongful termination in violation of public policy, failure to remedy and/or prevent discrimination and retaliation, intentional infliction of emotional distress, retaliation in violation of the Fair Employment and Housing Act (FEHA), and failure to accommodate.

Defendant denied liability.

CLAIMED INJURIES:

According to the plaintiff's lawyer: Emotional distress. Plaintiff suffered depression, insomnia, irritability, loss of appetite and ability to derive pleasure, and ongoing anxiety. He was diagnosed with an Adjustment Disorder with Depressed Mood.

CLAIMED DAMAGES:

According to the plaintiff's lawyer: Plaintiff worked with the company since May 2008. After he was terminated, he was able to find a job with comparable compensation within three months. There was no claim for loss of earnings.

SETTLEMENT DISCUSSIONS:

According to the plaintiff's lawyer: Demand: \$250,000 ([Cal. Civ. Proc. Code Sec. 998](#)). Offer: \$26,960, reduced to \$0 during trial.

COMMENTS:

According to court records: The complaint was filed July 28, 2015.

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