

2021 WL 9681256 (Cal.Super.) (Verdict and Settlement Summary)

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WEST'S JURY VERDICTS - CALIFORNIA REPORTS
Superior Court, Riverside County, California.

Vargas v. Kaiser Found. Health Plan Inc.

Type of Case:

Defamation • Other

Labor & Employment • Discrimination

Labor & Employment • Disability/Medical Condition

Labor & Employment • Retaliation

Labor & Employment • Termination/Constructive Discharge

Intentional Torts • Infliction of Emotional Distress

Synopsis: Employer accused pregnant employee of taking too many restroom breaks and terminated her employment based on false allegation that she was hanging up on callers

General Injury: Emotional distress

Jurisdiction:

State: California

County: Riverside

Docket/File Number: RIC-19-06237

Trial Type: Jury

Verdict: Plaintiff, \$301,240

Range Amount: \$200,000 - 499,999

Date of Filing: December 24, 2019

Verdict/Judgment Date: September 13, 2021

Judge: Carol A. Greene

Attorneys:

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

Defendant: [Tracey A. Kennedy](#), Sheppard, Mullin, Richter & Hampton LLP, Los Angeles, CA; [Babak Yousefzadeh](#), Sheppard, Mullin, Richter & Hampton LLP, Los Angeles, CA; [Ryan J. Krueger](#), Sheppard, Mullin, Richter & Hampton LLP, Los Angeles, CA; [Adria K. Harris](#), Sheppard, Mullin, Richter & Hampton LLP, Los Angeles, CA

Experts:

Plaintiff: [Jennie McNulty, C.P.A.](#), Economist, Los Angeles, CA; [Anthony Reading, Ph.D.](#), Psychologist/Counselor, Beverly Hills, CA

Breakdown of Award:

\$101,240 to plaintiff for past economic losses on defamation claim

\$200,000 to plaintiff for past noneconomic losses on defamation claim

Summary of Facts:

Plaintiff Lauryn Vargas said she worked as a customer service representative for defendant Kaiser Foundation Health Plan Inc. and informed her supervisor that she was pregnant. She reportedly needed to take additional bathroom breaks during her work shift due to the pregnancy. The supervisor allegedly informed her that the bathroom breaks were a problem.

The plaintiff said she offered to provide a doctor's note but the supervisor said a note was not needed. The supervisor then reportedly counseled her on the number of short calls she allegedly was experiencing. The plaintiff said she explained that she was doing the job the same way she always had done it and was not hanging up on customers or failing to properly document her calls.

The supervisor reportedly met with the plaintiff and the union regarding the high number of short calls and the failure to document three hang up calls. The plaintiff said a video of the alleged hang up calls showed that she did not hang up on the callers. The supervisor reportedly informed her a month later that they needed to meet regarding her breaks. The plaintiff said she provided a doctor's note regarding her necessity to take frequent bathroom breaks.

Days later, the plaintiff reportedly was suspended. She said she was then fired for 'gross misconduct,' with the termination letter accusing her of disconnecting calls to avoid doing her assigned work.

The plaintiff asserted pregnancy discrimination, the failure to accommodate, the failure to engage in an interactive process, and retaliation, all in violation of the Fair Employment and Housing Act (FEHA), as well as defamation and intentional infliction of emotional distress.

The defendant claimed the plaintiff was terminated for legitimate and nonretaliatory or nondiscriminatory reasons. It also contended the alleged defamatory statement in the plaintiff's termination notice was never published to a third party and was a statement of opinion, not fact.

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