Response to Discriminatory Conduct is Critical to Avoiding Punitive Damages

BY BRIAN MULLIN • FEBRUARY 22, 2017

In Gyulakian v. Lexus of Watertown, the Massachusetts Supreme Judicial Court ("SJC") made clear that a plaintiff's entitlement to an award of punitive damages under the Massachusetts Fair Employment Practices Act, M.G.L. 151B will be determined by his or her employer's response after being placed on notice of the alleged discriminatory conduct, even where the perpetrator is a supervisor.

In Gyulakian, despite the plaintiff's nine year history of satisfactory performance, Lexus of Watertown ("Lexus") terminated the plaintiff's employment in January 2012 on grounds that her relationships with coworkers had deteriorated. On the day of her termination, the plaintiff notified Lexus' general manager, sales manager and human resources manager that her supervisor had subjected her to an ongoing course of sexual harassment for more than a year. Following the plaintiff's termination, the general manager and human resources manager conducted separate investigations in to the plaintiff's allegations but found no evidence to corroborate her claims. However, neither of them interviewed the plaintiff or any of her co-workers.

The plaintiff filed a lawsuit against Lexus and her manager for, among other claims, sexual harassment and retaliation under M.G.L. 151B. At trial, the plaintiff presented evidence that her manager had subjected her to a continuous course of unwanted verbal and physical conduct of a sexual nature and that she had spoken with Lexus' assistant sales manager about these issues several times, but no action was taken. Furthermore, evidence demonstrated that Lexus' managers were aware that plaintiff's supervisor had been reprimanded in the past for discussing sexual intercourse in the workplace. The jury rendered a verdict in the plaintiff's favor and awarded her $40,000 in compensatory damages and $500,000 in punitive damages. However, the trial judge threw out the punitive damage award.

On appeal, the SJC ruled that the determination as to whether to impose punitive damages against an employer based on the actions of one of its employees, even one with supervisory responsibilities, must be focused on the actions of the employer once it was on notice of the discriminatory conduct and set out a two-step process for this inquiry: (1) determine whether the employer was on notice of the harassment and failed to take adequate steps to investigate or

©2026 Bowditch & Dewey LLP. All Rights Reserved.

remedy the situation and; (2) determine whether the failure to do so was outrageous or egregious.

Based on its inquiry, the SJC reinstated the punitive damage award, finding Lexus's actions to have been outrageous and egregious because despite clear notice to senior managers including the assistant sales manager, general manager and human resources manager, Lexus failed to follow the requirements of its own sexual harassment policy to conduct an unbiased investigation of the plaintiff's complaints and to take immediate action to remedy the offending behavior.

Client Tip: *Gyulakian provides a stark reminder that policies prohibiting discrimination in the workplace must be enforced and that all reports of discriminatory conduct must be competently investigated and appropriate remedial action taken to address any incident of potentially discriminatory behavior.*

©2026 Bowditch & Dewey LLP. All Rights Reserved.