

## Huffman v. New Prime, Inc.

United States District Court for the Western District of Missouri, Southern Division

December 12, 2003, Decided

Case No. 01-3144-CV-S-ODS-ECF

**Reporter:** 2003 U.S. Dist. LEXIS 25010; 84 Empl. Prac. Dec. (CCH) P41,578

CYNTHIA HUFFMAN, WILLA BURKE, VIRGINIA KING, and EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiffs, vs. NEW PRIME, INC. d/b/a PRIME, INC.; ABEL LORMAND, and SAMUEL TURNER, Defendants.

**Subsequent History:** Motion for new trial granted by, in part, Motion for new trial denied by, in part Huffman v. New Prime, Inc., 2003 U.S. Dist. LEXIS 26204 (W.D. Mo., Dec. 17, 2003)

**Disposition:** [\*1] Defendant Prime's Renewed Motion for Judgment as a Matter of Law or, in the Alternative, for Reduction of Punitive Damages Award denied.

**Counsel:** For Cynthia Huffman, PLAINTIFF: Christopher Michael Schappe, Roger G Brown, Roger G Brown & Associates, Jefferson City, MO USA.

For Cynthia Huffman, PLAINTIFF: Dustin N Thomas, F Douglas Montague, III, Montague, Pittman & Varnado, Hattiesburg, MO USA.

For Equal Employment Opportunity Commission, PLAINTIFF: Andrea Taylor, Equal Employment Opportunity Commission, Kansas City, KS USA.

For Equal Employment Opportunity Commission, PLAINTIFF: Barbara A Seely, Rebecca S Stith, Robert G Johnson, Equal Employment Opportunity Commission, St Louis, MO USA.

For New Prime, Inc, DEFENDANT: R Lawrence Ward, James C Sullivan, Shughart Thomson & Kilroy, PC-Kcmo, Monica Marie Fanning, Shughart, Thomson & Kilroy, PC, Kansas City, MO USA.

For New Prime, Inc, DEFENDANT: Joanne Spears Jackson, Shughart Thomson & Kilroy, PC -SPFD, Springfield, MO USA.

For Abel Joseph Lormand, Samuel Turner, DEFENDANTS: Kendall [\*2] Ray McPhail, Reynolds, Gold & Grosser, PC, Springfield, MO USA.

For Willa Burke, INTERVENOR: Christopher Michael Schappe, Roger G Brown & Associates, Jefferson City, MO USA.

For Willa Burke, INTERVENOR: F Douglas Montague, III, Roger G Brown & Associates, Hattiesburg, MO USA.

For Willa Burke, Virginia King, INTERVENORS: Roger G Brown, Roger G Brown & Associates, Jefferson City, MO USA.

For Virginia King, INTERVENOR: F Douglas Montague, III, Montague, Pittman & Varnado, Hattiesburg, MO USA.

**Judges:** ORTRIE D. SMITH, JUDGE, UNITED STATES DISTRICT COURT.

**Opinion by:** ORTRIE D. SMITH

### Opinion

*ORDER DENYING DEFENDANT PRIME'S RENEWED MOTION FOR JUDGMENT AS A MATTER OF LAW REGARDING THE SUBMISSION OF PUNITIVE DAMAGES ON PLAINTIFF HUFFMAN'S CLAIMS AND THE CLAIMS OF THE EEOC RELATING TO HUFFMAN OR, IN THE ALTERNATIVE, FOR REDUCTION OF PUNITIVE DAMAGES AWARD*

Pending is Defendant Prime's Renewed Motion for Judgment as a Matter of Law Regarding the Submission of Punitive Damages on Plaintiff Huffman's Claims and the Claims of the EEOC Relating to Huffman or, in the Alternative, for Reduction of Punitive Damages Award (Doc. # 503). For the following reasons, the motion is denied.

### I. [\*3] BACKGROUND

The above-captioned matter was tried to a jury beginning September 8, 2003, and concluding September 19, 2003. The jury returned a verdict in favor of Plaintiffs Cynthia Huffman ("Huffman") and the EEOC against New Prime, Inc. ("Prime") on the claim of sexual harassment, awarding \$ 5,000 in actual damages and \$ 80,000 in punitive damages. The jury returned a verdict in favor of Huffman and against Defendant Abel Lormand ("Lormand") on her claim of battery, awarding actual damages in the amount of \$ 1.00 and \$ 10,000 in punitive damages. The jury returned verdicts in favor of Prime with regard to all the claims asserted by Plaintiff Virginia King ("King") and Plaintiff Willa Burke ("Burke"). On October

3, 2003, Prime filed its Renewed Motion for Judgment as a Matter of Law with regard to the submission of punitive damages on Huffman's claims or, in the alternative, a Motion to Reduce the Punitive Damages Award.

## II. STANDARD

When considering a Motion for Judgment as a Matter of Law, the Court is not permitted to consider the credibility of witnesses and must consider the evidence in the light most favorable to the prevailing party. Gardner v. Buerger, 82 F.3d 248, 251 (8th Cir. 1996). [\*4] The motion can be granted only if the evidence "point[s] unswervingly to only one reasonable conclusion." *Id.*

## III. DISCUSSION

### A. Submission of Punitive Damages to Jury

Prime first argues that it should be granted judgment as a matter of law because the Court erred in submitting the issue of punitive damages to the jury with regard to Huffman and the EEOC's claim of sexual harassment. "Federal law imposes a formidable burden on plaintiffs who seek punitive damages in a hostile work environment action premised under Title VII. An employee seeking punitive damages from an employer as a result of sexual harassment perpetrated by a fellow employee must show that the employer acted with actual malice or deliberate indifference to her federally protected right." Henderson v. Simmons Foods, Inc., 217 F.3d 612, 618 (8th Cir. 2000) (citations omitted). "The terms 'malice' or 'reckless indifference' pertain to the employer's knowledge that it may be acting in violation of federal law, not its awareness that it is engaging in discrimination." *Id.* (quoting Kolstad v. Am. Dental Ass'n, 527 U.S. 526, 144 L. Ed. 2d 494, 119 S. Ct. 2118 (1999)).

In this [\*5] case, Huffman and the EEOC met the standard needed to justify the submission of a punitive damages instruction and the jury's award of punitive damages. Prime did not act with malice; however, evidence presented at trial suggested that Prime's actions in not responding to Huffman's numerous complaints of physical and verbal assault amounted to deliberate indifference of Huffman's federally protected rights. Applying the proper standard of review, which requires the Court to view the evidence in the light most favorable to Huffman and the

EEOC, there is sufficient evidence to support the verdict holding Prime liable for punitive damages on Huffman and the EEOC's claim of sexual harassment. Based on these reasons and those articulated by the Court at trial, Prime's Renewed Motion for Judgment as a Matter of Law is denied.

### B. Reduction of Punitive Damages Award

Alternatively, Prime contends that Huffman's punitive damages award regarding her sexual harassment claim should be reduced.<sup>1</sup> The Supreme Court has stated that "the *most* important indicium of the reasonableness of punitive damages is the degree of reprehensibility of the defense's conduct." State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 123 S. Ct. 1513, 1521, 155 L. Ed. 2d 585 (2003) [\*6] (emphasis added). When determining the reprehensibility of the defendant's conduct, the Supreme Court has directed courts to consider whether (1) the harm caused was physical as opposed to economical; (2) the tortious conduct evinced an indifference to or a reckless disregard of the health or safety of others; (3) the target of the conduct was financially vulnerable; (4) the conduct involved repeated actions or was an isolated incident; and (5) the harm was the result of intentional malice, trickery, deceit or mere accident. *Id.* (citing BMW of N. Am., Inc. v. Gore, 517 U.S. 559, 576-77, 134 L. Ed. 2d 809, 116 S. Ct. 1589 (1996)). In this case, Prime's conduct was reprehensible. Prime repeatedly failed to act when Huffman complained to her employer for two weeks that driver-trainer Abel Lormand physically and verbally assaulted her. For example, after Huffman reported to Prime that Lormand grabbed her chest, Prime did not grant Huffman's request to leave the truck until two weeks after she reported the grabbing incident and other incidents.

[\*7] In addition to consider the degree of reprehensibility of the defendant's conduct, the Court must also consider the ratio between the actual harm inflicted on the plaintiff and the amount of the punitive damages award. Walsh v. Nat'l Computer Sys., Inc., 332 F.3d 1150, 1162 (8th Cir. 2003) (quoting Beard v. Flying J, Inc., 266 F.3d 792, 804 (8th Cir. 2001)). The Supreme Court has specifically declined "to impose a bright-line ratio which a punitive damages award cannot exceed." Campbell, 123 S. Ct. at 1524 (noting that single-multipliers are more likely to comport with due process than awards of 500 to 1 or 145

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<sup>1</sup> In Prime's motion, it interchangeably uses the terms "reduction" and "remittitur." "A remittitur is a substitution of the court's judgment for that of the jury regarding the appropriate award of damages. The court orders a remittitur when it believes the jury's award is unreasonable on the facts." Ross v. Kansas City Power & Light Co., 293 F.3d 1041, 1049-50 (8th Cir. 2002) (quoting Johansen v. Combustion Eng'g, Inc., 170 F.3d 1320, 1331 (11th Cir. 1999)). A reduction "is a determination that the law does not permit the award. Unlike a remittitur, which is discretionary with the court ... a court has a mandatory duty to correct an unconstitutionally excessive verdict so that it conforms to the requirements of the due process clause. *Id.* Because the Court has a mandatory duty to review the punitive damages award under the Due Process Clause, it will treat Prime's motion as a Motion for Reduction of the Punitive Damages Award.

to 1). In this case, the jury awarded \$ 5,000 in actual damages and \$ 80,000 in punitive damages. The ratio of punitive damages to compensatory damages is 16 to 1. Numerically, the award of punitive damages is not grossly excessive. Additionally, in relationship to the hostile work environment that Huffman experience, the punitive damages award is not grossly excessive. Prime's failure to take action on any of Huffman's numerous complaints of harassment by Lormand over a two-week period is egregious and the type of conduct that punitive damages [\*8] should deter. Therefore, the Court concludes that the amount of punitive damages is both reasonable and proportionate to harm suffered by Plaintiff and the compensatory damages recovered by her; therefore, Prime's Motion to Reduce the Award of Punitive Damages is denied.

#### IV. CONCLUSION

For the foregoing reasons, Defendant Prime's Renewed Motion for Judgment as a Matter of Law Regarding the Submission of Punitive Damages on Plaintiff Huffman's Claims and the Claims of the EEOC Relating to Huffman or, in the Alternative, for Reduction of Punitive Damages Award is denied.

IT IS SO ORDERED.

DATE: December 12, 2003

/s/

ORTRIE D. SMITH, JUDGE

UNITED STATES DISTRICT COURT