

## Supreme Judicial Court Establishes New Standard for Punitive Damages Awards in Discrimination Cases

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The Massachusetts Supreme Judicial Court recently established a new standard for punitive damages awards under Chapter 151B, the Massachusetts anti-discrimination statute. In doing so, the Court reinstated a jury's award of \$1 million in punitive damages.

In *Haddad v. Wal-Mart Stores, Inc.*, a jury found the employer had discriminated against the plaintiff and awarded her \$972,774 in compensatory damages and an additional \$1 million in punitive damages. The trial court refused the employer's request to vacate over \$700,000 in front pay, which reflected 19 years of future lost wages, but granted the employer's motion to vacate the punitive damages award. Both parties appealed.

On appeal, the Supreme Judicial Court rejected the employer's argument that the award of front pay was excessive. While conceding that 19 years of front pay was lengthy, the Court held that the jury's award was based on the evidence.

The Court also held that the trial court erred in vacating the award of punitive damages. The Court explained that the employer had a policy prohibiting discrimination and the jury could infer from the evidence that the employer's conduct was sufficiently egregious to support an award of punitive damages. While the employer argued that the amount was excessive, the Court found that the ratio between compensatory and punitive damages was not unreasonable.

After reinstating the punitive damages award, the Supreme Judicial Court set forth a new standard defining when punitive damages may be awarded under Chapter 151B. The Court explained that punitive damages may be awarded where the fact-finder (1) determines that the employer has engaged in "outrageous or extreme" conduct and (2) finds either that the punitive damages award is needed to deter such behavior towards the plaintiff's protected class or that the employer's behavior is so egregious that it "warrants public condemnation and punishment." The Court identified several factors which may be considered in determining whether the employer's conduct is sufficiently outrageous or egregious:

- the existence of a conscious or purposeful effort to demean or diminish the class to which the plaintiff belongs;
- the extent to which the employer was aware that discriminatory conduct would likely cause serious harm or recklessly disregarded the likelihood that such harm would arise;
- the degree of actual harm to the plaintiff;
- the employer's conduct after learning that the initial conduct would likely cause harm; and
- the duration of the wrongful conduct and any concealment of that conduct by the employer.

In establishing this new standard, the Court made clear that something more than a knowing violation of Chapter 151B is required to support an award of punitive damages. However, the Court emphasized that the weighing of these factors should be left to the jury.

While damages for front pay and punitive damages are necessarily dependent on the specific facts of the case, *Haddad* signals that Massachusetts courts will let stand seven-figure punitive damages awards under Chapter 151B, on top of large awards for future pay. Taken together, these types of damages often exceed a plaintiff's actual lost wages and substantially increase the potential liability in discrimination cases.

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