

Retaliation

Rite Aid Store Manager Awarded \$8.8 Million For Race, Age and Disability Bias, Retaliation

A state jury in Los Angeles has awarded a black, former Rite Aid store manager almost \$9 million for years of disability discrimination and harassment and for retaliation for complaining about race- and disability-based harassment and discrimination, his attorney told Bloomberg BNA July 20 (*Leggins v. Rite Aid Corp.*, Cal. Super. Ct., No. BC511139, 7/16/15).

The Los Angeles County Superior Court jury July 16 found for Robert Leggins on several of his claims under California's Fair Employment and Housing Act, awarding him \$3,768,129 in compensatory damages. On July 17, it reached a separate verdict awarding Leggins \$5 million in punitive damages, his attorney Carney Shegerian told Bloomberg BNA July 20.

According to a statement released by Santa Monica-based plaintiffs' firm of Shegerian & Associates Inc., Leggins was fired after 27 years with Rite Aid, following years of bias stemming from a 2007 incident in which he was injured while trying to prevent his store from being robbed. Leggins's injuries required multiple surgeries and medical leaves, and left him restricted in the ability to move heavy objects. Instead of accommodating him, managers deliberately forced Leggins to perform tasks that caused him pain, heaped more work on him when he complained, and accused him of being a slacker, the statement said.

Race, Age Bias Also Alleged. The mistreatment caused Leggins to sustain further injuries to his neck, requiring him to take additional medical leave, according to his June 2013 complaint.

Managers also allegedly withheld a promised transfer from Leggins, which would have allowed him to move to a lower-volume store requiring less physically demanding work. When Leggins reminded his direct manager of the transfer promise, he was told he was being "insubordinate," according to the complaint.

Leggins also alleged that his direct manager made several racially disparaging remarks, including that, "All black people do is complain" and "You are on black time." The manager also singled out for criticism Leggins and the two other black employees under the manager's supervision, and didn't similarly criticize white employees, the complaint alleged.

Another manager allegedly told Leggins "You are a big, black man; you are intimidating."

According to the complaint, Leggins's manager also subjected him to ageist comments, discharged employees such as Leggins who were over 40, and hired younger workers.

The retaliation, according to the complaint, included writing up Leggins for poor "store conditions" four days after he returned from leave, and suspending and ultimately firing him for closing his store a few hours early on New Year's Day 2013, even though he had received permission to close early two months before and had done so every year for approximately 20 years.

Disability Bias, Retaliation Found. According to Shegerian, the jury found for Leggins on his disability harassment and discrimination claims following a nine-day trial before Judge Michael Stern.

It also ruled for him on his claims that he was subjected to retaliation—including unlawful discharge—for complaining about disability- and race-based discrimination and harassment, and found that Rite Aid failed to take all reasonable steps to prevent discrimination.

The jury found for the company on the race discrimination and harassment claims, and concluded that Leggins failed to show his discharge was connected to his use of medical leave, Shegerian said.

Shegerian said Leggins's age-based claims were dismissed during the trial by Judge Stern, who found Leggins's evidence on those claims "too scant."

The compensatory award includes \$213,213 for past economic loss, \$1,055,915 for future economic loss, \$1.5 million for past noneconomic loss and \$1 million for future noneconomic loss.

In imposing \$5 million in punitive damages against Rite Aid, the jury found that the company acted with malice, oppression and/or fraud in its treatment of Leggins.

Company Declines to Comment. Ashley Flowers, a spokeswoman for Rite Aid, told Bloomberg BNA that the company doesn't "comment on pending litigation."

Barbara A. Fitzgerald and Jason S. Mills of Morgan Lewis & Bockius LLP in Los Angeles represented Rite Aid.

By **PATRICK DORRIAN**

To contact the reporter on this story: Patrick Dorrian in Washington at pdorrian@bna.com

To contact the editor responsible for this story: Susan J. McGolrick at smcgolrick@bna.com

Text of the verdict form regarding liability and compensatory damages is available at <http://op.bna.com/>

eg. [nsf/r?Open=pdon-9ylpva](#).

To request permission to reuse or share this document, please contact permissions@bna.com. In your request, be sure to include the following information: (1) your name, company, mailing address, email and telephone number; (2) name of the document and/or a link to the document PDF; (3) reason for request (what you want to do with the document); and (4) the approximate number of copies to be made or URL address (if posting to a website).