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16 TRACY MILLER

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION

TRACY MILLER,

Plaintiff,

vs.

COUNTY OF ORANGE, TODD SPITZER, an
individual, SHAWN NELSON, an individual,
and DOES 1 to 100, inclusive,

Defendants.

Case No. 30-2022-01262015-CU-OE-CJC

Assigned for All Purposes to:
Hon. Katherine Bacal, Dept. C63

**[PROPOSED] FINAL JUDGMENT
AFTER TRIAL BY JURY ON SPECIAL
VERDICT**

Action Filed: May 31, 2022
Trial Date: May 14, 2025

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

This matter came on for trial by jury on May 14, 2025, before the Honorable Katherine A. Bacal, Judge presiding in Department 63 of the Superior Court of California, County of San Diego. Plaintiff Tracy Miller appeared with her attorneys of record, John D. Barnett and Bijan Darvish. Defendant County of Orange, Defendant Todd Spitzer, and Defendant Shawn Nelson appeared through their attorneys of record, Tracey Kennedy and Tyler Johnson.

The Court's Minute Orders will reflect the attendance of counsel and the parties for each day of trial.

After the jury being duly selected and sworn and testimony and argument being offered by all parties and the jury having retired and deliberated, the jury returned the following Special Verdict in the matter of *Tracy Miller v. County of Orange, Todd Spitzer, and Shawn Nelson*:

SPECIAL VERDICT

We, the jury in the above titled action, find as follows on the special verdict put before us as to the claims brought by Plaintiff Tracy Miller against Defendants County of Orange, Todd Spitzer, and Shawn Nelson:

SECTION A: WORK ENVIRONMENT HARASSMENT-TODD SPITZER

We answer the questions submitted to us as follows:

1. Was Tracy Miller subjected to harassing conduct because she was a woman?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2.
If you answered no, stop here and proceed to Section B on page 3.

2. Was the harassment severe or pervasive?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3.
If you answered no, stop here and proceed to Section B on page 3.

3. Would a reasonable woman in Tracy Miller's circumstances have considered the work environment to be hostile, intimidating, offensive, oppressive, or abusive?

☒ Yes ☐ No

If your answer to question 3 is yes, then answer question 4.
If you answered no, stop here and proceed to Section B on page 3.

4. Did Tracy Miller consider the work environment to be hostile, intimidating, offensive, oppressive, or abusive?

☒ Yes ☐ No

If your answer to question 4 is yes, then answer question 5.
If you answered no, stop here and proceed to Section B on page 3.

5. Did Todd Spitzer participate in the harassing conduct?

☒ Yes ☐ No

If your answer to question 5 is yes, then answer question 6.
If you answered no, stop here and proceed to Section B on page 3.

6. Was the harassing conduct a substantial factor in causing harm to Tracy Miller?

☒ Yes ☐ No

If your answer to question 6 is yes, then you must also answer Section F (Damages) on page 8. First, however, proceed to section B on page 3.

SECTION B: WORK ENVIRONMENT HARASSMENT- SHAWN NELSON

We answer the questions submitted to us as follows:

7. Was Tracy Miller subjected to harassing conduct because she was a woman?

☒ Yes ☐ No

If your answer to question 7 is yes, then answer question 8.
If you answered no, go to question 13 and follow the directions.

8. Was the harassment severe or pervasive?

☒ Yes ☐ No

If your answer to question 8 is yes, then answer question 9.
If you answered no, go to question 13 and follow the directions.

1 9. Would a reasonable woman in Tracy Miller's circumstances have considered the work
2 environment to be hostile, intimidating, offensive, oppressive, or abusive?

3 ✓ Yes No

4 If your answer to question 9 is yes, then answer question 10.
5 If you answered no, go to question 13 and follow the directions.

6 10. Did Tracy Miller consider the work environment to be hostile, intimidating, offensive,
7 oppressive, or abusive?

8 ✓ Yes No

9 If your answer to question 10 is yes, then answer question 11.
10 If you answered no, go to question 13 and follow the directions.

11 11. Did Shawn Nelson participate in the harassing conduct?

12 ✓ Yes No

13 If your answer to question 11 is yes, then answer question 12.
14 If you answered no, go to question 13 and follow the directions.

15 12. Was the harassing conduct a substantial factor in causing harm to Tracy Miller?

16 ✓ Yes No

17 If your answer to question 6 or 12 is yes, then you must also answer Section F
18 (Damages).
19 Go to the next question and follow the directions.

20 AFFIRMATIVE DEFENSE TO HARASSMENT

21 Only answer question 13, if you answered Yes to Question 6 or 12. If you did not answer those
22 questions or answered No to Question 6 and 12, skip questions 13 to 15, and go to Section C.

23 13. Did the County of Orange take reasonable steps to prevent and correct workplace
24 harassment?

25 Yes ✓ No

26 If your answer to question 13 is yes, then answer question 14.
27 If you answered no, stop here and proceed to Section C on page 5.
28

1 14. Did Tracy Miller fail to reasonably utilize the preventative and corrective measures
2 available to her?

3 _____ Yes _____ No

4 If your answer to question 14 is yes, then answer question 15.
5 If you answered no, stop here and proceed to Section C on page 5.

6 15. Would the reasonable use of the County's preventative measures have prevented
7 some or all of the harm resulting from the harassment?

8 _____ Yes _____ No

9 Please proceed to Section C on page 5.

10
11 **SECTION C: RETALIATION (GOV. CODE, § 12940(h))**

12 We answer the questions submitted to us as follows:

13
14 16. Did Tracy Miller report or oppose sexual harassment?

15 _____ ☒ Yes _____ No

16 If your answer to question 16 is yes, then answer question 17.
17 If you answered no, stop here and proceed to Section D on page 6.

18 17. Did the County of Orange subject Tracy Miller to an adverse employment action or
19 constructively terminate her employment?

20 _____ ☒ Yes _____ No

21 If your answer to question 17 is yes, then answer question 18.
22 If you answered no to 16, stop here and proceed to Section D on page 6.

23
24 18. Was Tracy Miller's report or opposition to sexual harassment a substantial motivating
25 reason for County of Orange's conduct?

26 _____ ☒ Yes _____ No

27 If your answer to question 18 is yes, then answer question 19.
28 If you answered no, stop here and proceed to Section D on page 6.

1
2 19. Was the County of Orange's conduct a substantial factor in causing harm to Tracy
3 Miller?

4 ✓ Yes No

5 If your answer to question 19 is yes, then you must also answer Section F (Damages)
6 on page 8.
7 Proceed to Section D on page 6.

8
9 **SECTION D: WHISTLEBLOWER PROTECTION**

10 We answer the questions submitted to us as follows:

11 20. Was Tracy Miller's disclosure of what she reasonably believed to be unlawful conduct
12 a contributing factor to the adverse employment action?

13 ✓ Yes No

14 If your answer to question 20 is yes, then answer question 21.
15 If you answered no, stop here and proceed to Section E on page 7.

16 21. Was Tracy Miller's disclosure of what she reasonably believed to be unlawful conduct
17 a contributing factor to the constructive discharge?

18 ✓ Yes No

19 If your answer to question 21 is yes, then answer question 22.
20 If you answered no, stop here and proceed to Section E on page 7.

21 22. Was the County of Orange's conduct a substantial factor in causing harm to Tracy
22 Miller?

23 ✓ Yes No

24 If your answer to question 22 is yes, then answer question 23.
25 If you answered no, stop here and proceed to Section E on page 7.

1 23. Did Defendant County of Orange prove by clear and convincing evidence
2 that it would have taken adverse employment actions anyway at that time for
legitimate, independent reasons?

3 _____ Yes ✓ No

4
5 If your answer to question 23 is yes, then answer section F (Damages) on page 8. But
6 first proceed to section E on page 7 and following the directions.

7
8 **SECTION E: FAILURE TO PREVENT HARASSMENT OR RETALIATION**

9 Answer question 24 only if you answered Yes to Questions 6, 12. or 19. If you answered No
10 to all of those questions, or did not answer those questions, proceed to Section F and follow the
directions.

11 We answer the questions submitted to us as follows:

12
13 24. Did the County of Orange fail to take all reasonable steps to prevent the harassment or
14 retaliation?

15 ✓ Yes _____ No

16
17 If your answer to question 24 is yes, then answer question 25.

18 If you answered no, stop here, answer no further questions and proceed to section F.

19
20 25. Was the County of Orange's failure to prevent harassment or retaliation a substantial
21 factor in causing harm to Tracy Miller?

22 ✓ Yes _____ No

23
24 Proceed to section F (Damages) on page 8 and follow the directions.
25
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1 **SECTION F: DAMAGES**

2 Answer question 26 only if you answered “Yes” to Questions 6, 12, 19, or 25, OR
3 “No” to Question 23, then complete this section on damages. Otherwise leave this section
4 blank and have the presiding juror sign and date this form.

5
6 26. What are Tracy Miller's damages?

7
8 Past Economic Loss: \$0.00

9 Future Economic Loss: \$1,000,000.00

10
11 Past Emotional Distress Damages: \$1,500,000.00

12
13 Future Emotional Distress Damages: \$500,000.00

14 Go to the next section and follow the directions.

15 Answer question 27, only if you answered Yes to question 6.

16
17 **SECTION G. PUNITIVE DAMAGES- TODD SPITZER**

18 27. Did Todd Spitzer engage in the conduct with malice, oppression, or fraud?

19 ✓ Yes No
20

21 Answer question 28, only if you answered yes to question 12.

22
23 **SECTION G. PUNITIVE DAMAGES- SHAWN NELSON**

24 28. Did Shawn Nelson engage in the conduct with malice, oppression, or fraud?

25
26 Yes ✓ No
27
28

1 Have the presiding juror sign and date this form.
2
3

4 Signed: /signature/
5 Presiding Juror
6

7 Dated: June 5, 2025
8
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11
12 **SPECIAL VERDICT-PUNITIVE DAMAGES**

13 We, the jury in the above titled action, find as follows on the special verdict put before us as to the claims
14 brought by Plaintiff Tracy Miller against Defendant Todd Spitzer:

15
16 What amount of punitive damages, if any, do you award Tracy Miller against Todd Spitzer?

17 \$ 25,000.
18
19

20 Have the presiding juror sign and date this form.
21

22 Signed: /signature/
23 Presiding Juror
24

25
26 Dated: June 5, 2025
27
28

1 It appearing by reason of said special verdict that Plaintiff Tracy Miller is entitled to
2 judgment against Defendants County of Orange, Todd Spitzer, and Shawn Nelson.

3 **WHEREFORE** by virtue of the law and by reason of the premises aforesaid it is ordered,
4 adjudged, and decreed that said Plaintiff TRACY MILLER have and recover from said Defendant
5 COUNTY OF ORANGE, TODD SPITZER, AND SHAWN NELSON the sum of \$3,000,000.00
6 with interest thereon at the rate of 7% per annum from the date of the verdict until paid.

7 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Plaintiff TRACY
8 MILLER is awarded costs and disbursements in the amount of \$_____
9 and attorney's fees in the amount of \$_____. Said costs,
10 disbursements, and attorney's fees shall accrue interest thereon at the rate of 7% per annum from the
11 date authorized by law until paid.

12
13
14 Dated: _____, 2025

HONORABLE KATHERINE A. BACAL
Judge of the Superior Court

PROOF OF SERVICE

STATE OF CALIFORNIA

)

COUNTY OF ORANGE

)

)

I am employed in the County of Orange, State of California. I am over the age of 18 years of age, and am not a party to the within action; my business address is 17011 Beach Blvd., Suite 900, Huntington Beach, CA 92647. My Email address is Bijan@darvishlaw.net. On the date hereinbelow specified, I served the foregoing document, described as set forth below as follows:

DATE OF SERVICE: June 9, 2025

DOCUMENT SERVED: **[PROPOSED] FINAL JUDGMENT AFTER TRIAL BY JURY ON SPECIAL VERDICT**

PARTIES SERVED: See Attached Service List


XXX (ELECTRONIC MAIL) Based on an agreement between the parties, I caused the listed document(s) to be sent to the electronic mail address(es). After a reasonable time, I did not receive any indication that the transmission was unsuccessful.

____ (BY PERSONAL SERVICE) I personally served the above listed document(s) to the addressee(s) as shown on the Service List.

XXX (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

EXECUTED at Huntington Beach, California on June 9, 2025.



Bijan Darvish, Esq.

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