

Knox County Chancery Court

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ENTERED

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE JUL 27 2022

SARAH L. HINDENBURG,)
Plaintiff,)
v.)
KNOXVILLE HARLEY-DAVIDSON, INC.)
and KNOXVILLE HARLEY-DAVIDSON)
WEST, LLC,)
Defendants.)

HOWARD G. HOGAN

DOCKET NO. 198242-1 ✓

12 PERSON JURY DEMANDED

FINAL JUDGMENT ORDER - ENTRY OF JUDGMENT PURSUANT TO TENN. R. CIV. P. 60.01 TO CORRECT A CLERICAL ERROR *

This case filed by the plaintiff came to be heard for a jury trial on February 14, 15, 16, 17, and 18, 2022. A jury of 14 lawful citizens of Knox County Tennessee who were duly selected according to the law and sworn to try the issues between the parties heard this case. Two jurors were dismissed by random ballot at the end of the trial leaving a jury of 12 to retire to consider and make a decision on the case.

After due deliberations the jury returned to the courtroom and announced, through the foreperson, that they had a unanimous verdict in favor of the plaintiff as follows:

- 1. Do you find that the Plaintiff has carried her burden of proof by a preponderance of evidence that Defendant Knoxville Harley-Davidson, Inc. and Knoxville Harley-Davidson West, LLC were the single employer and/or the joint employer of the Plaintiff.

Yes X No

If you answer yes, please proceed to question No. 2. If you answer No, please proceed to No. 11.

- 2. Do you find that the Plaintiff has carried her burden of proof by a preponderance of the evidence on all the elements of her claim for sex discrimination in the form of quid pro quo sexual harassment against the Defendants.

Yes X No

* See page 6.

Please proceed to question No. 3.

3. Do you find that the Plaintiff has carried her burden of proof by a preponderance of the evidence on all the elements of her claim for sex discrimination in the form of a sexually hostile work environment against the Defendants.

Yes X

No _____

If you answered Yes to any or both Questions No. 2 and 3, then please proceed to question No. 4. If you answered No to both questions 2 and 3, then proceed to Question No. 8.

4. Do you find by a preponderance of the evidence that Plaintiff was constructively discharged from her employment.

Yes X

No _____

If you answered Yes, then proceed to question No. 7. If you answered No, then proceed to Question No. 5.

5. Do you find by a preponderance of the evidence that Defendants exercised reasonable care to prevent and correct promptly any sexually harassing behavior?

Yes _____

No X

If you answered No, then proceed to question No. 7. If you answered Yes, then proceed to questions No. 6.

6. Do you find by a preponderance of the evidence that the Plaintiff employee unreasonably failed to take advantage of any preventative or corrective opportunities provided by the employer or that the employee unreasonably failed to otherwise avoid harm.

Yes _____

No X

If you answered No, then proceed to Question No. 7. If you answered yes on both Questions No. 5 and 6, then proceed to Question No. 8.

7. If you answered "Yes" to one or both questions No. 2 or 3 on the claims for sex discrimination in the form of quid pro quo sexual harassment or sex discrimination in the form of a sexually hostile work environment against the Defendants, please state the amount, if any, of damages for these claims as follows:

Back pay: \$ 21,132.00
Compensatory Damages: \$ 100,000.00

Please proceed to question No. 8.

8. Do you find that the Plaintiff has carried her burden of proof by a preponderance of the evidence on all the elements of her claim for intentional infliction of emotional distress against Knoxville Harley-Davidson, Inc.

Yes X No _____

If you answered Yes, then Proceed to question No. 9. If you answered No, then turn in your verdict form to the Court.

9. If you answered "Yes" to question No. 8 on the claim for intentional infliction of emotional distress against Knoxville Harley-Davidson, Inc., state the amount, if any, of damages for this claim:

Economic Damages: \$ 100,000.00
Noneconomic Damages: \$ 500,000.00

Please proceed to question No. 10.

10. If you awarded damages in response to question No. 9 on the claim for intentional infliction of emotional distress against Knoxville Harley-Davidson, Inc., do you find that the plaintiff has carried her burden of proof by clear and convincing proof that she is entitled to punitive damages?

Yes X No _____

The bottom section of the Jury Verdict form (questions No. 11 – 25 were not answered by the jury because they were moot based on the determination of the jury on Question No. 1. The bottom section of the Jury Verdict Form is therefore not restated here in this Judgment Order.

PUNITIVE DAMAGES PHASE:

After the initial jury verdict phase, the Court proceeded to the Punitive Damages phase for a determination of the amount of damages for the Punitive Damages. The Jury

found and announced that the total amount of Punitive Damages they found against Knoxville Harley Davidson, Inc. was \$4,000,000.00.

TOTAL JURY VERDICT:

The total Jury Verdict, as determined by the Jury before statutory reductions, was \$4,721,132.00.

JURY VERDICT STATUTORY ADJUSTMENTS:

The Plaintiff agrees that the award under the THRA (pursuant to T.C.A. § 4-21-313) for sex discrimination in the form of quid pro quo sexual harassment and/or sex discrimination in the form of a sexually hostile work environment (Question No. 7 of the Jury Verdict Form) is subject to a statutory cap for compensatory damages of \$50,000.00 due to the size of the employer. Each of the Defendants has more than 14 and fewer than 101 employees. Therefore, the specific award for Compensatory Damages under Question No. 7 under the THRA is reduced to \$50,000.00, by statute.

The Plaintiff agrees that the punitive damages award that was provided by the jury totaling \$4,000,000.00 against Knoxville Harley-Davidson, Inc. is required to be reduced to \$1,200,000.00 under the statutory limitation found in T.C.A. § 29-39-104. Specifically, this limitation in T.C.A. § 29-39-104 provides that punitive damages are limited to "two (2) times the total amount of compensatory damages awarded."

THEREFORE, the verdict of the Jury is the Judgment of this Court.

It is therefore **ORDERED, ADJUDGED** and **DECREED** that Plaintiff Sarah L. Hindenburg shall have and recover a judgment against Defendants Knoxville Harley-Davidson, Inc. and Knoxville Harley-Davidson West, LLC, in the following amounts:

- 1) \$50,000.00 for Tennessee Human Rights Act compensatory damages for sexual harassment (reduced by statute), for which execution may lie; and
- 2) \$23,620.13 [21,132.00 for Back Pay under the Tennessee Human Rights Act plus pre-judgment interest at a rate of 5.25% totaling \$2,488.13 through the date of the jury verdict on February 18, 2022], for which execution may lie.
- 3) Attorney Fee award totaling \$172,945.00 to Burrow Lee, PLLC under the Tennessee Human Rights Act for fees submitted to the Court through April 6, 2022.
- 4) Litigation costs and expenses totaling \$4,691.26 to Burrow Lee, PLLC under the Tennessee Human Rights Act for costs and expenses submitted to the Court through April 6, 2022 (excluding discretionary expenses which will be dealt with by separate order).

In addition, it is therefore **ORDERED, ADJUDGED** and **DECREED** that Plaintiff Sarah L. Hindenburg shall have and recover an additional judgment against Defendant Knoxville Harley-Davidson, Inc., in the following amounts:

- 1) \$600,000.00 [600,000.00 for Intentional Infliction of Emotional Distress, for which execution may lie]; and
- 2) \$1,200,000.00 for punitive damages (reduced by statute), for which execution may lie.

All court costs shall be paid for by the Defendants Knoxville Harley-Davidson, Inc. and Knoxville Harley-Davidson West, LLC

Post Judgment interest pursuant to T.C.A. 47-14-122 accrues at an annual compounding rate of 5.25% starting on February 18, 2022, for all of the judgment amounts listed above.

ENTERED this 27th day of July, 2022, nunc pro tunc as of July 22, 2022.

John F. Weaver
CHANCELLOR JOHN F. WEAVER

APPROVED FOR ENTRY:

JAL

JASON A. LEE
Registration No: 22890
Attorney for Plaintiff

BURROW LEE, PLLC
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Nashville, TN 37203
(615) 540-1005
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* IT IS FURTHER ORDERED, upon the Court's own initiative under Tenn. R. Civ. P. 60.01 to correct a clerical error arising from oversight in entering the wrong version of the final judgment in this case, that the FINAL JUDGMENT ORDER - ENTRY OF JUDGMENT entered July 22, 2022, is vacated and replaced with this FINAL JUDGMENT ORDER - ENTRY OF JUDGMENT entered this 27th day of July, 2022, nunc pro tunc as of July 22, 2022.

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of April 2022, a true and correct copy of the foregoing document has been served VIA Email under Tennessee Rule of Civil Procedure 5.02 as PDF with facsimile confirmation under Rule 5.02, addressed to:

Melissa B. Carrasco
Penny Arning
Egerton, McAfee, Armistead & Davis, P.C.
900 S. Gay St., 14th Floor
Knoxville, TN 37902

JAL

JASON A. LEE

JAL