

The Mississippi Jury Verdict Reporter

The Most Current and Complete Summary of Mississippi Jury Verdicts

September 2011

Statewide Jury Verdict Coverage

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Mississippi including court, division, presiding judge, parties, case number, attorneys and results. Notable results from the southern region, including Memphis and New Orleans, are also covered.

Religious Discrimination - The head of food and beverage at a Tunica casino alleged he was forced out because he is Jewish

Silverberg v. Sam's Town Casino, 2:09-119

Plaintiff: Jim D. Waide, *Waide & Associates*, Tupelo

Defense: Gary E. Friedman, *Phelps Dunbar*, Jackson

Verdict: \$578,000 for plaintiff

Federal: **Greenville**

Judge: R. Allen Pepper

Date: 8-12-11

Marc Silverberg enjoyed a successful career as a chef and food and beverage manager. He was trained at the distinguished Culinary Institute of America and later worked as a chef at casino restaurants around the country. He took a job in May of 2006 as the food and beverage manager at Sam's Town Casino in Tunica. In this position, he supervised 275 employees and six food venues. [It operates as a d/b/a of Boyd Tunica Corporation.]

Silverberg, who is Jewish, did well in his position and was highly regarded. That changed a year later when a new General Manager, George Stadler, was installed at Sam's Town. Silverberg (and his witnesses) would describe Stadler (of Irish-German heritage) as a racist bigot.

His bigotry was expressed against Silverberg's Jewish heritage. Stadler changed the Holiday Party to a Christmas Party and asked Silverberg to be Santa Clause. Silverberg refused. Stadler also made derogatory remarks about Jews in general. Stadler too was proud of his heritage and spoke favorably of Catholicism and the Nazi-era German boxer, Max Schmeling, who had battled American Joe Louis in the 1930's. Stadler's purported racism also extended to blacks (referred to as

"niggers") and Italians (referred to as "Dagos").

During the summer of 2008, despite a history of good performance, Stadler placed Silverberg on a performance improvement plan. A month later and still in the context of the improvement plan, Stadler made a decision to fire Silverberg immediately. Sam's Town explained that Silverberg was let go because of poor performance.

In this lawsuit, Silverberg sued the casino and alleged his firing represented religious and racial discrimination. He cited the proof as noted above and argued that Stadler forced him out because he was Jewish. [Sam's Town then had more than 1,000 employees and only four were Jewish – just one (Silverberg) was in upper management. If Silverberg prevailed, he sought both compensatory and punitive damages.

Sam's Town defended as above that in the summer of 2008, it began to investigate Silverberg's performance after receiving an anonymous tip. That investigation confirmed problems including Silverberg having tape-recorded conversations with subordinates. Then once the improvement plan was begun, instead of making changes, the casino postured Silverberg continued to shift blame and make excuses. Sam's Town (and Stadler too) denied any discrimination.

This case concluded on a Friday, the jury deliberating for eight hours. It returned a mixed verdict for Silverberg. The verdict was for him on race discrimination, while the casino prevailed on religious discrimination. The jury answered a second interrogatory that Sam's Town would have fired Silverberg anyway if it knew of the audio recording. Despite that finding (that it would fire him anyway), an award of damages was not precluded by these oddly constructed jury instructions.

The Mississippi Jury Verdict Reporter
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