

December 11, 2024

CALIFORNIA

CONTRA COSTA COUNTY

EMPLOYMENT

Retaliation; Whistleblower; Sexual Harassment; Wrongful Termination; California Labor Code
Fired after reporting alleged violations of hedge fund

AMOUNT \$1,550,000.00

CASE Jessica Lee v. Michael Wilkins, Louis Corrigan, Kelly Mazzucco and Kingsford Capital Management LLC, No. CIVMSC18- 00816

COURT Superior Court of Contra Costa County, Contra Costa, CA

JUDGE: Hon. Charles S. Treat

DATE 12/11/2024

PLAINTIFF ATTORNEY(S) Jan T. Aune; The Law Office of Jan T. Aune; Burbank CA for Jessica Lee

DEFENSE ATTORNEY(S) Michael A. Laurenson; Gordon Rees Scully Mansukhani, LLP; Walnut Creek, CA for Kingsford Capital Management LLC
John V. Ricca; Gordon Rees Scully Mansukhani, LLP; San Francisco, CA for Kingsford Capital Management LLC

PLAINTIFF'S EXPERTS: Michael D. Rosen, Ph.D., C.P.A., ABV Economic damages; Long Beach, CA called by: Jan T. Aune.
Martin Dirks, M.B.A. Federal securities laws; San Francisco, CA called by: Jan T. Aune

FACTS & ALLEGATIONS In November 2015, plaintiff Jessica Lee, who worked as an analyst at Kingsford Capital Management LLC, a hedge fund that performed short selling of securities, was terminated from her position. Lee claimed she was retaliated against and terminated from her position after she filed reports against Kingsford and her supervisors, alleging sexual harassment, discrimination based on her gender and race and that she'd been misclassified, Lee sued Kingsford, as well as her former supervisors, Michael Wilkins, Louis Corrigan and Kelly Mazzucco, alleging violations of the California Labor Code, Sec. 1102.5, whistleblower retaliation and for retaliation. She also made claims under California's Fair Employment and Housing Act for sexual harassment, gender discrimination, race discrimination, hostile work environment based upon race, failure to prevent harassment, discrimination, or retaliation based upon gender or race. Lee claimed she was retaliated against and terminated after she reported that she reasonably believed that she had been misclassified by Kingsford as an independent

contractor from 2009 to 2015 in violation of federal law. Other actions she believed had motivated retaliation against her, was her having reported Kingsford had been using soft dollars to pay employees misclassified as independent contractors, and that Kingsford had requested Lee publish false information about securities under an assumed name, in violation of Sec. 28-e and Sec. 10b-5, respectively, of the Securities Exchange Act, as well as anti-fraud provisions of federal securities laws.

In regards to her sexual harassment claims, Lee alleged Wilkins sent her to meet with two non-party males for a business meeting outside the office, even after she had informed him she'd been sexually harassed by the two men during a previous interaction.

Additionally, Lee claimed that while researching a China-based company for Corrigan in order to determine whether Kingsford wanted to take a short position in the stock, Corrigan allegedly instructed her to order a sexual lubricant that the company sold and suggested she should try it. Lee claimed she was offended by Corrigan's comments regarding the lubricant every time he'd made them.

Corrigan testified at trial that while he was leaving a Monday morning research meeting with Lee, she'd asked him if he thought the product worked, and he responded, "Why don't you try it." A former Kingsford chief administrative officer testified that he'd heard Corrigan make a comment to Lee in a Monday morning research meeting about using the lubricant, but that he made it in jest.

Kingsford's counsel contended that though Kingsford's employees' actions were foolish, they did not rise to the level of sexual harassment. Kingsford's counsel also contended that Lee did have dinner with one of the non-party males on the night he'd been alleged to have sexually harassed her.

Lee testified that she ran out of the non-party male's apartment and onto the New York City street, but the non-party male caught her as she was about to enter a cab and apologized, so Lee went to a business dinner with him in order to complete her work duties.

The defense contended that Kingsford had terminated Lee in because she was not performing well as an analyst,

and not as retaliation against Lee because of the alleged violations she'd reported.

Additionally, the defense noted that even though it classified Lee as an independent contractor from 2009 through approximately January 2015, Kingsford hired Lee as analyst and employee in February 2015 and her previous classification as an independent contractor was no longer an issue.

Finally, defense counsel concluded that Kingsford had stopped the practice of paying soft dollars to workers it classified as independent contractors in or about 2014, and thus it had no longer been an issue.

This trial was divided into two phases, with phase II being the punitive damages phase.

INJURIES/DAMAGES Lee worked at Kingsford from 2009 until November 2015 when she was terminated. She claimed emotional distress from the events that had led to her termination, and sought \$700,000 in lost earnings, \$500,000 in future lost earnings and past and future emotional distress damages of \$350,000. She also sought recovery for punitive damages for Kingsford's alleged misconduct.

According to the plaintiff's counsel, during the trial the defense had argued that none of the five factors the jury was given to determine how reprehensible the defendant's conduct was had applied to Kingsford. Additionally, the defense had reportedly argued that if the jury awarded punitive damages to Lee, it would affect Kingsford's ability to pay its employees.

RESULT: The jury found for Kingsford on Lee's FEHA claims for sexual harassment and retaliation for complaining about sexual harassment, however the jury found for Lee against Kingsford on her cause of action for California Labor Code Sec. 1102.5, whistleblower retaliation. The jury awarded Lee \$1.55 million. The jury also found punitive damages were warranted in phase I, but awarded \$0 for punitive damages in phase II.

EDITOR'S COMMENT: This report is based on information that was provided by plaintiff's counsel and defense counsel for Kingsford Capital Management LLC. Remaining defendants were not asked to contribute.