

# Race Discrimination In Employment: Court Discusses Factors In Computing Damages.

The United States District Court for the Northern District of Indiana did not belabor whether the allegations made by two African-American LPN's against their former employer a nursing home were true.

The only real question was how much they should be awarded as damages in their employment discrimination lawsuit.

The jury found discrimination and awarded damages. But as a general rule in civil cases the jury's verdict does not become a binding court judgment until the judge who presided at the trial makes the decision to sign an order of judgment.

After a verdict is rendered in a civil case and before the judge signs the judgment each side routinely asks the judge to modify the jury's verdict. That is, if the jury has awarded nothing or only a small amount, the plaintiffs will routinely ask the judge to put a larger amount in the judgment than the jury's verdict, and if the jury has awarded a large amount the defendants will routinely ask the judge to put a smaller amount in the order of judgment.

In this case the jury awarded one plaintiff, who was demoted out of her unit manager's position, \$20,000 as back pay, \$150,000 compensatory damages and \$150,000 punitive damages. The other nurse, forced out of a clinical position, was awarded \$14,783.05 as back pay, \$100,000 compensatory damages and \$150,000 punitive damages.

The court ruled the punitive damages were appropriate. In civil cases punitive damages are meant to punish intentional wrongdoing the same way a fine punishes the defendant in a criminal case. An employer is hit with punitive damages in a civil discrimination lawsuit when supervisors or managers commit discrimination knowing they are violating the law, almost asking for punishment.

The Federal Civil Rights law says punitive damages are proper, "...if the conduct was motivated by evil motive or intent or by reckless or callous indifference to the victim's right to be free from intentional discrimination."

***One of the nurse plaintiffs was the only African-American unit manager at the nursing home.***

***When new management took over the nursing home she was told she would have to resign as unit manager or be fired, because under the previous management the nursing home had hired too many African-Americans and had had a policy of favoritism toward African-Americans. Then when she stepped down she was not considered for comparatively well-paying clinical positions that went to white applicants.***

***The other African-American nurse plaintiff was forced out of her clinical position and fired over an incident of alleged neglect for which a white nurse would not have been disciplined. Then she was cut down with fabricated documentation of past poor performance evaluations when she complained.***

***The evidence is overwhelming that these nurse plaintiffs were victims of blatant racial discrimination. They are entitled to repayment of their lost income and compensatory and punitive damages.***

UNITED STATES DISTRICT COURT,  
INDIANA, 2000.

The amount of punitive damages is reckoned by the impact it will have on the wrongdoer, not according to the harm suffered by the victim. In this case the jury was allowed to hear evidence the new management corporation's daily revenues from its nursing-home operations were more than \$400,000. The court said that punitive damages of \$300,000 were very reasonable under the circumstances.

In contrast, compensatory damages take into account the harm suffered by the victim. The two nurses testified that it was embarrassing and humiliating to be victimized by racism and to be subjected to unfounded allegations of professional neglect. They were stressed and had headaches and GI symptoms.

Neither nurse sought help from a mental-health practitioner. The nursing home's lawyers brought that up to try to minimize what they went through. But they had no funds or insurance to pay for counseling, and the court was not swayed.

It went further. One had to tell her children there would be no Christmas presents. The other had to tell her daughter to change her plans for college because her mother's credit rating had been destroyed, and she had her car repossessed.

The court fully accepted these things as the legitimate consequences when a nurse or any employee loses employment under wrongful circumstances. However, that being said, the court looked at other comparable cases where the compensatory damages for discrimination or harassment were much lower, and decided to enter judgments only for \$50,000 and \$35,000.

The court did not change how the jury computed the nurses' back pay. In general, a person wrongfully fired is entitled to sue for the pay the person would have earned, from termination until another suitable job is obtained or should have been obtained. The victim must begin at once seeking other employment and must accept a suitable position when one is offered, and then the computation of back pay stops. **Clark v. Metro Health Foundation, Inc., 90 F. Supp. 2d 976 (N.D. Ind., 2000).**