

VERDICTS & SETTLEMENTS

FRIDAY, AUGUST 19, 2016

TORTS

FAIR EMPLOYMENT AND HOUSING ACT

Failure to Provide Reasonable Accommodation

SETTLEMENT: \$375,000

CASE/NUMBER:

Laurie Frazer v. County of Santa Clara, Bob Kaufman, et al. / 1-14-CV-264724.

COURT/DATE:

Santa Clara Superior / June 7, 2016

JUDGE: Hon. Maureen A. Folan

ATTORNEYS:

Plaintiff — **Peggy A. Farrell**, Rene Potter (Potter Handy LLP, San Diego)
Defendant — Orry P. Korb, David M. Rollo (Office of the County Counsel, San Jose)

FACTS:

Plaintiff Laurie Frazer filed suit against her employer the county of Santa Clara, and her supervisor Bob Kaufman, in connection with an employment dispute.

PLAINTIFF'S CONTENTIONS:

Plaintiff worked for the Santa Clara County Vector Control District, for more than 20 years. In or about 2009 she developed a disability that required the use of a task trained assistive dog to alleviate the limitations caused by her disability. She thereafter requested an accommodation to bring her dog, "Bruce," to work with her on all outside and inside work duties. Her doctor certified that the use of the dog would allow her to work without restriction. From the outset, defendants

refused to fully grant the accommodation, and prevented her from, without limitation, bringing her dog into county buildings.

In or about May 2013, she received notice from her supervisor, Bob Kaufman, that her accommodation was being reevaluated and she would be required to provide him with a medical certification establishing her disability and need for continued accommodation. Although the county has a Department of Reasonable Accommodations, they delegated the determination to Kaufman, notwithstanding that he was plaintiff's direct supervisor and was not trained in evaluating reasonable accommodations. Plaintiff complied with his request and provided a medical certification from her doctor attesting to her need for accommodation, and the specific accommodation requested, which was to bring her dog to work with her in all duties and responsibilities. If granted, the accommodation would allow her to work and perform all essential job functions without restriction. Notwithstanding, defendants denied her request for accommodation without discussion and without offering alternatives, and instead demanded that she provide another medical certification identifying her specific restrictions. Plaintiff was required to provide two more medical certifications on this basis. However, her request for accommodation continued to be denied on grounds that it was not specific enough as to her restrictions. As stated by her doctors, plaintiff would have no restrictions if they allowed her to bring her dog with her on all inside and outside work duties. Instead, defendants prevented her from bringing her dog into the building on inside work duties, and required that she ask permission from co-workers to bring her dog to work on outside control duties when required to work in teams.

Plaintiff was required to leave her dog in her hot car when engaged in office duties or going into to county or public buildings, and was limited from bringing her dog into meetings if "sensitive," or if coworkers were present, referring to people with allergies.

The ongoing failure to accommodate plaintiff exacerbated her disabilities and created a hostile work environment. Plaintiff argued that the county failed to demonstrate any hardship, undue or otherwise in refusing to grant the accommodation. Plaintiff claimed she endured ongoing harassment, retaliation, exclusion from meetings and overtime work, and was repeatedly forced to participate in sham interactive process meetings, with the very individual who denied her accommodation to begin with, and continued to supervise her. Plaintiff asserted causes of action for violations of the FEHA, including, disability discrimination, disability harassment, failure to accommodate disability, failure to enter into good faith process, aiding and abetting discrimination and harassment, retaliation, failure to prevent discrimination and harassment, interference with civil rights, retaliation in violation of California Labor Code section 1102.5, intentional infliction of emotional distress, and negligent infliction of emotional distress.

DEFENDANTS' CONTENTIONS:

Defendant contended that plaintiff refused to identify her specific work restrictions for which her dog was necessitated, and therefore could not accommodate plaintiff's request to bring her dog to work.

RESULT: The parties settled for \$375,000.

FILING DATE: Aug. 2, 2014.