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Wrongful Termination

Violation of Public Policy

VERDICT: 5681,860.

CASE/NUMBER: Escalante v. Wilson's Art Studio Inc., dba Solutions Unlimited, et al. / 818748.

COURT/DATE: Orange Superior / June 18, 2001.

JUDGE: Hon. Selim Franklin.

ATTORNEYS: Plaintiff - Mark Weidmann (Law Offices of Mark Weidmann, Los Angeles).

Defendant - Gary S. Bennett (Law Offices of Gary S. Bennett, Laguna Hills).

TECHNICAL EXPERTS: Plaintiff - Brian Kleiner, human resources, Fullerton; Joyce Elaine Pickersgill, economist, Fullerton.

MEDICAL EXPERTS: Plaintiff - Franklin C. Milgrim, M.D., psychiatrist, Beverly Hills.

FACTS: Plaintiff Hector Escalante was employed by defendant ,Wilson's Art Studio Inc. as a print machine operator. Defendant Ion Stanei, the plaintiffs co-worker, was collecting tools to be stored away and asked the plaintiff for some tools. The plaintiff indicated that he was supposed to keep the tools at his workstation. The next day, defendant Stanei allegedly attacked the plaintiff with a stick and a hammer and then threw a box of screws at him. The plaintiff was fleeing when defendant Stanei allegedly threw another box of screws and hit him in the back. The plaintiff then turned and came back at defendant Stanei, allegedly attempting to restrain him with a bear hug. Defendant Stanei purportedly struck the plaintiff on the head, for which the plaintiff required three stitches. When the plaintiff returned to work several days later, defendant Wilson's Art Studio Inc. terminated him.

PLAINTIFF CONTENTIONS: The plaintiff contended that he was terminated for exercising his constitutional, civil and criminal right to self defense.

DEFENDANT CONTENTIONS: The defendant, Wilson's Art, contended that the plaintiff was terminated because he became the aggressor in the fight by turning around and coming back at Stanei to fight him.

DAMAGES: The plaintiff sought damages for wrongful termination, including emotional distress, loss of income and punitive damages. Additionally, the plaintiff sought damages for assault and battery and for the soft tissue back, neck, arm and head injuries he sustained.

SPECIALS IN EVIDENCE: MEDS, \$24,995; future MEDS, \$61,195; LOE, \$75,000.

JURY TRIAL: Length, 10 days; poll, 12-0 (wrongful termination), 12-0 (amount of damages), 12-0 (punitive damages); deliberation, one day.

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SETTLEMENT DISCUSSIONS: At the beginning of the case, the plaintiff demanded \$100,000, but the defendant offered nothing. No other settlement discussions occurred.

THE RESULT: The jury awarded the plaintiff \$451,860 against defendant Wilson Art Studio Inc. for its wrongful termination of the plaintiff in violation of public policy for exercising his right to self-defense. The \$451,860 award consisted of \$24,955 in past medical damages, \$61,195 for future medical damages and \$75,000 in past loss of earnings.

The plaintiff and defendant Wilson Art Studio Inc. stipulated to \$85,000 in punitive damages. Additionally, in a bench decision, the judge awarded the plaintiff \$230,000 against defendant Stanei for his assault and battery against the plaintiff, This amount consisted of \$30,000 in medical damages, \$50,000 in lost earnings, \$100,000 in pain and suffering and \$50,000 in punitive damages.