

Employment Practices Liability

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Connecticut Supreme Court Rules No Punitive Damages Under the Connecticut Fair Employment Practices Act

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Executive Summary: The Connecticut Supreme Court recently set aside an award of statutory punitive damages in a disability discrimination case brought pursuant to Connecticut's human rights law, the Connecticut Fair Employment Practices Act (CFEPA), affirming the Appellate Court and trial court's determinations that punitive damages are not recoverable under the CFEPA. See *Tomick v. United Parcel Service, Inc.* (December 30, 2016).

The issue before the Connecticut Supreme Court was whether punitive damages are authorized by Conn. Gen. Stat. § 46a-104, the statute that sets forth the remedies a court may award for violations of the CFEPA. That statute provides that the court may award "such legal and equitable relief which it deems appropriate including, but not limited to, temporary or permanent injunctive relief, attorney's fees and court costs." (emphasis supplied).

The plaintiff argued that the language, "legal and equitable relief" as modified by the phrase "including, but not limited to," authorizes all forms of legal and equitable relief, including punitive damages. He also argued that the legislature included language that specifically precludes punitive damage awards in other statutes, which undercuts any conclusion that the legislature intended not to allow awards of punitive damages pursuant to § 46a-104, which is silent on that point.

The Court rejected this argument, holding that that pursuant to *Ames v. Commissioner of Motor Vehicles*, 267 Conn. 524 (2012), under Connecticut common law, statutory punitive damages must be expressly authorized by statute. Because § 46a-104 does not provide for such

express authorization, that statute does not permit awards of statutory punitive damages as a form of relief. Additionally, the Court noted that the legislature expressly authorized punitive damages in other human rights statutes, but did not do so within § 46a-104.

Accordingly, the Connecticut Supreme Court held that punitive damages are not authorized under CFEPA.

Bottom Line: This ruling underscores the importance of applying rules of statutory construction even where the statute is remedial in purpose and also resolves a point of law that has been in dispute for some time. Notwithstanding, this decision may not result in a significant decrease in the amount in damages that may ultimately be awarded, particularly in cases where an employee has evidence that he/she has suffered emotional distress. Additionally, while the CFEPA still permits an uncapped award of compensatory damages, Title VII of the Civil Rights Act of 1964 and the Americans With Disabilities Act expressly cap the amount of punitive and compensatory damages that may be awarded to a prevailing plaintiff depending on the size of the employer.

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