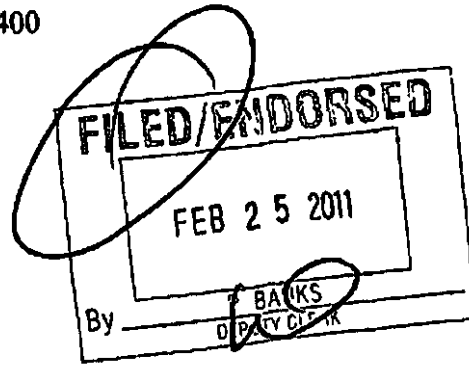


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5 Attorney for Plaintiff
6 CAROLE M. ARBUCKLE



7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SACRAMENTO

10 CAROLE M. ARBUCKLE,

11 Plaintiff,

12 v.

13
14 CALIFORNIA BOARD OF
15 CHIROPRACTIC EXAMINERS,
16 JEANINE R. SMITH, individually and in
her official capacity, and DOES 1-20,

17 Defendants.

Case No. 03AS00948

18
19 **PLAINTIFF'S SECOND AMENDED**
20 **JUDGMENT (PROPOSED - 7%**
21 **INTEREST BOARD OF**
22 **CHIROPRACTIC EXAMINERS / 7%**
23 **INTEREST KIM SMITH)**

24 *(Costs Posted - MAR 10 2011)*
Date:
Time:
Dept: 47
Judge: The Hon. Lloyd Phillips
Trial Date: July 12, 2010
Action Filed: February 21, 2003

25 THIS CAUSE came on regularly for trial with DANIEL HOROWITZ appearing as
26 counsel for the plaintiff, CAROLE M. ARBUCKLE, and NOREEN P. SKELLY, Deputy
27 Attorney General and LYN HARLAN, Deputy Attorney General, for the defendants,

28 **CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS and JEANINE R. SMITH.**

THEREUPON, a jury of twelve persons was duly accepted, empaneled and sworn to try
said cause. Witnesses on the part of the plaintiff and defendants were duly sworn and examined.

WHEREUPON, after hearing the evidence, the arguments of Counsel and instructions of
the Court, the cause was submitted to the jury, who retired to deliberate upon their verdict, and
subsequently returned into court, and, being called, all answered to their names, and then
rendered the following verdict, which was accepted by the Court and entered on the minutes and

1 is now incorporated herein and attached hereto as Exhibit A.

2 WHEREFORE, by virtue of the law and by reason of the premises aforesaid, it is ordered,
3 adjudged and decreed, that CAROLE ARBUCKLE, plaintiff do have and recover from
4 CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS and KIM SMITH, defendants, the
5 sum of One Million One Hundred and Seventy-Five Thousand Dollars (\$1,175,000.00), and from
6 defendant, KIM SMITH, individually, as punitive damages, the sum of Seven Thousand Five
7 Hundred Dollars (\$7,500.00), together with plaintiff's costs and disbursements of \$ 4,748.99 and
8 attorney's fees of Four Hundred Seventy Three Thousand dollars (\$ 473,000.00) to Daniel
9 Horowitz and Four Hundred Fifty Three Thousand Five Hundred and Two Dollars
10 (\$ 453,452.00) to Gaspar Garcia as set forth in this Court's Order of January 26, 2011.

11 The total award against Kim Smith including the jury award, costs and disbursements and
12 attorney's fees is Two Million One Hundred Thirteen Thousand Seven Hundred Dollars and
13 ninety nine cents (\$ 2,113,700.99) with interest thereon at the rate of seven percent per annum
14 from July 28, 2010 till paid.

15 The total award against California Board of Chiropractic Examiners including the jury
16 award, costs and disbursements and attorney's fees is Two Million One Hundred Six Thousand
17 Two Hundred Dollars and Ninety nine cents (\$ 2,106,200.99) with interest thereon at the rate of
18 seven percent per annum from July 28, 2010 till paid.

19 *Costs = \$ 4,748.⁹⁹*
20 *Total with Costs added = \$1,187,248.⁹⁹*

21 Dated: *2/25/11*

22
23 *MAR 10 2011*
24 *[Signature]*
25 A. WOODWARD
26 *Memo of Costs Clerk*

27
28
[Signature]
Honorable LLOYD A. PHILLIPS, Jr., RET.,
Judge of the Superior Court of California
County of Sacramento

EXHIBIT

A

Ent'd
FILED/ENDORSED
JUL 28 2010
S. SLORY
DEPUTY CLERK

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

No. 03AS00948

Dept. 26

CAROLE M. ARBUCKLE,

**CALIFORNIA BOARD OF
VS. CHIROPRACTIC EXAMINERS and
JEANINE R. SMITH,**

PLAINTIFF,

DEFENDANTS.

AMENDED JUDGMENT ON VERDICT

THIS CAUSE came on regularly for trial with DANIEL A. HOROWITZ appearing as counsel for the plaintiff, CAROLE M. ARBUCKLE, and NOREEN P. SKELLY, Deputy Attorney General and LYN HARLAN, Deputy Attorney General, for the defendants, CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS and JEANINE R. SMITH.

THEREUPON, a jury of twelve persons was duly accepted, empaneled and sworn to try said cause. Witnesses on the part of the plaintiff and defendants were duly sworn and examined.

WHEREUPON, after hearing the evidence, the arguments of Counsel and instructions of the Court, the cause was submitted to the jury, who retired to deliberate upon their verdict, and subsequently returned into court, and, being called, all answered to their names, and then rendered the following verdict, which was accepted by the Court and entered on the minutes, as follows:

03AS00948

ARBUCKLE VS. CA BOARD OF CHIROPRACTIC EXAMINERS, et al.
JUDGMENT ON VERDICT, continued.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

**CAROLE M. ARBUCKLE,
Plaintiff,**

Case Number: 03AS00948

vs.

Department: 26

SPECIAL VERDICT

**CALIFORNIA BOARD OF
CHIROPRACTIC EXAMINERS and
JEANINE R. SMITH,
Defendants.**

We, the jury in the above entitled action, find the following special verdict on the questions submitted to us.

Question No. 1: Was Carole Arbuckle an employee of the Board of Chiropractic Examiners?

Answer "YES" or "NO":

YES NO

If you answer Question No. 1 "NO", sign and return this verdict

If you answer Question No. 1 "YES", then answer Question No. 2

Question No. 2: Did plaintiff make a good faith communication that disclosed or demonstrated an intention to disclose information evidencing:

1 An improper governmental activity.

YES NO

03AS00948

ARBUCKLE VS. CA BOARD OF CHIROPRACTIC EXAMINERS, et al.
JUDGMENT ON VERDICT, continued.

2 A condition that may significantly threaten the health or safety of employees or the public, and that the disclosure or intention to disclose was made for the purpose of remedying that condition:

YES NO

If you answer "NO" to both Questions No 2.1 and No 2.2, sign and return this verdict

If you answer "YES" to either Questions No 2.1 or No 2.2, then answer Question No 3

Question No. 3: Did Kim Smith subject plaintiff to an action that materially affected the terms, conditions or privileges of plaintiff's employment?

Answer "YES" or "NO".

YES NO

If you answer to Question No 3 is "NO", sign and return this verdict

If you answer to Question No. 3 "YES", then answer Question No 4

Question No. 4: Was plaintiff's good faith communication a motivating cause for the defendant's action that materially affected the terms, conditions or privileges of plaintiff's employment?

Answer "YES" or "NO".

YES NO

If you answer Question No 4 "NO", sign and return this verdict

If you answer Question No 4 "YES", then answer Question No 5

Question No. 5: Did Defendant's employment action cause the plaintiff injury, damage, loss or harm?

Answer "YES" or "NO"

YES NO

03AS00948

ARBUCKLE VS. CA BOARD OF CHIROPRACTIC EXAMINERS, et al.
JUDGMENT ON VERDICT, continued.

If you answer Question No 5 "NO", sign and return this verdict.

If you answer Question No 5 "YES", then answer Question No 6

Question No. 6:

It is stipulated and established that plaintiff made a complaint to the State Personnel Board and that the Board issued a decision on the complaint prior to plaintiff's filing this civil action. This issue is established by stipulation of the parties and you must answer "YES"

X YES

If you answered Questions No. 1-6 "YES", what do you find to be the amount of:

Past economic damages? \$ 175K

Past Non-economic damages? \$ 1 M

Total? \$ 1,175,000

If you answered Questions No. 1-6 "YES", then answer the following

Question No. 7: Do you find by clear and convincing evidence that plaintiff's actual injury, harm or damage was caused by malicious conduct on the part of Kim Smith, as that term is defined in these instructions?

Answer "YES" or "NO":

X YES NO

Dated: 7/26/10

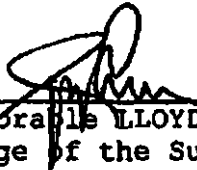
/s/ Alexis Piciucco (Juror No. 6)
Foreperson

03AS00948

ARBUCKLE VS. CA BOARD OF CHIROPRACTIC EXAMINERS, et al.
JUDGMENT ON VERDICT, continued.

WHEREFORE, by virtue of the law and by reason of the premises aforesaid, it is ordered, adjudged, and decreed, that CAROLE ARBUCKLE, plaintiff, do have and recover from CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS and KIM SMITH, defendants, the sum of One Million One Hundred and Seventy-Five Thousand Dollars (\$1,175,000.00), and from defendant, KIM SMITH, individually, as punitive damages, the sum of Seven Thousand Five Hundred Dollars (\$7,500.00), with interest thereon at the rate of ten percent per annum from the date hereof, till paid, together with said plaintiff's costs and disbursements incurred in this action, amounting to the sum of \$ _____.

Dated: July 28, 2010



Honorable LLOYD A. PHILLIPS, JR., RET.,
Judge of the Superior Court of California,
County of Sacramento