MB&A
Michael Burgis & Associates, P.C.
Recovery for the Injured™

Abarca v. Citizens of Humanity – David Triumphs Over Goliath

Whoever Fights, Whoever Falls, Justice Conquers Evermore.

- Ralph Waldo Emerson

We've all heard the sayings: "The little guy never wins." "You can't fight city hall." This is a story of how, through persistent, patient and aggressive advocacy, these expressions can be conquered.

History

In its Los Angeles facility, Citizens of Humanity makes its principal product, high-end (around $200 a pair) denim jeans and apparel. During the trial in this case, Citizens had a net worth of about $199 million and employed approximately 500 workers, many of them low-income individuals.

In 2006, Citizens employed Noe Abarca, then a 57-year old Spanish speaking worker, as a quality control inspector. In addition to his inspection duties, Abarca was expected to lift boxes of apparel, some weighing as much as 50 pounds.

In July of 2006, Abarca began to experience pain in his chest and clavicle area when lifting boxes. Eventually, the pain became unbearable. His immediate supervisor told him to see a doctor and referred him to Citizens' Human Resources department. Abarca's doctor issued written work restrictions, limiting Abarca's lifting capacity to 15-20 pounds for 30 days. For a month thereafter, Abarca was instructed to only lift boxes weighing twenty pounds or less. He complied with this accommodation.

Two days after the doctor's work restriction order expired, and despite Abarca's willingness to continue inspecting jeans and his continuing complaints of pain, Citizens terminated Abarca's employment. During the terminationmeeting, Abarca was forced to sign Workers' Compensation documents stating that he only reported his injury to Citizens after his termination. Thereafter, Abarca applied for and was approved for State Disability benefits. After the disability benefits expired, Abarca, who is the sole supporter of his daughter, resorted to collecting and recycling cans and bottles to get by.

Luckily, Abarca retained the law firm of Michael Burgis & Associates (MB&A) to pursue Workers' Compensation and civil claims against Citizens. The civil suit claimed that Citizens had unlawfully discriminated against and wrongfully discharged Abarca due to his disability. Following several years of hard-fought pretrial litigation and unsuccessful settlement attempts, MB&A retained the help of law firm Kramer Holcomb Sheik to prepare the case for trial. At trial, the jury ruled in favor of Abarca, awarding $100,000 in compensatory damages and $550,000 in punitive damages, finding that Citizens acted with malice, oppression or fraud.

The Appeal

Unwilling to accept its defeat, Citizens appealed the trial court's decision. In 2019, the Court of Appeals affirmed trial court's decision on all grounds. Although Citizens raised numerous arguments, much of the appeals court's opinion addresses the punitive damages award. Citizens raised several objections to this portion of the jury's verdict:

01 The company's misconduct was not "oppressive, fraudulent or malicious;"

02 Even if the misconduct did rise to this level, it was committed by lower-level employees and not ratified by any officer, director or "managing agent," as required by California law ;

03 The award violates due process; and

04 The award is contrary to public policy.

Let's look at each of these arguments in greater detail.

A Punitive Damages Award Requires a Finding of Oppressive, Fraudulent or Malicious Misconduct

Under California's Civil Code, an award of punitive damages can be made only in a case not based on a contract and only if the jury finds that the defendant's misconduct was "oppressive, fraudulent or malicious." While it is unclear which of these adjectives the jury found applicable to Citizens' conduct, the appellate court found that there was substantial evidence to support a finding that it was any one of the three. Specifically, the court recognized the undisputed evidence that a Citizens H.R. employee falsified a Workers' Compensation form to make it appear that the company did not have notice of Abarca's injury until after his termination.

The Award Cannot Violate Due Process

The court then considered Citizens' claim that the punitive damage award violates due process, as guaranteed by the Fourteenth Amendment to the United States Constitution. Factors to be considered are:

01 The disparity between the amount of the punitive award and the plaintiff's actual damages;

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03 The size of the award compared to those in similar cases; and

04 The wealth of the defendant.

There Must Be a Significant Degree of Reprehensibility

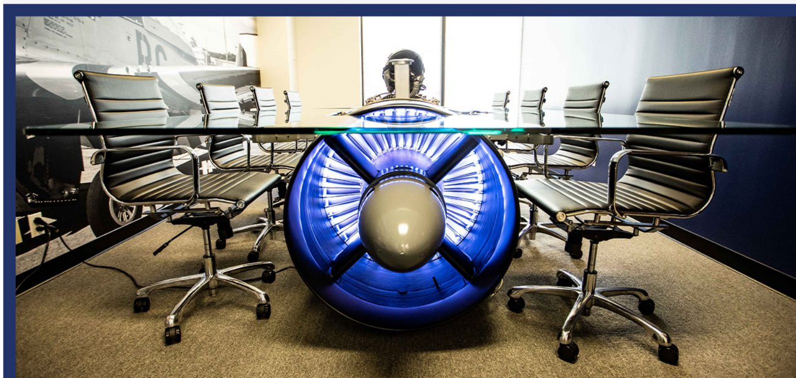
The court concurred that Citizens' misconduct was highly reprehensible, noting that:

01 Abarca's injuries were physical as well as economic;

02 The misconduct showed indifference or a reckless disregard for Abarca's health;

03 Abarca was financially vulnerable; and

04 The harm was the result of intentional malice, trickery or deceit.



The Punitive Damages Cannot be Disproportionate to the Compensatory Damages

The court rejected Citizens' assertion that, under a 2009 California Supreme Court decision, punitive damages cannot exceed the amount of a plaintiff's compensatory damages; that is, the ratio between compensatory and punitive damages must be no greater than 1 to 1. Nevertheless, the court found that generally a ratio of less than 10 to 1 is sufficient to satisfy this portion of the due process analysis. Here, the award was slightly less than 8 to 1. The court concluded that the punitive damages award was therefore not unconstitutionally disproportionate to the damages award.

The Award Cannot be Excessive in Comparison to Awards in Other Cases

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The Award Cannot Cause the Financial Demise of the Defendant

The court observed that an award of $550,000, while not insubstantial, would not cause significant financial hardship to a company with a net worth of nearly $200 million.

The Award May Not Violate Public Policy

The court readily concluded that the punitive damages award benefits the public by punishing wrongdoing and deterring future misconduct, whether by Citizens or other companies which rely on low-wage workers to perform essential functions.

Recognition

After nearly eight years of litigation, the Abarca case has attracted media attention as well as recognition by publications including, JuryVerdictAlert.com and the 2018 edition of Los Angeles Leaders in the Law. While as of this writing, Citizens still has the opportunity to appeal the decision to the Supreme Court of California, MB&A is confident that any further attempts to undermine the Abarca decision will be unsuccessful.

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