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## **Post-COVID Jury Verdicts**

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## POST-COVID JURY VERDICTS

The COVID pandemic created a once-in-a-lifetime sociological shift in the way we view the world.<sup>1</sup> We experienced not only the beginning of the pandemic in 2020, the summer included another major event, death of George Floyd, which culminated in the trial of the Derek Chauvin in April, 2021. The legal world continues to grapple with these seismic social earthquakes. A significant effect is the increase in large verdicts, especially in employment cases.

### Examples of Large Post COVID Verdicts (Not including award of attorney's fees)<sup>2</sup>

November 2020:

- FedEx \$6.85 million verdict in disability discrimination lawsuit in a trial that was entirely by Zoom in federal court in Seattle. FedEx would not let truck driver employee work because of lingering knee issues even though doctor said he could. Economic damages were \$101,743, \$1.75 million in compensatory and \$5 million in punitive damages.

March 2021

- \$325,000 verdict to Hispanic parks officer in disparate discipline case in Orange County, California. *Ennio Rocca v. California Dept. of Parks and Recreation*. Compensatory damages only. Past compensatory damages \$250,000 and future were \$75,000.

April 2021

- \$3.8 million jury verdict for disability discrimination against Union Pacific Railroad Co in Idaho. Foreman fired when a limp was noticed in training.
- *Scot Kingston v. IBM* (W.D. WA.); \$11 million verdict against IBM in Washington for race discrimination claim. Damages were \$1.9 million in past economic damages, \$3.1 million in future economic damages, \$113,728 in unpaid commissions and \$6 million in emotional distress damages.
- *Harris v. Unified Government of Wyandotte County/Kansas City, Kansas*, federal court; \$2,432,000 verdict in back pay, front pay, and compensatory damages.

May 2021

- \$2 million+ jury verdict to Burger King employee in a disability discrimination case. Florida. Employee claimed she was fired because she had to use a trachea tube to

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<sup>1</sup> Jason S. Bloom, M.A., Emily McDonald, Ph.D., More Than Covid: How 2020-21 Has Shaped Jury Decision-Making, 98 *The Advoc.* (Texas) 15, 15 (2022).

<sup>2</sup> Original compilation by William Hommel, Tyler, Texas.

breathe. She worked for six weeks and was then fired. Damages were: \$15,519.60 for lost wages, \$30,000 for compensatory damages and \$2 million for punitive damages.

- *Larry Eaves v. Carrier Corporation*, No. 3:19-cv-1153-B (N.D. Tex). \$3,600,000.60 jury verdict in gender discrimination claim representing a male plaintiff in ND Texas. Backpay was \$300,000.20, compensatory damages were \$200,000.20 and punitive damages were \$3,100,000.20. Jury asked judge to re-read the verdict when the judge inadvertently left the 20 Cents off when she first read the damages. The jury was trying to send a very strong message about something there.

June 2021

- Whistleblower retaliation verdict in Oregon of \$2.3 million. Damages were \$510,423 in backpay and \$1,872,000 in compensatory damages.

July 2021

- \$2 million-dollar first amendment retaliation in Pecos, Texas. Plaintiff has no lost wages at all. Damages award was \$500,000 past compensatory damages and \$500,000 future compensatory damages and \$1 million punitive damages.
- In Missouri \$1,225,000 plus fees (\$50K actual and \$1.175 million punitive) in hostile work environment race case. Defendant is LMV manufacturing.
- Jury verdict of \$44 million for hearing impaired conductor in disability discrimination case against Union Pacific in federal court in Western District of Wisconsin. The district court originally granted MSJ and it was reversed by Seventh Circuit. He was subjected to more stringent hearing tests than the unimpaired workers and failed. Damages were \$3.67 million for compensatory damages and \$40.3 punitive damages.
- Jury awarded \$250,000 compensatory damage verdict for current employee in ADA accommodation case against Union Pacific in Arkansas.
- EEOC obtains a \$125 million verdict against Walmart in Green Bay Wisconsin for failure to accommodate ADA case. \$150K in compensatory damages and \$125 million in punitive damages.
- *Sifuentes v. Bill Miller BBQ*, 166<sup>th</sup> District Court, Bexar County, Texas. \$900K verdict.
- *Douglas Cones v. Ronald Kelley*, Case No 1:19-cv-216-LY, US District Court, WD Tex. Malicious prosecution. Former employer accused terminated employee of stealing property and vacation pay. Damages: \$200K for loss of reputation and \$500K for emotional distress. Exemplary damages of \$100K. Total: \$800,000.

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