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## Judgment Against Law Firm, Which Included Punitive Damages, Affirmed

August 1, 2012

[Young v. Becker & Poliakoff, P.A., \\_\\_\\_ So. 3d \\_\\_\\_, 2012 WL 1859108 \(Fla. App. 4th Dist.\)](#)

### Brief Summary

A legal malpractice action against defendant law firm arising out of the dismissal of plaintiff client's employment discrimination case resulted in a jury verdict for the client for \$394,000 in compensatory damages and \$4.5 million in punitive damages, which was reduced to \$2 million.

### Complete Summary

The client's legal malpractice action arose out of the law firm's handling of her federal employment discrimination lawsuit against her employer. The underlying action was filed on the client's behalf by an associate and included 12 other employees. The associate made an error as to the client by attaching the wrong U.S. Equal Employment Opportunity Commission (EEOC) right-to-sue letter. The federal district court dismissed claims under Title VII of the Civil Rights Act of 1964, as amended, and under the Florida Civil Rights Act as time-barred, stating that as to the Title VII claim, it was not filed within 90 days after receipt of the EEOC letter. The law firm failed to respond to the motion to dismiss or to seek to set aside the dismissal and refile with the correct letter. Thirteen months after the dismissal of the underlying complaint, the law firm notified the client that her case had been dismissed. The law firm sent the client a letter advising her that it was withdrawing from representation on the case, and that she should "seek the advice of an attorney expeditiously."

The client alleged that the law firm had a conflict of interest that was created by its representation of other plaintiffs in a related case against the same employer, where the settlement of that case included a \$120,000 payment to the law firm that was intended to preclude the law firm from suing the employer in the future. *Jackson v. BellSouth Telecommunications*, 372 F.3d 1250 (11th Cir. 2004). She alleged that the law firm had intentionally delayed telling her about the dismissal of her case until after *Jackson* was settled.

The jury determined that the law firm knew that the case had been dismissed, but withheld that information from the client so that it could settle *Jackson* and secure the \$2.9 million fee and cost reimbursement in that case. The jury returned a verdict for the client for \$394,000 in compensatory damages as a result of the law firm's breach of fiduciary duty. It also awarded \$4.5 million in punitive damages, although the trial court remitted them to \$2 million, finding that the amount was not supported by evidence that the law firm had sufficient financial resources to support such a verdict without facing



bankruptcy. The client rejected the remittitur/new-trial order and appealed, and the law firm cross-appealed.

The District Court of Appeal of Florida, Fourth District, held that the record supported the trial court's finding that \$4.5 million punitive damage award was too large for the law firm to bear without bankruptcy, and that any error in the trial court's ruling which barred the client's financial expert from testifying that a punitive damage award of \$10 million would not bankrupt the law firm was harmless. The appellate court also held that the client had not abandoned her legal malpractice claim by voluntarily dismissing a subsequent employment discrimination lawsuit, which was filed after her first action was dismissed.

### **Significance of Opinion**

This decision underscores the dangers and consequences of a law firm's failure to properly supervise associates' work and the failure to timely and fully disclose to clients all material facts concerning the representation.

For further information, please contact [Terrence P. McAvoy](#).

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