



Supreme Court Leaves Massive Attorney's Fee Award Against EEOC Unresolved

BUT DECISION COULD STILL BE HELPFUL FOR EMPLOYERS

Insights

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Today, in a unanimous 8-0 decision, the U.S. Supreme Court declined to issue a definitive ruling on whether an employer is entitled to recover nearly \$5 million dollars in attorney's fees and costs from the Equal Employment Opportunity Commission (EEOC) after the employer prevailed in a sexual harassment lawsuit brought by the agency. The Court remanded the case back to the 8th Circuit Court of Appeals to determine, among other things, whether the EEOC's conduct in the litigation was "frivolous, unreasonable, or groundless" such to support the fee award. However, the Court did rule that employers could be considered prevailing parties and entitled to fees even if they do not win "on the merits," which could prove to be a useful ruling.

Today's decision means that, after a decade of litigation, the longstanding battle for fees will continue (*CRST Van Expedited, Inc. v. EEOC*).

Employer Wins Case And Sought \$4.7 Million

CRST is one of the country's largest interstate transit and logistics companies, employing over 2,500 long haul truck drivers. In December 2005, a former CRST driver trainee named Monika Starke filed an EEOC charge of discrimination alleging that she was subjected to sexual harassment during the new driver training program. The EEOC investigated her charge of discrimination and made a determination that Ms. Starke was not the only female employee subjected to such conduct.

After making a reasonable cause determination and failing to successfully conciliate Ms. Starke's matter, the EEOC brought suit against CRST on behalf of Ms. Starke and a class of other unnamed female employees. In the lawsuit, the EEOC alleged that CRST subjected numerous female employees to a hostile work environment based on sex in violation of Title VII.

After two years of litigating the case, the EEOC was ordered by the court to provide a full list of the women it claimed were part of the class of plaintiffs; the agency turned in a list of 270 names. But during the course of the litigation, over 200 of the named women ceased to be part of the action – some had their claims dismissed based on defense motions, some had their claims voluntarily dropped by the EEOC, others lost out due to discovery sanctions, and Ms. Starke herself settled her case for a payment of \$50,000.

At this point, it became clear that the EEOC had concededly failed to investigate, provide a cause determination, or attempt to conciliate the individual claims of the remaining 67 women. Accordingly, the district court dismissed these claims based on the EEOC's flagrant disregard of its statutory obligations, and eventually awarded the employer \$4.7 million dollars in attorney's fees, expenses, and costs incurred defending the EEOC's defeated claims. The agency appealed this decision, which was reported as one of the largest-ever fee awards assessed against the EEOC.

The 8th Circuit Court of Appeals agreed with the EEOC and reversed the award of attorney's fees. It held that the employer was not entitled to recover any amount because it had not technically prevailed "on the merits" of the case against the 67 women. Instead, the court ruled that the portion of the case brought on behalf of these plaintiffs was dismissed on jurisdictional grounds, which did not entitle CRST to a fee award. The employer appealed the matter to the Supreme Court, which ruled on the matter today, over 10 years after Ms. Starke originally initiated her claim.

SCOTUS Punts Fee Award Ruling

Title VII states that prevailing parties can be awarded their attorney fees in certain circumstances. A 1978 Supreme Court case (*Christiansburg Garment Co. v. EEOC*) established the standard for defendants to recover fees, saying they could only do so if the court finds the plaintiff's claim to be "frivolous, unreasonable, or without foundation."

Thus, the Supreme Court's task in this case boiled down to answering three questions. Was CRST a "prevailing party" despite the fact that there had never been a judicial determination in its favor on the merits of the sexual harassment claim? Was the district court's judgment in dismissing a majority of the EEOC's claims in fact preclusive? And had the EEOC acted "frivolously, unreasonably, or without foundation" in litigating a large class action without having conducted proper pre-litigation procedures for 67 plaintiffs?

Today, the Court concluded that CRST may be the prevailing party even where it prevails on a nonmerits-based ruling, but the Court declined to make a determination on the last two issues and remanded the case to the 8th Circuit to make further rulings. The employer will have to continue to battle in its quest to recover the nearly \$5 million from the EEOC.

Silver Lining For Employers

However, there is good news for employers. As noted, the Court ruled that CRST could be the prevailing party despite the fact that the EEOC obtained a favorable \$50,000 settlement on behalf of one claimant, Ms. Starke, and despite the fact that no judge or jury had ever affirmatively concluded that the sexual harassment claim should be decided in the employer's favor. Specifically, the Court held that "a defendant need not obtain a favorable judgment on the merits in order to be a prevailing party."

Indeed, Justice Kennedy wrote, the "defendant may prevail even if the court's final judgment rejects the plaintiff's claims for a nonmerits reason." In vacating the 8th Circuit's ruling on that subject, the

Court affirmed its prior decision in *Christiansburg* and held that a prevailing defendant is entitled to recover fees and costs “whenever the plaintiff’s claim was frivolous, unreasonable or groundless.”

Essentially, this means that an employer may be designated as the prevailing party where the plaintiff’s or EEOC’s claims are dismissed on procedural grounds not related to the substantive Title VII claim. This could arise where the employer successfully argues that the claims should be dismissed because they are moot, barred by the statute of limitations, blocked on sovereign immunity grounds, or rejected for lack of subject matter jurisdiction, among other things.

What Does This Mean For Employers?

While today’s decision is not a clean-sweep victory for employers, the Court did affirmatively set forth the standard by which employers will be deemed to be considered “prevailing parties” under Title VII. This allows a clear avenue for employers to recover their costs and attorney’s fees even where the ultimate dismissal of the Title VII claims are for nonmerits reasons not based on the substantive merits of the action.

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