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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION [I]

AND
IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COURT OF KING

Hatsuyo Harbord Appellant

Appeal Court: 72731-1
Trial Court: 19-2-21008-8 SFA

Safeway Inc

Respondant

Plaintiff's Preliminary Brief
CR 56(A) CR 56(C) CR 56(D)
CR 57(A)(2) CR 60(B)(1) Surprise

Issue, Hatsuyo Harbord, Appellant asks the Court to Reverse Safeway
Judgment and go back to Trial Court to finish Jury Trial.

ISSUES

① Prima facie case standard as developed by the U.S. Supreme Court
in its McDonnell Douglas decision

② Membership in a protective group

Appellant is Japanese decent. When Safeway Inc. fired Appellant
was 57 years old. Mike LaGrange (Port Angeles store manager) was

creating a hostile environment based on an individual's birthplace, ethnicity, culture, or foreign accent. Such conduct may be "offensive" if it becomes severe and pervasive, adversely affecting the victim's performance, it will violate Title VII. Relevant factors:

② Qualification for the position in question

- 1972 graduated high school in Japan: Business and General ed.
- 1974 graduated 2-year College in Japan: Business Administration and General Education.
- 1988 and 1989 graduated 2-year College in U.S. Business Administration, AA-honor, Pre-professional Accountant
- 10⁺ years in Tax Counseling for the Elderly (IRS Volunteer program)

③ An adverse employment action

④ Mike LaGrange (Port Angeles manager) claimed that Appellant had 150 transaction errors on 12/13/2008 without showing any of his claims (No evidence) and demoted from head bookkeeper. Yet, Appellant was working same as 2nd Bookkeeping job without any title, plus was working Video/customer Service job at same time until 5/1/2010. Appellant worked as bookkeeper for 6 years 9 months from 9/2004 through 5/1/2011 with and without the title.

Details

- 9/2004: Appellant hired as 2nd Bookkeeper (manual process bookkeeping) 8 hours shift as bookkeeper.
- 10/2004: Former 2nd Bookkeeper left.

- 11/2004: Head bookkeeper suddenly left.
- 11/2004: Appellant became a head bookkeeper
- 12/2004: Company hired 2nd Bookkeeper from outside of Company.
- In 2007 2nd Assisted manager suddenly retired Appellant's boss.
- In 2007 2nd Bookkeeper left for medical leave (2 months).
When she came back from medical leave, she lost all of seniority benefits. She left the Company.

• 2/2008 Company did not provide any proper 10 key adding machine which one of important tools. Appellant used Japanese Abacus from 3/2008 through 12/13/2008, (Harassment) "Old" "she (Appellant) can't finish, slow"

• 2/2008 Mike LaGrange (Port Angeles store manager) and another management LURED as "a training" and ENTICED Appellant in the small one door room with them, then BERATED Appellant for 25 minutes.

• 3/2008 Medical injury (cut shift 8 hr. to 7 hr. Add Video Job) Mike LaGrange (Port Angeles store manager) added video clerk job on top of head bookkeeper job, and cut shift 8 hours to 7 hrs. Mike LaGrange threaten Appellant with pink slip [corrective action notice (CAN)]. Mike LaGrange stated that "1st, 2nd, and 3rd You are out!" from 2/2008. "Milking Company's money" Mike LaGrange did NOT provide a chair. This caused injury on 5/08.

• 5/2008 Medical injury (cut shift 7 hrs to 6 hrs. Add more Video Job) Mike LaGrange (Port Angeles store manager) added counter act tasks to Appellant's daily task and threaten Appellant with pink slip. Mike LaGrange stated that "1st, 2nd, and 3rd, You are out!" from Feb. 2008. And Mike LaGrange cut shift hours from 7 hr. to 6 hr. with more Video Customer Service job and head bookkeeper job.

PLA Brief (preliminary)

Doctor Mike LaGrange threaten Appellant that Appellant did not need to see Doctor, Doctor can not do Appellant's injury. "Company needs to pay fine for \$7,000 for Appellant's injury."

② Tampering the job equipments - It caused delay Appellant's job and forced to quit. Constantly fixing all of equipments, It was intentional acts.

• End of October through 12/13/2008 (6 days/week, 4 hours shift to finish all of head Bookkeeper's job) (4AM-8AM) Mike LaGrange (Port Angeles store manager) removed Appellant to Morning Bookkeeping from Night Bookkeeping. And reduced to 4 hours shift. Appellant worked 4 hrs shift for 6 days and two 4 hour Video/customer service job, (Other head Bookkeepers at other stores had 8 hours shifts, Head Bookkeeper's job was cut from 8 hrs to 4 hrs. Appellant finished her job in short shift.

• 12/13/2008 Mike LaGrange demoted Appellant from a head Bookkeeper, Mike LaGrange claimed as 150 transaction errors without any evidence, (Saturday)

• 12/14/2008 Erika Wilson did not show my work schedule (Sunday) Mike LaGrange told different. Supervisor could not find Appellant's schedule to work, Management was scheduled a person to take over Appellant's shift.

• New head bookkeeper was working 7 hours per day to finish which Appellant was schedule to finish within 4 hours.

• New head bookkeeper was paid seventeen plus (\$17⁺) per hour without any skills, Appellant had Bookkeeping skills, but she get pay ten dollars seven cent (\$10.⁰⁷) per hour started from

9/2004 as 2nd Bookkeeper. When Appellant became a head Bookkeeper in 11/2004 (Two months later), No promotion. Mike LaGrange (Port Angeles store manager) paid ten dollars seven cents (\$10.07) per hour for about two years.

• Another head Bookkeeper at different store, she was a cashier. She changed her job as a head Bookkeeper, she had to reduce her wage to non-grocery wage scal. And she had 8 hour shift. But our store, New head bookkeeper (Denna Spear (sp?)) was same pay as a cashier when she became a head bookkeeper without any bookkeeping qualification.

• Other different head Bookkeeper from other different store, she had seven (7+) hours to finish her shift.

• Promotion for Video manager:
Appellant asked a video manager position. No response.

• In 2006 Not paid by Mike LaGrange (Port Angeles store manager from 1st Appellant Bookkeeping conference/meeting in out of town. Appellant did not get pay for eleven hours (11 hrs) pay. Mike LaGrange took original pay stub to check my status. Mike LaGrange did Not pay Eleven hours (11 hrs) pay and did not give back original wage stub. (witnesses)

• In 2009 stressed fractur and medical leave

First returned: Doctor released Appellant to go back to work with the instruction. No more than consecutive Five (5) days and Four (4) hours shift. Management scheduled Appellant work:

	Sun	Mon	Tue	Wed	Thur	Fri	Sat
1st week	X	X	4hr	4hr	4hr	4hr	4hr
then scheduled							
2nd week	4hr	X	4hr	4hr	4hr	4hr	X

• my foot gave out. Again medical leave.
Intentional plan to Not to go back to work by Company.

• Second returned: Appellant gave doctor's note to Mike LaGrange (Port Angeles store manager) to go back to work. Mike LaGrange faxed doctor's note to Patricia Bridgeman (District human resource). According to Patricia Bridgeman: Safeway Inc. does NOT have 4 hours shift at Port Angeles store and/or light weight job. Only Port Angeles store had Five point five (5.5) hours shift and/or Seven point five (7.5) hours shifts. Appellant worked from 9/2004. Company always had Four (4) hours shift, suddenly Company did not have Four (4) hours shift.

• In 2010
Suddenly Managements started Appellant to sing before even look at the papers. (Many papers).

Appellant could not go to the bathroom. Management told me that if I leave without permission, I would get pink slip for "insubordination" and did not give three minutes (3 min) of time to go to the bathroom, but other employees went to the bathroom when they needed.

hostile environment based on individual's

Mike LaGrange said "I don't understand YOUR ENGLISH."
"Ask someone Can understand YOUR ENGLISH" then
All of management said "I don't understand what is talking about?"
"Ask somebody else". Suddenly "She (Appellant) can't hear"
"She (Appellant) can't understand what I (management) say"
"Old"

Appellant used Ear Protection which OSHA's rule, and no problem hear the intercom.

6 of PLA Brief (prem)

Mike LaGrange ordered to take off the Ear Protection.
Appellant used when it started Computer bookkeeping system
because so many coins to count by coin counting machine with
metal scraping noises and coin rattling noises, and coin clatter.
Appellant could not wear for two weeks, and went to the hearing
clinic.
Appellant Ear Protection was gone during my shift, and requested
to look security videos. Mike LaGrange (Store manager) denied
my request.
Intentional acts.

Mike LaGrange (Port Angeles store manager) called me to work early.
Appellant went early for 8 hrs shift. Mike LaGrange called in his
office and suspended without any explanation, any suspension
notice. New management (training) had to do Appellant's Jobs
(Bookkeeping job, closing procedure job, video/customer job) and
her own management job. This person was fired in later
time with Appellant.

• 1/2011 hostile environment continued. Adding more counter
active duty to do. "I don't understand YOUR ENGLISH" and so on.

• 2/2011 hostile environment continued. "I don't understand YOUR
ENGLISH" and so on.

• 3/2011 Appellant requested Birthday Holidays from January 2011.
Management forgot to schedule my Birthday Holiday
4 hours every week. How many weeks Management
did not give this birthday holiday? It was intentional.

• 3/2011 Appellant requested 20 hrs per week for 3 weeks.
Management scheduled first week was 20 hours.
Then following week Management schedule for 16 hours.
This caused Appellant for NP medical coverage.

f PLA Brief (prem.)

Management was INTENTIONAL ACTS. So Appellant did not receive any medical benefit.
Third week Management schedule for 20 hours, but did not fix second week 4 hours short to medical benefit. INTENTIONAL ACTS by management.

4/20/2011 Appellant went to the store to check her schedule to work. Management said "Are you sure that are you coming back to work?" It was strange things to ask.

4/5/2011 First day back to work, Mike LaGrange (Port Angeles store manager) suspended without suspension Notice. Appellant asked "what reasons?" Mike LaGrange told me that "I (Appellant) was stalking!"
INTENTIONAL ACTS.

4/6/2011 Mike LaGrange (Port Angeles store manager) and Ken Burnes (Security Dept) accused of following things:

- ① Stalking someone?
- ② Suspicious acts?
- ③ Stealing Company information?

then trapped into the room for TWO HOURS (2 hrs) to write the statements and threaten to fire Appellant for "firing".

Appellant could not see the Security Camera Videos footage which Appellant requested to see with a lawyer. Mike LaGrange and Ken Burnes watched the Video during this two hours (2 hrs), COERCED Appellant to write by Mike LaGrange and Ken Burnes without watching the Videos which they were talking. Threatened to turn in the statements without watching the Videos.

Appellant asked to see the Video Footage, so Appellant told what Mike LaGrange and Ken Burnes were talking about. They refused to show to me.

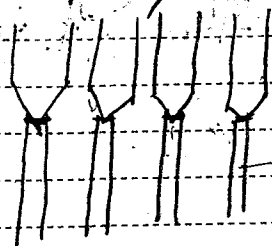
Sue Bennett (Labor Relation manager) refused to show to me, then sent 5 pages of papers to read and questions. Appellant's lawyer sent to Sue Bennett.

Appellant requested to see all of my investigation, but they took my papers and my lawyers letters. AND FIRED Appellant.

Mike LaGrange, Sue Bennett, Ken Burnes and Safeway refused to send any material from then.

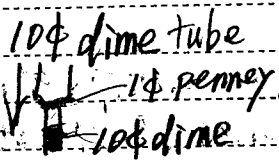
During 2008: Harassment by Sabotage all of Bookkeeping equipments. continually basis.

One of many examples: coin counting machine

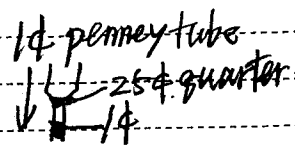


this is part of coin counting machine. drop 5¢ cents coin was stuck on the top of the 1¢ cent tube

① 5¢ coin was stuck on the top of the 1¢ tube



② 1¢ cent coin was stuck on the top of the dime tube.



③ 25¢ cent coin was stuck on the top of the penny tube. Appellant talked to repairman. No way so much problem stuck itself. And asked around people too.

• During 2008 Too many bills were stuck inside the bill counting machine. Appellant talked to repairman. No way so much problem stuck itself.

• Appellant had too many times stuck the coins, and the bills in the machines.

PLA Brief (prem.)

- During 2008 Lottery tickets machine
Someone was intentionally filed opposite position.
Someone was intentionally left bundle of tickets without
filing to the machine and kept way back of the machine.
No possibility to leave it there.
Changing manual ticket counting to show less money
in the stock.

② Court Procedure in Superior Court and US District

- ① ~~Government Act/ITED~~
Defendant/Sarteway/Inc. Defendant Lawyer Daniel Hurley
Plaintiff's claim was less than \$75,000, but Daniel Hurley
brought to US District Court. Plaintiff/Appellant brought
back to King County Superior Court.
- ② Defendant's lawyer, Daniel Hurley filed Rule 26(c) stipulated
Protective Order without knowledge of Plaintiff and without
signature of Plaintiff.
Daniel Hurley blamed as "used form", but lawyer can change
to use the form anytime lawyer wants. This is excused
by Daniel Hurley.
- ③ US District Judge ordered to return confidential material.
Former PLA lawyer and Appellant returned to Daniel Hurley,
Daniel Hurley did not file the US District Court to
REMOVE the Rule 26(c) up to NOW.
- ④ 4/28/2014 Plaintiff/Appellant returned 16 pages of confidential
materials. Appellant contacted Daniel Hurley's office to
get response. He did not call back at all.
He did not remove Rule 26(c) order from US District
Court.
- ⑤ No communication when Appellant called Daniel Hurley
10 of PLA Brief (prem.)

⑥ Some reason Judy Duvall who is same law firm as Daniel Hurley.

⑦ Appellant did not receive Defendant's Summary Judgment document from Defendant.
Appellant picked up 3 day before Summary Judgment day.

⑧ SLD - PLA and Def had to have meeting to discuss this case.
Defendant did not send the meeting date. Appellant contacted Daniel Hurley to confirm the date with Judge Chung (sp?). When Appellant went to the Court to double check the Court date for meeting.
Three days (3) before the meeting, Defendant cancelled the appointment for meeting without Notify Plaintiff.

these reason Appellant requests to go back to finish this case.

Defendant's lawyers were manipulated Appellant.

Defendant did not send the documents to Appellant which defendant claimed as sent.

H. Harbord
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August 06, 2015.

Certificate of Service

I hereby certify that 6th of August, 2015. I handed Plaintiff preliminary Brief to King County Superior Court in Seattle, WA Court of Appeal division [I].

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