

2011 WL 7563812 (N.J.Super.L.)

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WEST'S JURY VERDICTS - NEW JERSEY REPORTS

Jury Awards \$126K for Employee Fired for Perceived Alcoholism

Superior Court of New Jersey, Law Division, Hudson County.

**Velcko v. Independent Mgmt. of Props. & Communities**

**Type of Case:**

Labor & Employment • Disability/Medical Condition

Labor & Employment • Discrimination

Labor & Employment • Whistleblower

Labor & Employment • Termination/Constructive Discharge

Labor & Employment • Violation of Public Policy

Intentional Torts • Infliction of Emotional Distress

Defamation • Other

**Specific Liability:** Employer pretextually fired employee who complained about co-worker's sexual harassment of subordinates

**General Injury:** Lost wages

**Jurisdiction:**

State: New Jersey

County: Hudson

**Related Court Documents:**

Plaintiff's complaint: [2009 WL 8560516](#)

Verdict form (damages): [2011 WL 7154648](#)

Verdict form (punitive damages): [2011 WL 7154644](#)

Amended judgment: [2011 WL 7169392](#)

**Case Name:** Raymond Velcko v. Independent Management of Properties and Communities Inc. a/k/a IMPAC, Albert Smith, Accella Smith, and Michelle Sloan

**Docket/File Number:** HUD-L-2136-09

**Verdict:** Plaintiff, \$126,418.10

**Verdict Range:** \$100,000 - 199,999

**Verdict Date:** Sept. 8, 2011

**Judge:** [Edward T. O'Connor Jr.](#)

**Attorneys:**

Plaintiff: [Daniel P. Simpson](#) and [Elliott Joffe](#), Newman & Simpson, Hackensack, N.J.

Defendants: [Todd M. Parisi](#), Martin, Gunn & Martin, Westmont, N.J.

**Trial Type:** Jury**Breakdown of Award:**

\$101,418.10 to plaintiff for future lost wages

\$25,000.00 to plaintiff for punitive damages

**Summary of Facts:**

Raymond Velcko was an employee of property management company Independent Management of Properties and Communities Inc. a/k/a IMPAC in its Secaucus, N.J., office. Albert Smith was reportedly the president of the company, and his wife, Accella Farrington-Smith, was the vice-president. Farrington-Smith's daughter, Michelle Sloan, was an employee responsible for personnel matters at IMPAC.

On Aug. 31, 1994, IMPAC reportedly hired Velcko as a property manager of one of its high-rise condominium buildings in Secaucus, N.J. Velcko worked in that position until February 2004, when he was promoted to regional director.

In July 2008 Velcko was promoted to director of operations, reporting directly to Smith and Farrington-Smith.

According to Velcko, he learned Christopher Antonacci, who replaced Velcko as regional director, was engaging in sexual relationships with other IMPAC employees, usually subordinates. Velcko claimed Antonacci terminated at least three of the employees he had relationships with and several of the employees complained informally about Antonacci's conduct. Further, Velcko said, he learned Antonacci was accepting gifts from contractors in exchange for recommendations.

Velcko claimed his complaints about Antonacci's behavior to the Smiths were met with scorn. Velcko reported that after he began complaining, on Dec. 30, 2008, Farrington-Smith required him to take "reasonable suspicion" alcohol tests after lunch at work, which revealed levels of .017 and .014 blood alcohol levels. Sloan suspended Velcko effective Jan. 1, 2009. Velcko said that under a "Last Chance Agreement" he was required to attend alcohol counseling and allow IMPAC to review his counseling records in order to keep his job.

Velcko said he completed the required counseling, but at a Jan. 20, 2009, meeting the Smiths and Sloan berated him for his efforts to address Antonacci's conduct and presented him with a letter notifying him he was laid off as of Jan. 1, 2009.

Velcko sued IMPAC, the Smiths and Sloan in the Hudson County Superior Court in April 2009. He claimed the defendants' conduct violated the New Jersey Law Against Discrimination and the Conscientious Employee Protection Act. Further Velcko claimed the defendants perceived him to suffer from a disability, alcoholism, and terminated him on the basis of that disability and failed to reasonably accommodate the disability when they fired him after his successful completion of treatment.

Velcko went on to allege the non-random alcohol test and his termination in spite of his compliance with the defendants' treatment requirement violated the state's public policy. Among the plaintiff's remaining claims, he alleged defamation and intentional infliction of emotional harm.

The plaintiff sought damages for loss of employment, loss of income, loss of benefits and emotional distress.

The court dismissed the plaintiff's claims based on retaliation in November 2009.

In September 2011 the parties attended a 15-day trial. After two days of deliberations, a jury determined IMPAC discriminated against the plaintiff by terminating him because of his perceived alcoholism. The jury awarded \$101,418.10 for future lost wages. After finding the defendant's conduct was especially egregious conduct and the defendant's upper level management participated or was willfully indifferent to the intentional wrongdoing, the jury awarded \$25,000 in punitive damages.

Judge Edward T. O'Connor Jr. entered judgment on the award and added \$10,927.37 prejudgment interest, \$3,923.71 litigation expenses and \$218,962.50 attorney fees.

Court: Superior Court of New Jersey, Law Division, Hudson County.

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