

Firm Settles Cancer Bias Lawsuit for \$1.75 Million

By HENRY WEINSTEIN, Times Legal Affairs Writer

In a highly unusual case, a large computer company has agreed to pay \$1.75 million to settle a cancer discrimination lawsuit filed by the widower of a Los Angeles woman who was fired several months after she was diagnosed with lymphoma.

A Los Angeles Superior Court jury awarded Justin Beck of Westchester \$621,592 to compensate him for the emotional distress and lost wages suffered by his wife, Vivian, who was fired by Sybase Inc. in April 1997 and died four months later.

The jury, which found that the Emeryville, Calif.-based company unlawfully fired Vivian Beck and discriminated against her on the basis of her medical condition, was set to consider possible punitive damages Thursday.

But to forgo the possibility of a huge award, the company decided to settle the case for \$1.75 million.

Legal experts said that although employees often file workplace bias claims based on AIDS, pregnancy, carpal tunnel syndrome and mental disabilities, cancer discrimination claims are rare.

Both Joseph Posner of Encino, a leading plaintiffs lawyer, and Paul Grossman of Los Angeles, an influential management attorney, said such suits are uncommon even though studies have shown that cancer patients are fired or laid off five times as often as other workers.

The attorneys also said the size of the settlement is large for an employment discrimination suit.

The settlement culminated a two-year ordeal, Beck said. "What the company did was cruel and inhumane. . . . She put in 6 1/2 years there," he recalled. Then she became seriously ill.

"My wife had just come out of one month's treatment at UCLA when they fired her. The company claimed it was the elimination of a position. In reality, it was cancer discrimination," Beck said.

Mitchell L. Gaynor, Sybase's general counsel, continued to maintain Friday that Vivian Beck's job "was eliminated two years ago as part of an ongoing reorganization of the company's sales organization." He also asserted that "her layoff . . . had nothing to do with her health condition." Once it became apparent that "the jury took a different view," he said, "we believed it was in the best interest of all parties to settle."

The suit was based on California's Fair Employment and Housing Act, which prohibits discrimination on the basis of race, gender, age and medical conditions.

Vivian Beck was the district manager of Sybase's El Segundo office. The jury saw a videotaped deposition of her, taken just three weeks before she died at age 48.

Justin Beck's attorneys, Andrew Morrison and Gary Ross of Beverly Hills, said they hoped the settlement has a deterrent effect. "Now there will be newsletters flying around saying that you can't discriminate on the basis of cancer," Morrison said.

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