

A jury of twelve persons and two alternates was regularly impaneled and sworn.

1 Witnesses were sworn and testified. After hearing the evidence and arguments of counsel, the
2 jury was duly instructed by the Court and the cause was submitted to the jury with directions to
3 return a verdict on special issues. The jury deliberated and thereafter returned into court voting
4 with its verdict as follows

5
6 **CACI VF-1300 Battery**

7
8 We answer the questions submitted to us as follows:

9 1. Did Tony Wafford touch Sharon Byrd with the intent to harm or offend her?

10 Yes No

11 If your answer to question 1 is yes, then answer question 2. If you answered no, stop here,
12 answer no further questions, and have the presiding juror sign and date this form.

13
14 2. Did Sharon Byrd consent to be touched?

15 Yes No

16 If your answer to question 2 is no, then answer question 3. If you answered yes, stop here,
17 answer no further questions, and have the presiding juror sign and date this form.

18
19 3. Was Sharon Byrd harmed [or offended] by Tony Wafford's conduct?

20 Yes No

21 If your answer to question 3 is yes, then answer question 4. If you answered no, stop here,
22 answer no further questions, and have the presiding juror sign and date this form.

23
24 4. Would a reasonable person in Sharon Byrd's situation have been offended by the
25 touching?

26 Yes No

27 If your answer to question 4 is yes, then answer question 5. If you answered no, stop here,
28 answer no further questions, and have the presiding juror sign and date this form.

The jury awarded Ms. Byrd damages as follows:

1 5. What are Sharon Byrd's damages?

2	a.	Past medical expenses	\$20,126.17
3	b.	Future medical expenses	\$3,600
4	c.	Past non-economic loss, including	
5		anxiety/humiliation/emotional distress	\$0
6	d.	Future non-economic loss, including	
7		anxiety/humiliation/emotional distress	\$0
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9		TOTAL	\$23,726.17

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11 The jury also found in favor of Plaintiff Sharon Song Byrd on each count/factor in its
12 special verdict regarding her cause of action for hostile environment sexual harassment, as
13 follows:

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15 **CACI VF-2507A Hostile Work Environment Harassment—Conduct Directed at**
16 **Plaintiff—Independent Contractor (Gov. Code, § 12940(j))**

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18 We answer the questions submitted to us as follows:

19 1. Was Sharon Byrd a person providing contract services for Palms Residential Facility?

20 Yes No

21 If your answer to question 1 is yes, then answer question 2. If you answered no, stop here,
22 answer no further questions, and have the presiding juror sign and date this form.

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24 2. Was Sharon Byrd subjected to unwanted harassing conduct because she is a woman?

25 Yes No

26 If your answer to question 2 is yes, then answer question 3. If you answered no, stop here,
27 answer no further questions, and have the presiding juror sign and date this form.

3. Was the harassment severe or pervasive?

Yes No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. Would a reasonable woman in Sharon Byrd's circumstances have considered the work environment to be hostile or abusive?

Yes No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

5. Did Sharon Byrd consider the work environment to be hostile or abusive?

Yes No

If your answer to question 5 is yes, then answer question 6. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

6. Did Tony Wafford participate in the harassing conduct?

Yes No

If your answer to question 6 is yes, then answer question 7. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

7. Was the harassing conduct a substantial factor in causing harm to Sharon Byrd?

Yes No

If your answer to question 7 is yes, then answer question 8. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

8. What are Sharon Byrd's damages?

a. Past economic loss

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lost earnings _____

lost profits _____

medical expenses _____ 0

other past economic loss _____ 0

Total Past Economic Damages: \$0 _____

b. Future economic loss

lost earnings _____

lost profits _____

medical expenses _____ 0

other future economic loss _____ 0

Total Future Economic Damages: 0 _____

c. Past noneconomic loss, including physical pain/mental suffering: 0 _____

d. Future noneconomic loss, including physical pain/mental suffering: 0 _____

TOTAL \$0

1 In addition, the jury awarded \$20,000 in punitive damages against Defendant Tony
2 Wafford, which the parties later stipulated on the record to accept after discussing with the
3 Court – outside the presence of the jury – the jury’s inadvertent consideration of the issue.
4 [The Court had intended to bifurcate the issue of punitive damages but inadvertently gave the
5 parties’ joint special verdict form regarding the issue to the jury.]

6 Thereafter, the Court granted Plaintiff’s motion for a new trial on the limited issue of her
7 past and future non-economic damages on her battery and sexual harassment claims.

8 A one day bench trial was conducted on July 18, 2011 before the Hon. Michael C.
9 Solner. Plaintiff was again represented by Jeffrey W. Cowan, and Defendant Tony Wafford
10 appeared *in pro se* (having previously filed the paperwork substituting himself in as his own
11 lawyer lieu of his former counsel Dermot Givens).

12 After hearing and considering the evidence, the Court issued an order on August 31,
13 2011 awarding Plaintiff \$40,000 in general damages on her sexual harassment cause of action
14 for her past and future pain and suffering (i.e., general damages).

15 In addition, pursuant to Plaintiff’s settlement with Defendant Palms Residential Care
16 Facility, which by its terms pertained only to Plaintiff’s battery claim, Defendant Tony Wafford
17 is entitled to receive a credit/offset regarding liability on Plaintiff’s battery claim for the
18 settlement funds already paid by Defendant Palms Residential Care Facility pursuant to
19 Plaintiff’s and Palms’ confidential settlement.

20 As a result and based on the settlement agreement filed under seal with the court and the
21 absence to date of any motions or *ex parte* applications or other actions seeking to enforce the
22 settlement agreement, the Court finds that Plaintiff’s settlement with Defendant Palms
23 Residential Care Facility equals or exceeds any liability on the battery claim and that such
24 credits reduce Plaintiff’s award on the battery claim to \$0. The Court further finds for the
25 reasons stated above that the foregoing settlement does not affect or reduce either the Court’s
26 \$40,000 award for general damages on Plaintiff’s sexual harassment claim or the jury’s \$20,000
27 punitive damages award.

28 Pursuant to the foregoing findings of the jury and the Court, IT IS HEREBY

ORDERED, ADJUDGED AND DECREED that judgment is entered in favor of Plaintiff Sharon Song Byrd and against Defendant Tony Wafford in the total amount of \$60,000.

Plaintiff Sharon Song Byrd shall recover her costs of \$ _____ [or: such costs as may be determined pursuant to the submission of a memorandum of costs] and recoverable attorneys fees of \$ _____ [or: ^{and costs} as may be determined pursuant to a motion for attorneys fees], and Plaintiff will be entitled to interest at the rate of ten percent (10%) per annum from the date of entry of this judgment until paid.

DATED: Oct 25, 2011

By: Michael C. Sobra
Judge of the Superior Court

Respectfully submitted by

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