

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Karen Delahunty, (Claimant) vs. Morgan Stanley Dean Witter f/k/a Dean Witter Reynolds, Inc.,
(Respondent)

Case Number: 99-04899

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant Karen Delahunty, hereinafter referred to as "Claimant": Thomas W. Bucci, Esq., Willinger, Shepro, Tower & Bucci, P.C., Bridgeport, Connecticut.

Respondent Morgan Stanley Dean Witter f/k/a Dean Witter Reynolds, Inc., hereinafter referred to as "Respondent": Lawrence Peikes, Esq. and Kenneth J. Kelly, Esq., Epstein, Becker, & Green, P.C., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: October 26, 1999

Amended Statement of Claim filed on or about: January 21, 2000

Claimant signed the Uniform Submission Agreement: October 23, 1999

Statement of Answer filed by Respondent on or about: March 29, 2000

Respondent signed the Uniform Submission Agreement: March 29, 2000

CASE SUMMARY

Claimant asserted the following causes of action: unlawful gender discrimination under Title VII of the Civil Rights Act of 1964; and unlawful discharge under Connecticut common law.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant has failed to exhaust available administrative remedies; Claimant has failed to satisfy all statutory prerequisites to suit; the claims are barred by the applicable statutes of limitations; the claims are barred pursuant to the doctrine of laches; to the extent Claimant can demonstrate that her gender was a motivating factor with respect to any challenged employment action, Respondent would have made the same decision based on legitimate factors unrelated to Claimant's gender; Claimant has failed to mitigate her alleged damages, any entitlement to which is expressly denied; to the extent Claimant sets forth claims for non-pecuniary compensatory damages,

such claims are barred, in whole or in part, by the exclusivity provisions of Connecticut's workers' compensation law; to the extent Claimant engaged in wrongful conduct during her employment by Dean Witter, which is discovered by Respondent in the context of this litigation, and which would have resulted in termination if previously discovered, based on the after acquired evidence doctrine Claimant can claim no further entitlement to back pay; and the claims are barred by the doctrine of unclean hands.

RELIEF REQUESTED

Claimant requested \$750,000 in compensatory damages and \$250,000 in punitive damages.

Respondent requested an award dismissing the Statement of Claim and attorneys' fees, forum fees and such other relief as the Panel deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent be and hereby is liable for and shall pay Claimant compensatory damages in the amount of \$2,700.00.
2. Respondent be and hereby is liable for and shall pay Claimant attorneys' fees in the amount of \$39,758.00. The panel awarded attorney's fees pursuant to Title VII of the Civil Rights Act of 1964.
3. Claimant's request for punitive damages is denied.
4. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

| | |
|--------------------------|------------|
| Initial claim filing fee | = \$375.00 |
|--------------------------|------------|

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. In this matter, the member firm is a party.

| | |
|-------------------------|--------------|
| Member surcharge | = \$2,000.00 |
| Pre-hearing process fee | = \$ 600.00 |
| Hearing process fee | = \$3,500.00 |

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

| | |
|-------------------------------------------------|--------------|
| One (1) Pre-hearing session with Panel x \$1200 | = \$1,200.00 |
|-------------------------------------------------|--------------|

| | |
|------------------------------------------------------|--|
| Pre-hearing conference: September 18, 2000 1 session | |
|------------------------------------------------------|--|

| | |
|---------------------------------------|---------------|
| Twelve (12) Hearing sessions x \$1200 | = \$14,400.00 |
|---------------------------------------|---------------|

| | | |
|----------------|-------------------|------------|
| Hearing Dates: | February 27, 2001 | 2 sessions |
| | February 28, 2001 | 2 sessions |
| | March 1, 2001 | 2 sessions |
| | March 12, 2001 | 2 sessions |
| | March 16, 2001 | 2 sessions |
| | April 11, 2001 | 2 sessions |

| | |
|------------------|---------------|
| Total Forum Fees | = \$15,600.00 |
|------------------|---------------|

1. The Panel has assessed all of the forum fees against Respondent.

Fee Summary

1. Claimant be and hereby is solely liable for:

| | |
|----------------------------|---------------|
| <u>Initial Filing Fee</u> | = \$ 375.00 |
| <u>Total Fees</u> | = \$ 375.00 |
| <u>Less payments</u> | = \$ 1,575.00 |
| <u>Refund Due Claimant</u> | = \$ 1,200.00 |

2. Respondent be and hereby is solely liable for:

| | |
|--------------------------------------------------|---------------|
| <u>Member Fees</u> | = \$ 6,100.00 |
| <u>Forum Fees</u> | = \$15,600.00 |
| <u>Total Fees</u> | = \$21,700.00 |
| <u>Less payments</u> | = \$ 7,300.00 |
| <u>Balance Due NASD Dispute Resolution, Inc.</u> | = \$14,400.00 |

All balances are due and payable to NASD Dispute Resolution, Inc.

NASD Dispute Resolution, Inc.
Arbitration No. 99-04899
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ARBITRATION PANEL

| | | |
|-------------------------|---|------------------------------------|
| Elizabeth B. Head, Esq. | - | Public Arbitrator, Presiding Chair |
| Melvin S. Slade, Esq. | - | Public Arbitrator |
| Catherine Ladnier | - | Non-Public Arbitrator |

Consenting Arbitrators' Signature(s)

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.


Elizabeth B. Head, Esq.
Public Arbitrator, Presiding Chair


Signature Date

Melvin S. Slade, Esq.
Public Arbitrator

Signature Date

Catherine Ladnier
Non-Public Arbitrator

Signature Date

June 15, 2001

Date of Service (For NASD office use only)

ARBITRATION PANEL

| | | |
|-------------------------|---|------------------------------------|
| Elizabeth B. Head, Esq. | - | Public Arbitrator, Presiding Chair |
| Melvin S. Slade, Esq. | - | Public Arbitrator |
| Catherine Ladnier | - | Non-Public Arbitrator |

Concurring Arbitrators' Signature(s)

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Elizabeth B. Head, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Melvin S. Slade, Esq.
Public Arbitrator

June 14, 2001
Signature Date

Catherine Ladnier
Non-Public Arbitrator

Signature Date

June 15, 2001
Date of Service (For NASD office use only)

ARBITRATION PANEL

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| Elizabeth B. Head, Esq. | - | Public Arbitrator, Presiding Chair |
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Concurring Arbitrators' Signature(s)


I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.


Elizabeth B. Head, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Melvin S. Slade, Esq.
Public Arbitrator

Signature Date


Catherine Ladnier
Non-Public Arbitrator


Signature Date

June 15, 2001
Date of Service (For NASD office use only)