

## Workers' Lawsuits Can Go Forward; State high court allows staffers who made sexual harassment claims before 2003 to proceed with their cases against employers.

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SAN FRANCISCO

A nurse who said she was pestered for sex by an 84-year-old male patient may receive a \$180,000 jury award from her former employer, the California Supreme Court ruled Thursday.

The state high court's unanimous decision also permits a former Los Angeles Unified School District teacher to go back to trial on her claim that students at Palisades High School had sexually harassed her.

The court held that the state's sexual harassment law authorized workers to sue their employers for failing to stop harassment by customers, clients, patients, students and other non-employees, even before the law was changed in 2003 to explicitly permit such suits. About a dozen cases may be affected, lawyers said.

Employers had argued that the law did not permit such suits prior to 2003, but Justice Ming W. Chin, writing for the court, said, "The Legislature merely clarified existing law."

The ruling was a defeat for the California Department of Veterans Affairs, which employed Helga Carter as a nurse in the late 1990s at a Barstow hospital.

Carter alleged that patient Elber Scott Brown, who was recovering from penile implant surgery, badgered her for sex and told others they had slept together at a local Motel 6. Carter complained to her supervisor and was given a walkie-talkie to call security in case Brown gave her further trouble. The hospital also counseled Brown. But he continued to harass her and even tried to run her down with his electric scooter, she said.

A jury awarded her \$180,000, and her attorney won an additional \$380,000 in fees and court costs.

Terry K. Davis, Carter's lawyer, called Thursday's ruling a win for employees in California. "An employer has a duty to make the workplace free from harassment," Davis said.

John H. McCardle, senior staff counsel at the Department of Veterans Affairs, said he was disappointed with the ruling but

will now challenge Carter's award on other grounds. The case will go back to the Court of Appeal.

In the L.A. Unified case, the ruling gave Janis Adams, who taught at Palisades High School in Pacific Palisades, another chance to win her sexual harassment case. She won a \$4.35-million verdict at trial, but an appeals court decided the case had to be retried because of faulty jury instructions.

Adams accused the school district of doing little to stop publication of a student newspaper that depicted her as a porn star. Ten issues of the underground newspaper were distributed across campus over three months.

Tyna Thall Orren, Adams' lawyer, said the school district had refused an offer to settle the case for \$100,000 before trial and for \$500,000 after the verdict.

"They have spent over a million dollars in attorneys' fees," Orren said. "The public fiscal responsibility here is appalling."

"It was an awful, awful experience," Adams said in a telephone interview Thursday.

Two high school seniors began a campaign of harassment after she removed them from an advanced media studies class for misbehavior. She eventually won a restraining order against the boys, she said.

The high court ruling, Adams said, is a victory for teachers who need help from a school administration "that doesn't see the problem, even though you beg for help."

Adams has been out of work on a stress disability since 2000, said her husband Mark. "She loved teaching. This broke her heart."

Adams hopes that the case will be settled without a new trial, her husband said.

*Times staff writer John Spano contributed to this report.*

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