

SANTA BARBARA COUNTY SUPERIOR COURT

CASE NAME/NUMBER: HAUSE & SMITH v. CITY OF SANTA BARBARA

TYPE OF CASE: Sexual Discrimination & Retaliation

JUDGE: James W. Brown

LENGTH OF TRIAL: 19 Days LENGTH OF DELIBERATIONS: 3 Days

PLAINTIFF REPRESENTED BY: David L. Nye (Nye, Peabody & Stirling), and Janean Acevedo Daniels (Law Offices of Janean Acevedo Daniels)

DEFENDANTS REPRESENTED BY: Thomas P. Laffey, Nancy Yaffe (Folger, Levin & Kahn, Los Angeles).

EXPERTS:

Plaintiff - Penny Harrington, retired Police Chief; John Nordstrand, Economist; Michael Dunn, M.F.T.; Patricia Rheuban-Simon, M.F.T.; Patricia Heim Ph.D., Gender Communication and Perception.

Defendant - Lucy Carlton, Retired Chief of Police; Barbara Barker, City of Santa Barbara Human Resources Manager.

SUMMARY OF DAMAGES: Failure to promote; emotional distress.

FACTS: Plaintiffs are both female police officers hired by the Santa Barbara Police Department (SBPD) in 1989. Both had exemplary careers as police officers and enjoyed outstanding annual evaluations, voluminous commendations and no disciplinary history. Officer Smith had been a K-9 Officer, the Department Training Officer and had held numerous other specialty positions and collateral assignments. Officer Hause had been a Field Training Officer, the Department Community Relations Officer, and a Beat Coordinator.

Officer Smith had tested for Sergeant in 1996 and again in 1998. Although not known to her until discovery in this case, her efforts in 1996 were undermined by then Lieutenant (now Deputy Chief) Glaus, who scored her significantly lower than the other raters on the subjective portions of the 1996 test. In 1998, Captain Glaus was not on the promotional panel, and Officer Smith

finished #4. The SBPD had a "rule of 5" which meant that any of the top 5 qualifiers were eligible for promotion, and the Chief of Police could select from among the top five to fill the Department's needs. The three males ahead of Officer Smith on the 1998 list were all promoted within 90 days of the list becoming active, thereby moving Officer Smith to the #1 position on the list. She sat #1 on the list for 21 months without being promoted until the list finally expired.

In December, 1999, both plaintiffs attended a Women in Policing Seminar and learned that the SBPD's practice of having all male promotional panels was both outdated and discriminatory, and that it may have caused or contributed to the fact that in the 100 year history of the SBPD, no woman had ever promoted above the rank of police officer. In fact, the last five promotional panels assembled by the SBPD had consisted entirely of white males.

Plaintiffs made a written request that the March, 2000 Sergeant's promotional panel include a female member, and that the panel reflect the diversity of the community and the applicant pool. Instead, then Captain Glaus assembled yet another white male panel that consisted of persons introduced as his "good buddies". Officer Hause, who had spearheaded the effort to have a diverse promotional panel, elected not to go forward with the testing process due to the obvious bias in the makeup of the panel.

The applicant pool for the March, 2000 Sergeant's test consisted of 20 officers, 11 of which were white males and the rest women and minorities. The testing process, which was 35% objective and 65% subjective, resulted in the white males being ranked 1-10 and the women and minorities ranked 11-20, with the exception of one white male who ranked # 16. Officer Smith, who had the 4th highest written score, ranked #12 overall after the subjective portion of the test.

After seeing the disparate ranking, Officer Smith filed a formal grievance alleging bias in the promotional process. The City Human Resources Manager summarily denied the grievance after interviewing only Captain Glaus, who had personally selected his other three white male "buddies" to sit on the panel with him, who had made no effort to include a woman on the panel, and who had rejected an offer from a male Hispanic lieutenant to sit on the panel.

After filing suit, both plaintiffs became the victims of retaliation for having done so. They were ignored by SBPD management and labeled by Deputy Chief Glaus and others as being

unpromotable and lacking in credibility and integrity. Officer Hause's prestigious position as Community Relations Officer was abolished and she was assigned to report to Captain Glaus, whom she had named in the lawsuit as being responsible for the discrimination. Officer Smith was denied speciality positions that were awarded to less qualified males. Both received threats and were warned by friendly supervisors to "watch their back" while on patrol. Although not made known to the jury under Evidence Code §352, Officer Hause also began to receive pornography addressed to her at the SBPD.

Notwithstanding the fact that this lawsuit was pending, both plaintiffs tested for Sergeant in March of 2001 under a new and revised promotional process and a new Chief of Police. Officer Hause finished #3 out of the 22 applicants, but was consistently passed over for promotion while less qualified males were promoted to the rank of Sergeant. Officer Smith, who had recently suffered an on-duty injury and was now likely facing a disability retirement, finished #14. Nonetheless, in what plaintiffs contend was a pretext and an effort by the SBPD to mitigate its damages and appear ready to accept a women into a position of rank, Officer Smith was promoted to Sergeant three weeks before trial. In doing so, however, the SBPD failed to give her any public acknowledgment for being the first female to promote in the SBPD's history and assigned her to supervise the parking checkers. Although Sgt. Smith was already a member of the Hostage Negotiation Team (a collateral assignment) as an officer, after she was promoted to Sergeant the SBPD refused to assign her to an open supervisory position on that team. Consequently, to this day, the SBPD has still never had a female supervise a male sworn officer.

Evidence was also presented that demonstrated that the City Human Resources Department permitted the SBPD to run its own promotional process, hand pick its panel members, and that the former Chief of Police would routinely take the panel members out for dinner and drinks the night before the panel assembled. Additionally, there was evidence of gender bias presented with regard to such things as equipment, facilities, language in the SBPD Manual, and conduct of top ranking command officers.

CONTENTIONS BY PARTIES:

Plaintiffs contended that the SBPD: intentionally discriminated against them; employed policies and practices which, although neutral on their face, had a disparate impact on women; subjected them to gender based harassment; failed to prevent discrimination

and harassment; and retaliated against them for objecting to the discrimination and harassment.

Defendant contended that the conduct alleged by plaintiffs amounted to nothing more than minor transgressions, professional mistakes or perhaps even indifference toward women, but that it did not rise to the level of discrimination and/or retaliation.

SETTLEMENT DISCUSSIONS: Plaintiffs made a CCP §998 demand of \$149,999.00 each, which expired long before trial. Defendants never made any monetary offer at all.

RESULT:

Liability found against City of Santa Barbara for both plaintiffs on all causes of action (gender discrimination, gender harassment, failure to prevent discrimination and harassment, and retaliation)

For plaintiff Smith: \$1,850,000.00

For plaintiff Hause: \$1,350,000.00

Attorneys fees and costs to be determined by the court

MISC: Plaintiffs' complaint also contained a prayer for injunctive relief which has not yet been resolved.