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Defense Tactic Puts Brakes on Auto Employee's Sex Bias Suit

By Noah Barron | Daily Journal Staff Writer

Attributing their success to a "Perry Mason moment," lawyers for car manufacturer Hyundai have prevailed against a former employee's suit claiming sex-based discrimination and wrongful termination.

Veona Brooke Aspesi, a former district sales manager at Hyundai, and her husband, Marvin, sought several million dollars in damages, claiming that she had been paid less than her male counterparts, sexually harassed and wrongfully fired in 2006 by the Korean company, which is the world's fifth-largest auto maker.

The Aspesis' suit took a wrong turn when defense lawyers presented evidence during an Orange County Superior Court trial that Aspesi had concocted a scheme to inflate her credentials to get her job at Hyundai, setting up a dummy post office box to reinforce the deception.

"It was a major Perry Mason moment," said Hyundai's co-counsel **Greg Labate** of the Costa Mesa office of **Sheppard, Mullin, Richter & Hampton**.

The Aspesis' co-counsel **Garet O'Keefe** of O'Keefe & O'Keefe in Berkeley said he believes the heavily male makeup of the jury influenced the negative outcome for his client and said appeal motions are in the works.

The suit alleged that female district sales managers at Hyundai make an average of \$1,034 less per month than their male counterparts. Marvin Aspesi alleged loss of consortium, claiming that a rejected promotion distressed his wife and that she needed antidepressants to cope. *Veona Brooke Aspesi*

v. Hyundai Motor Company 06CC09820 (Orange Super. Ct., filed Sept. 2006).

Hyundai counter-claimed that Aspesi had falsified her resume and attempted to bilk the company out of relocation reimbursements. The company's lawyers also argued that sex discrimination was not an issue because a woman was hired to the position Aspesi was denied.

Labate said Aspesi falsified her resume by claiming to have attended Southern Illinois University, when she had not attended college at all.

During discovery, the Hyundai defense team found a letter naming Brooke Aspesi as a Southern Illinois graduate. Labate's team alleged that the letter came from an Orange County post office box set up by Brooke and Marvin Aspesi, posing as a nonexistent annex of the university.

"It's mail fraud, it's a federal crime," Labate said. "It was a bombshell."

Aspesi conceded on the stand that she had lied on her resume. Marvin Aspesi asserted his Fifth Amendment privilege on Judge Peter Polos' recommendation and did not testify about the post office box.

"[The defense] kind of snookered me on that one," O'Keefe said. "They dropped the document on me while she was on the stand."

O'Keefe said he believes Aspesi's credibility was so damaged by the mail fraud allegations that the jury disregarded legitimate evidence that bore out her claims.

"She made one major mistake in her life," he said, "but it was immaterial."

O'Keefe downplayed the seriousness of the mail fraud allegations and said he did not believe federal charges would be

brought against the Aspesis.

Aspesi, who worked at a Hyundai dealership in San Diego, was denied a promotion and transfer to Dallas.

Labate said Aspesi was "upset" because she was unable to accompany friends at Hyundai who were moving to the Texas dealership and that her discrimination suit was retaliation.

His team argued that Aspesi's career was stymied for a legitimate reason: e-mail evidence showing that she had tried to bilk Hyundai out of relocation money by selling a second home rather than her primary residence.

O'Keefe disagreed, saying that the e-mail evidence "did not bear out their side of the story." Rather than trying to rip off Hyundai, Aspesi was trying to save her company \$40,000 by selling a less valuable home, O'Keefe said.

After Aspesi was denied the promotion, she transferred to Phoenix, where, she alleged, her male supervisor treated her disrespectfully, made references to women's breasts and called her "a bitch," O'Keefe said.

Labate said Aspesi's superior, Zafar Brooks, who was named as an individual defendant in the suit, should never have been dragged into the trial at all.

"It was basically, 'Let's sling as much mud as possible,'" Labate said.

The jury returned a 10-2 verdict on June 19 that Aspesi was not a victim of gender harassment and not denied fair compensation.

The trial was held in Orange County because Hyundai has its North American headquarters in Fountain Valley.