

2004 WL 5495914

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United States District Court, W.D. Washington,
at Seattle.

BECK, Plaintiff(s),

v.

The BOEING COMPANY, et al., Defendant(s).

No. COO-301P. | March 15, 2004.

Named Expert: Roy Weinstein, William Partin

Attorneys and Law Firms

Ann Marie Schwartz, Barbara H. Schuknecht, Jerry R. McNaul, Michael David Helgren, McNaul, Ebel, Nawrot, Helgren & Vance, Seattle, WA, Christine E. Webber, Jenny R. Yang, Joseph Marc Sellers, Steven J. Toll, Cohen Milstein Hausfeld & Toll, Washington, DC, for Plaintiff.

Barbara Berish Brown, C. Geoffrey Weirich, Jon A. Geier, Paul, Hastings, Janofsky & Walker, Washington, DC, Dennis C. Donnelly, Veronica Gioia, Bryan Cave, St. Louis, MO, Jeffrey Alan Hollingsworth, Nancy Williams, James Sanders, Perkins Coie, Seattle, WA Lawrence B. Hannah, Donald W. Heyrich, Paul E. Smith, Perkins Coie, Bellevue, WA, Maureen E. O'Neill, Paul Hastings Janofsky & Walker, Atlanta, GA, for Defendants.

Opinion

ORDER ON MOTION TO EXCLUDE PLAINTIFFS' PUNITIVE DAMAGES EXPERTS (ROY WEINSTEIN AND WILLIAM PARTIN)

MARSHA J. PECHMAN, District Judge.

*1 The above-entitled Court, having received and reviewed:

1. Boeing's Motion to Excluded Plaintiffs' Punitive Damages Experts (Roy Weinstein and William Partin)
2. Plaintiffs' Opposition to Boeing's Motion No. 14 (Motion to Strike Plaintiffs' Punitive Damages Experts)
3. Defendants' Reply on Motion to Exclude Plaintiffs' Punitive Damages Experts (Roy Weinstein and William Partin)

and all exhibits and declarations attached thereto, makes the following ruling:

IT IS HEREBY ORDERED that the motion is DENIED;

Discussion

Defendants ("Boeing") have filed a motion to exclude two of plaintiffs' punitive damages experts on the grounds that the Ninth Circuit ruling in this case "has stricken punitive damages from this phase of the litigation." Boeing's Motion at p. 1. It is Boeing's position that "[o]nly the pattern and practice liability claims are now at issue. *Id.* at 2.

The Court has searched the appellate opinion in vain for language which compels the result for which Boeing argues. Unquestionably, the appeals court found that it was "premature" to certify a class for purposes of determining plaintiffs' punitive damages (*Beck v. Boeing*, 2003 WL 683797 at * 1), but nowhere in the opinion is there a prohibition on discovery of evidence regarding punitive damages. It has been the intention of this Court all along that a single jury hear the two phases of this litigation: Phase I, the determination of a pattern or practice of discrimination and (if necessary) Phase II, the determination of who was harmed by that discrimination and how damages should be calculated. In keeping with that intention, the Court has encouraged the parties to conduct discovery on both the liability and damages issues.

Nothing has happened to change that plan, and Boeing's suggestion that some portion of the punitive damages discovery be postponed till the conclusion of Phase I of this lawsuit raises the unacceptable specter of a lengthy delay between the two phases of the trial, which would jeopardize the possibility of having both phases tried to a single jury.

Conclusion

Consistent with the Court's policy of conducting discovery on both the liability and damages phases of this case in order to try it before a single jury, Boeing's motion to postpone a portion of that discovery till the conclusion of Phase I of the trial is DENIED.

The clerk is directed to provide copies of this order to all counsel of record.

