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# \$2.1 million awarded in reverse prejudice jury verdict

Leland Gonsalves' former employer  
says the decision is 'dangerous'

BY DEBRA BARAYUGA  
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Leland Gonsalves had a \$3,500-a-month job with free use of an Infiniti as an auto service manager.

For nearly seven months after he was fired, he couldn't find work because he had to explain on applications why he was fired from Infiniti-Nissan. At 50 workplaces he applied, none called back.

He became a yardman doing occasional jobs, and he and his wife, Edna, lost their Kaneohe home to foreclosure and had to sell some personal belongings, including her jewelry, Gonsalves said.

A Circuit Court jury yesterday awarded Gonsalves nearly \$2.1 million in damages because of sex discrimination.

The case is believed to be the largest employment jury verdict returned in the state and the first where a male sued for reverse sex discrimination and won, said Jerry Hiatt, Gonsalves' attorney.

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Gonsalves, hired by Infiniti as a service manager in April 1997, was fired less than a year later after a female service clerk filed a sexual harassment complaint against him in January 1998.

The jury found that Infiniti-Nissan unlawfully discriminated against Gonsalves, breached a promise to him that his job would not be affected by the investigation, and violated its own personnel policies and procedures involving his termination.

The jury also found during the eight-week trial that Nissan retaliated against a witness for her testimony that she witnessed no evidence of sexual harassment by Gonsalves.

"It felt like I was being dragged through the mud and no matter how hard you rinsed off, it was going to follow you for the rest of your life," he said.

Early in January 1998, as the woman's supervisor, Gonsalves had counseled her about appropriate attire after two female workers complained about the woman wearing short skirts and tight tops. He had also counseled two other female co-workers about their attire.

Nissan hired an outside investigator to look into the woman's allegations. Gonsalves' supervisor assured him that the investigation would be thorough and fair and that he didn't have to worry about getting fired.

Gonsalves had been advised previously that Nissan had a progressive discipline policy that consisted of a verbal warning, written reprimand and, finally, suspension or termination. He was fired even before the investigation was completed, Hiatt said.

Gonsalves contended that he was treated differently than females in the workplace. He said he was never informed of the woman's allegations and that Infiniti never investigated his claims.

Gonsalves has admitted to some of the woman's allegations, apologized to her for any actions that she may have considered offensive and denied some allegations. But Gonsalves has maintained that his conduct did not reach a level where it created a hostile work environment, Hiatt said.

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Eric Miyasaki, president of Nissan Motor Corp. in Hawaii Ltd., said that while the company was disappointed in the verdict, the results were not surprising given the court's ruling that the Equal Employment Opportunity Commission's Guidelines were not controlling.

"In essence, we were held liable despite scrupulously obeying those guidelines," he said in a written statement.

In court documents seeking summary judgment, Nissan noted that it conducted a preliminary investigation into the clerk's allegations and found that Gonsalves appeared to have sexually harassed her based on his admissions.

Miyasaki said the verdict has "dangerous" implications for every employer in the state. "If this decision is allowed to stand, Hawaii employers receiving complaints of harassment will have to choose whether they want to risk liability for ignoring the complaint or risk liability for doing what the sexual harassment law says they must do."

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