

## CENTRAL/NORTHERN

Communications, the parent company, was not negligent. The jury rejected the contention that Strange's own negligence was a substantial factor in causing her harm.

The damage award totaled \$16,577,118, comprised of \$1,477,118 in economic damages and \$15.1 million in noneconomic damages.

The award was reduced to \$16.5 million pursuant to a high-low agreement entered into at the conclusion of the plenary portion of the trial and before jury deliberations began with a high of \$16.5 million and a low of \$5 million.

<b>INSURER(S)</b>	Chartis for all the defendants
<b>TRIAL DETAILS</b>	Trial Length: 6 weeks Trial Deliberations: 9 days Jury Vote: 12-0 on Entercom Sacramento's liability; 9-3 on nonliability of Entercom Communications; 10-2 on comparative negligence; 9-3 on noneconomic damage; 9-3 on economic damage Jury Composition: 7 male, 5 female
<b>PLAINTIFF EXPERT(S)</b>	Kirk A. Blackerby, economics, Morgan Hill, CA Diana Everstine, Ph.D., psychology/counseling, San Jose, CA George A. Kaysen, M.D., nephrology, Sacramento, CA
<b>DEFENSE EXPERT(S)</b>	None reported

**POST-TRIAL** A further aspect of the post-trial high-low agreement was that within 90 days the parent corporation would implement a program to train its employees with regard to the consequences of negligent promotional undertakings.

**EDITOR'S NOTE** This report is based on information from plaintiffs' counsel and court records. No comment on the article was received from defense counsel.

—Jon Steiger

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# NORTHERN CALIFORNIA

## NEVADA COUNTY

### SEXUAL PREFERENCE DISCRIMINATION

#### Employment — Constructive Discharge

## Man said discrimination due to perception that he was gay

<b>DECISION</b>	<b>Defense</b>
<b>CASE</b>	Steven Cox v. Weaver Automotive Inc. d/b/a Weaver Auto and Truck Center, Tom Weaver, Scott Greenhaw, Cindy Holly and Does 1-50, No. 73802
<b>COURT</b>	Superior Court of Nevada County, Nevada City, CA
<b>JUDGE</b>	Thomas M. Anderson
<b>DATE</b>	10/8/2009
<b>PLAINTIFF ATTORNEY(S)</b>	Timothy J. Evans, Law Office of Timothy J. Evans, Marysville, CA
<b>DEFENSE ATTORNEY(S)</b>	David D. MacMillan, The Costa Law Firm, Gold River, CA Sheryl R. Maurer, The Costa Law Firm, Gold River, CA

**FACTS & ALLEGATIONS** In June 2008, plaintiff Steven Cox, a car salesperson for Weaver Automotive Inc., which was operating as Weaver Auto & Truck Center, left the company on a stress-related disability.

He never returned to Weaver Automotive, which ceased operations in November 2008. Cox claimed that he was subjected to offensive photographs on the company's computers and that he was called various names.

Cox sued Weaver Automotive, company owner and manager Tom Weaver, supervisor Scott Greenhaw and employee Cindy Holly for constructive termination and employment discrimination. (Holly was dismissed prior to trial and Greenhaw was dismissed on the day of trial.)

Plaintiff's counsel argued that the discrimination and various offensive names arose from the defendants' belief that Cox was either bisexual or homosexual.

Cox reported that he was denied advances and that a vehicle he traded in was not paid off.

The defense denied the offensive conduct charges and contended that Weaver Automotive's precarious financial situation was the reason that Cox's vehicle was not paid off in

**SAN FRANCISCO COUNTY**

**SLIPS, TRIPS & FALLS**

**Construction — Workplace Safety — Failure to Warn**

**Contractor said he fell through uncovered floor opening**

**MEDIATED SETTLEMENT \$890,000**

**CASE** Bruce Murphy v. 2121 Leavenworth LLC, Vincent Construction Inc., Kenneally Construction Corp., Thir Coast Suinear, Allan Callaghan, Eric Kenneally, Chris Vincent and Guy Vallancourt, No. CGC-08-480026

**COURT** Superior Court of San Francisco County, San Francisco, CA

**NEUTRAL(S) DATE** Jerry Spolter 11/12/2009

**PLAINTIFF ATTORNEY(S)** Dawn L. Hassell, The Hassell Law Group, A Professional Corporation, San Francisco, CA

**DEFENSE ATTORNEY(S)** Megan Winter, Zimmerman & Kahanowitch, Woodland Hills, CA  
 Brian Fredrick Zimmerman, Zimmerman & Kahanowitch, Woodland Hills, CA

**FACTS & ALLEGATIONS** On May 3, 2008, plaintiff Bruce Murphy, 59, a contractor/developer, visited a construction site at 2121 Leavenworth Street in San Francisco. The plaintiff claimed that he had an appointment with a worker there named Pablo to sign off on some time sheets from another construction project.

When Murphy arrived, he entered through an opening in the fence to gain entry to the site and began looking for Pablo. The plaintiff climbed a ladder through a floor opening to the second floor and continued looking. He claimed that he couldn't find Pablo and after turning around to leave, he fell through another open floor penetration, one story down to the first floor, injuring his lower back and both heels.

Murphy sued 2121 Leavenworth LLC, Vincent Construction Inc., Kenneally Construction Corp., Thir Coast Suinear, Alan Callaghan, Eric Kenneally, Chris Vincent and Guy Vallancourt. Vincent, Vallancourt and 2121 Leavenworth were the owners of the site, while Vincent Construction was the general contractor. Kenneally and Callaghan were the respective owners of subcontractors Kenneally Construction and Thir Coast.

a timely manner and why the company was not able to follow through with advances.

Defense counsel claimed that there was no evidence that any offensive conduct was pervasive and that Cox failed to provide evidence to substantiate any disparate treatment.

Weaver Automotive contended that Cox had previously worked for the defendants and left in search of a better salary. He returned five months later after being terminated from his new job, defense counsel asserted, despite his allegations that much of the offensive conduct occurred during his first term of employment.

**INJURIES/DAMAGES** *emotional distress*

Cox was seeking damages for lost wages, emotional distress and punitive damages.

**RESULT** At the conclusion of the plaintiff's case, defense counsel made an oral request for judgment under CCP § 631.8 after Cox testified that he never quit or resigned his position.

The court ruled that if Cox's claims regarding the comments and behaviors were to be taken as true, they were merely rude and inappropriate, but did not rise to the level of intolerable or pervasive as required by the law.

The court ruled that there was insufficient evidence to proceed.

**DEMAND** \$50,000  
**OFFER** \$9,000

**INSURER(S)** Federated Mutual Insurance Company

**EDITOR'S NOTE** This report is based on information that was provided by plaintiff's counsel and defense counsel.

—Jaclyn Stewart

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