| 1 | | | | | | | |
|----|---|--|---|--------------|---|--|--|
| 2 | IN THE UNITED STATES DISTRICT COURT | | | | | | |
| 3 | FOR THE NORTHERN DISTRICT OF CALIFORNIA | | | | | | |
| 4 | | | | | | | |
| 5 | MITCHELL ENGINEERING, | | | | No. C 08-04022 SI | | |
| 6 | Plaintiff, | | | | | | |
| 7 | v. | | | | | | |
| 8 | CITY AND COUNTY OF SAN FRANCISCO and ANTHONY IRONS, | | | | | | |
| 9 | and ANTHO | • | | | | | |
| 10 | | Defendant | S. | / | | | |
| 11 | | | | CDECIAI | L VERDICT | | |
| 12 | | | | SPECIAL | LVERDICI | | |
| 13 | We the jury unanimously find as follows on the questions submitted to us: | | | | | | |
| 14 | Wen | ie jury unam | mously mi | u as follows | on the questions submitted to us. | | |
| 15 | Part I. | Claim aga | inst Defen | dants Antho | ony Irons and City and County of San Francisco | | |
| 16 | A. | (First Amendment/Public Contractor Speech) Did plaintiff Mitchell Engineering prove, by a preponderance of the evidence, all of the speech of the evidence of the evidence. | | | | | |
| 17 | elements nec | | | | prove, by a preponderance of the evidence, an of the | | |
| 18 | | | | | spoke out publicly as a citizen and not as part of its | | |
| 19 | | official du | official duties as a public works contractor. | | | | |
| 20 | | Yes | | No | - | | |
| 21 | | 2. Th | at Anthony | Irons took a | n adverse action against Mitchell Engineering. | | |
| 22 | | Yes | | No | - | | |
| 23 | | | o4 N 4:4 olo oll 1 | | a annual annual a substantial annuativatina footanfouth | | |
| 24 | | That Mitchell Engineering's speech was a substantial or motivating factor for adverse action. | | | | | |
| 25 | | | | NT. | _ | | |
| 26 | | Yes | | No | | | |
| 27 | If your answ | If your answer to any of questions I-A(1), A(2) or A(3) was "No," do not answer the follow | | | | | |
| 28 | questions, but go directly to Part II. Otherwise, please answer the next questions. | | | | | | |
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| 1 | B. Did defendants prove, by a preponderance of the evidence, all of the elements | | | | | | | |
|----|---|--|--|--|--|--|--|--|
| 2 | necessary to establish the following? | | | | | | | |
| 3 | 1. That the defendant had an adequate justification for treating Mitchell Engineering | | | | | | | |
| 4 | differently from other members of the general public. | | | | | | | |
| 5 | ${\text{Yes}}$ ${\text{No}}$ | | | | | | | |
| 6 | | | | | | | | |
| 7 | 2. That the defendant would have taken the adverse action even absent Mito Engineering's protected speech. | | | | | | | |
| 8 | | | | | | | | |
| 9 | Yes No | | | | | | | |
| 10 | If your question to either of questions I-B(1) or B(2) was "Yes," please do not answer the following | | | | | | | |
| 11 | questions, but go directly to Part II. Otherwise, please answer the next questions. | | | | | | | |
| 12 | C. Did plaintiff Mitchell Engineering prove, by a preponderance of the evidence, all of the | | | | | | | |
| 13 | elements necessary to establish the following? | | | | | | | |
| 14 | 1. Susan Leal ratified Anthony Irons' act and the basis for it, that is, Susan Leaknew of and specifically approved of Anthony Iron's acts. | | | | | | | |
| 15 | knew of and specifically approved of findiony from 8 dets. | | | | | | | |
| 16 | Yes No | | | | | | | |
| 17 | | | | | | | | |
| 18 | Please go to Part II. | | | | | | | |
| 19 | Ticase go to Fait II. | | | | | | | |
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| 1 | Part II. | Claim against Defendant City and County of San Francisco (Procedural Due Process) | | | | |
|---------------------------------|---|---|--|--|--|--|
| 2 3 | A. Did plaintiff Mitchell Engineering prove, by a preponderance of the evidence, all of the elements necessary to establish the following? | | | | | |
| 4 5 | | 1. That in terminating the Central Pump contract, defendant Anthony Irons acted with the specific intent of debarring Mitchell Engineering from the bidding process for public contracts. | | | | |
| 6 7 8 | | Yes No 2. That in terminating the Central Pump contract, Anthony Irons in fact debarred Mitchell Engineering. | | | | |
| 9 10 11 | | Yes No 3. That Mitchell Engineering was not provided adequate procedural protections in connection with being debarred. | | | | |
| 12 13 14 | : | Yes No 4. Susan Leal ratified Anthony Irons' act and the basis for it, that is, Susan Leal knew of and specifically approved of Irons' acts. | | | | |
| 15 16 | | Yes No | | | | |
| 17 18 | If your answer to any of questions II-A(1), A(2), A(3) or A(4) was "No," do not answer the following questions, but go directly to Part III. Otherwise, please answer the next questions. | | | | | |
| 19 20 | B. necessary to e | Did defendants prove, by a preponderance of the evidence, all of the elements stablish the following? | | | | |
| 21 22 | | 1. That the defendant would have taken the actions that debarred Mitchell Engineering even if the defendant had not actually intended to debar Mitchell Engineering. | | | | |
| 23 | | Yes No | | | | |
| 2425 | Please go to Part III. | | | | | |
| 26 | | | | | | |
| 2728 | | | | | | |

| 1 | <u>Part III</u> : | Damages: | | | | | | | |
|--------|---|---|--|--|--|--|--|--|--|
| 2 | If your answer to Question I-C(1) was "No" or blank, and your answer to Question II-B(1) was "Yes" or blank, do not answer any further questions. Instead, go directly to the end of the verdict form | | | | | | | | |
| 3 | and sign and date it where indicated. Otherwise, please answer the next questions. | | | | | | | | |
| 4 5 | A. | Did Mitchell Engineering prove, by a preponderance of the evidence, that it was caused damage by the constitutional violations(s) you have found? | | | | | | | |
| | | V N. | | | | | | | |
| 6 | | Yes No | | | | | | | |
| 7 8 | В. | If so, what is the amount of damages that Mitchell Engineering proved, after taking into account any failure to mitigate damages proved by defendant? | | | | | | | |
| 9 | | \$ | | | | | | | |
| 10 | | | | | | | | | |
| 11 | | | | | | | | | |
| 12 | Part IV: | Malicious, Oppressive or Reckless Conduct: | | | | | | | |
| 13 | defendant A | Mitchell Engineering prove, by a preponderance of the evidence, that the conduct of nthony Irons both harmed the plaintiff and was malicious, oppressive or in reckless | | | | | | | |
| 14 | disregard of | the plaintiff's rights, as those terms have been defined for you in these instructions? | | | | | | | |
| 15 | | Yes No | | | | | | | |
| 16 | | | | | | | | | |
| 17 | Dated: | | | | | | | | |
| 18 | | FOREPERSON | | | | | | | |
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