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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MITCHELL ENGINEERING,

No. C 08-04022 SI

Plaintiff,

v.

CITY AND COUNTY OF SAN FRANCISCO
and ANTHONY IRONS,

Defendants.

_____ /

SPECIAL VERDICT

We the jury unanimously find as follows on the questions submitted to us:

Part I. Claim against Defendants Anthony Irons and City and County of San Francisco (First Amendment/Public Contractor Speech)

A. Did plaintiff Mitchell Engineering prove, by a preponderance of the evidence, all of the elements necessary to establish the following?

1. That Mitchell Engineering spoke out publicly as a citizen and not as part of its official duties as a public works contractor.

_____ Yes _____ No

2. That Anthony Irons took an adverse action against Mitchell Engineering.

_____ Yes _____ No

3. That Mitchell Engineering's speech was a substantial or motivating factor for the adverse action.

_____ Yes _____ No

If your answer to any of questions I-A(1), A(2) or A(3) was "No," do not answer the following questions, but go directly to Part II. Otherwise, please answer the next questions.

United States District Court
For the Northern District of California

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B. Did defendants prove, by a preponderance of the evidence, all of the elements necessary to establish the following?

1. That the defendant had an adequate justification for treating Mitchell Engineering differently from other members of the general public.

Yes No

2. That the defendant would have taken the adverse action even absent Mitchell Engineering's protected speech.

Yes No

If your question to either of questions I-B(1) or B(2) was "Yes," please do not answer the following questions, but go directly to Part II. Otherwise, please answer the next questions.

C. Did plaintiff Mitchell Engineering prove, by a preponderance of the evidence, all of the elements necessary to establish the following?

1. Susan Leal ratified Anthony Irons' act and the basis for it, that is, Susan Leal knew of and specifically approved of Anthony Iron's acts.

Yes No

Please go to Part II.

1 **Part II. Claim against Defendant City and County of San Francisco**
2 **(Procedural Due Process)**

3 A. Did plaintiff Mitchell Engineering prove, by a preponderance of the evidence, all of the
4 elements necessary to establish the following?

5 1. That in terminating the Central Pump contract, defendant Anthony Irons acted
6 with the specific intent of debarring Mitchell Engineering from the bidding process for
7 public contracts.

8 _____
9 Yes No

10 2. That in terminating the Central Pump contract, Anthony Irons in fact debarred
11 Mitchell Engineering.

12 _____
13 Yes No

14 3. That Mitchell Engineering was not provided adequate procedural protections in
15 connection with being debarred.

16 _____
17 Yes No

18 4. Susan Leal ratified Anthony Irons' act and the basis for it, that is, Susan Leal
19 knew of and specifically approved of Irons' acts.

20 _____
21 Yes No

22 If your answer to any of questions II-A(1), A(2), A(3) or A(4) was "No," do not answer the following
23 questions, but go directly to Part III. Otherwise, please answer the next questions.

24 B. Did defendants prove, by a preponderance of the evidence, all of the elements
25 necessary to establish the following?

26 1. That the defendant would have taken the actions that debarred Mitchell
27 Engineering even if the defendant had not actually intended to debar Mitchell
28 Engineering.

Yes No

Please go to Part III.

