

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 07-cv-00724-RPM

JENNIFER McINERNEY,

Plaintiff,

vs.

UNITED AIR LINES, INC., a Delaware corporation,

Defendant.

ORDER DENYING POST-VERDICT MOTIONS

On August 6, 2009, Defendant United Air Lines filed a renewed motion for judgment as a matter of law, a motion for new trial, and a motion for remittitur of the damage award. All three of these motions are based on the contention that the jury verdict awarding \$3,000,000 as compensatory damages is so excessive as to require the Court to infer that the jury was motivated by passion and prejudice. The defendant consistently refers to this case as a “garden-variety” emotional distress damages case. That characterization is a reflection of the same callous indifference to Ms. McInerney’s plight as was shown by Kevin Mortimer in refusing to consider the plaintiff’s repeated requests for accommodation. The jury found that the refusal was retaliatory in violation of the law.

The contention that a jury was influenced by passion and prejudice based only on the amount of the damages award in the verdict is an insult to the jury system. As a judge with some considerable experience with jury trials, and after observing the jury’s

conduct throughout the trial of this case, I can find no support for the inference that this jury violated the Court's instructions in any respect. It is uniquely within the province of the jury to determine the impact on the life of the plaintiff from the conduct of her employer under all of the facts and circumstances shown in this case. The damage award has been reduced to the statutory cap in this case but there is no reason for this Court to reduce the award beyond the statutory maximum. It is now

ORDERED that the defendant's motions in Documents 100, 101, and 102 are denied.

DATED: September 10th, 2009

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior District Judge