

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 11-cv-02557-CMA-CBS

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

v.

BEVERAGE DISTRIBUTORS COMPANY, LLC,

Defendant.

SECOND AMENDED FINAL JUDGMENT

In accordance with the orders filed during the pendency of this case, and pursuant to Fed. R. Civ. P. 58(a), the following Final Judgment is hereby entered.

Commencing on April 8, 2013, this action was tried before a jury of ten duly sworn to try the issues herein with U.S. District Judge Christine M. Arguello presiding.

On April 12, 2013, the jury rendered its verdict:

Plaintiff EEOC proved, by a preponderance of the evidence, the three elements of claims of disability discrimination.

Pursuant to the Order Granting Plaintiff's Motion for Judgment as a Matter of Law and Motion for Injunctive Relief of Judge Christine M. Arguello entered on December 9, 2013, it is

ORDERED that:

(1) The jury's damages award of \$29,543.25 for back pay is VACATED;

(2) The Clerk shall enter judgment in favor of Plaintiffs in the amount of

\$132,347.00 for back pay, plus pre-judgment interest accruing at a rate of 8 percent per annum compounded annually from March 31, 2008, the date of Mr. Sungalia's separation from Beverage Distributors;

(3) Mr. Sungaila shall be reinstated to the position of Night Warehouse Loader with the same seniority he would have had if he had not been terminated;

(4) Beverage Distributors shall engage an outside consultant to provide employee training and assistance in revisions to its policies, updates to its job postings, notice posting, and reporting and compliance review. Beverage Distributors shall report its compliance with this order to the Court within six months of this order.

Pursuant to the Joint Stipulation Regarding Pre-Judgment Interest and Tax Penalty Offset the Amended Judgment entered on 4/15/2013 is amended to incorporate the following terms:

(a) With respect to the calculation of eight percent (8%) pre-judgment interest on back pay award of \$132,347.00 from March 31, 2008 through March 14, 2014, the parties stipulate that the amount of interest for that precise time period is \$35,143.08.

(b) The parties stipulate that the corresponding amount tax penalty offset is \$18, 805.00.

(c) Therefore, the total back pay award, including pre-judgment interest and tax penalty offset, is \$186,295.08.

Accordingly, IT IS ORDERED that judgment is entered in favor of Plaintiff Equal Employment Opportunity Commission and against Defendant Beverage Distributors Company, LLC. Post-judgment interest shall accrue on the judgment amount awarded at the rate of 0.12 % from the date of entry of judgment, pursuant to 28 U.S.C. § 1961.

Dated at Denver, Colorado this 27th day of March, 2014

FOR THE COURT:

JEFFREY P. COLWELL, CLERK

s/Sandra Hartmann

Sandra Hartmann
Deputy Clerk

APPROVED BY THE COURT

Christine M. Arguello
Christine M. Arguello
United States District Judge