

Martinez Law Group Sees Victory in Title VII Case

The two-week trial was a 'credibility war'

BY TONY FLESOR
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A recent defense verdict secured by Meghan Martinez of the Martinez Law Group saved her client from what could have been a seven-figure verdict plus damages.

Martinez and co-counsel Elizabeth Mabey of Martinez Law Group and Beth Quinn of Baird Quinn represented Public Service Company of Colorado d.b.a. Xcel Energy, which faced a Title VII gender discrimination claim from a long-time employee who said discrimination from other employees and a hostile work environment prevented her from completing an apprenticeship program. Other employees and managers contested her claims in trial, though, and according to Martinez, some of the plaintiff's claims even worked against her in trial, leading to the defense verdict.

Stacey Cohen, represented by McNamara Roseman & Schächter, worked for the defendant since 1988, and in 2013, she filed a lawsuit claiming that she was constructively discharged from her job because she was unable to return to work due to stress and PTSD. Cohen participated in an apprenticeship program to become an electric meterman. Cohen failed the apprenticeship program, but because she was a union member, she was able to return to her job as a utility worker that she had held for years.

According to court documents, Cohen made six claims of harassment and sexual and age discrimination from other employees that occurred throughout her employment but also specifically during the apprenticeship program. Cohen claimed other employees did things to her that were inappropriate and claimed she



MEGHAN MARTINEZ OF THE MARTINEZ LAW GROUP SECURED A TOTAL DEFENSE VERDICT IN A TITLE VII DISPUTE.

PHOTO: LAW WEEK FILE

The case went to a two-week trial in front of Judge Wiley Daniel in U.S. District Court for the District of Colorado beginning May 2. Martinez said she and co-counsel attacked the case on two fronts — dealing with the claims of what happened to Cohen during the apprenticeship program as well as claims about the

showing things either didn't happen the way they were described or that they didn't happen at all.

Martinez also said the case was complicated and factually intensive. Cohen had certified dozens of witnesses in pre-trial motions — she had listed employees who had worked with Cohen throughout her employment dating back to its beginning in 1988.

Cohen's allegations focused first on the apprenticeship program, Martinez said. Cohen claimed she believed she was discriminated against and pointed out the males who succeeded while she did not. The defense, however, pointed out the other females who had succeeded in the process, including female managers who had been in their positions for years.

In more than one instance, Martinez said Cohen claimed there was an incident where she feared for her safety, but by bringing in someone who was involved in an incident that closely matched the one that was described, Martinez was able to make the argument that the claims were copycats and didn't involve Cohen or didn't happen in a site she worked at.

Martinez also said that Cohen's own expert was useful for the defense. The

expert alleged that Cohen had PTSD but when trying to pinpoint "the straw that broke the camel's back," the expert identified things that were different from what Cohen described. Martinez said that the testimony was so beneficial to the defense argument that she didn't even call an expert witness of her own.

The jury trial was a "credibility war," according to Martinez, and she believes that the case really came down to Cohen's inability to win over the jury.

Regarding the factors that might have swung the jury in the defendant's favor, Martinez simply said, "the jury was out a little more than an hour after two weeks."

She said she also believed that Cohen's coworkers — both management employees and union members — who testified about the work environment must have had a big impact on the weight of the plaintiff's evidence, Martinez said.

The jury ultimately returned a total defense verdict on May 13, and according to Martinez, the case could have returned a seven-figure verdict plus punitive damages if it had gone the other direction.

As of press time, no post-trial motions have been filed.

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"THE JURY WAS OUT A LITTLE MORE THAN AN HOUR AFTER TWO WEEKS."

Meghan Martinez, labor and employment attorney

was retaliated against. She also claimed that a trainer refused to train her because of her involvement in a previous sexual discrimination lawsuit. She had also filed an EEOC complaint, which allowed her to pursue a federal lawsuit. According to Martinez, Cohen repeatedly amended her complaints throughout the life of the case as new issues came from the EEOC complaint.

subjectivity of the testing program itself.

Martinez said there were a few challenges in the case — namely that many of the employees involved with the program had retired and parrying claims that the work environment was not hostile, as Cohen claimed.

In building the defense case, Martinez brought in individuals from that environment to counter Cohen's accusations and