

**EMPLOYMENT****Gender Discrimination — Title VII — Civil Rights Act of 1964****Manager alleged she was fired for not being ‘one of the boys’****VERDICT** **\$1,000,000****CASE** Theresa Garafolo v. Healthcare Services Group, Inc., No. 07-cv-11165**COURT** U.S. District Court, Southern District**JUDGE** Paul Crotty**DATE** 4/23/2009**PLAINTIFF****ATTORNEY(S)** **William Sipser**, Tuckner, Sipser, Weinstock & Sipser, LLP, New York, NY
Jack Tuckner, Tuckner, Sipser, Weinstock & Sipser, LLP, New York, NY**DEFENSE****ATTORNEY(S)** **Jeffrey L. Braff**, Cozen O'Connor, Philadelphia, PA

FACTS & ALLEGATIONS On Aug. 1, 2005, plaintiff Theresa Garafolo, 64, a manager of a nursing home's clothing and laundry services, began working for a third-party service provider, Healthcare Services Group Inc., which had been hired by her employer, the Bronx-based Kings Harbor Multicare Center nursing home. Garafolo became Healthcare Services Group's only female manager.

Garafolo claimed that she quickly became subjected to unwelcome, discriminatory conduct and statements by Healthcare Services Group's employees. Garafolo was fired on March 21, 2006. She was replaced by a male worker in his mid-40s.

Garafolo sued Healthcare Services Group. She alleged that she was subjected to discrimination that was based on her age and gender, in violation of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 and the New York City Human Rights Law. She further alleged that she was also subjected to a retaliatory termination.

Garafolo claimed that she was fired because she was not sufficiently aggressive and assertive to blend with Healthcare Services Group's younger male management team. She contended that she was told that she had to be more like "one of the boys."

Garafolo also claimed that the company maintained a generally discriminatory view of its female employees. She contended that one male superior told her that "women were better suited for office work" and that men should supervise work areas while she should be "upstairs cleaning the toilets." She also contended that she was ridiculed because of her weight and told to take off on Thanksgiving so she could cook and bring

in prepared leftovers for her boss. She claimed that she was fired in response to her complaints.

Defense counsel contended that Garafolo was fired because her performance was not acceptable. He also contended that Garafolo did not submit any complaints about being subjected to discrimination.

INJURIES/DAMAGES Garafolo claimed that she was subjected to discrimination that was based on her age and gender. She further claimed that she was also subjected to a retaliatory termination. She contended that she suffered residual emotional distress that included embarrassment, humiliation and sleeplessness.

Garafolo sought recovery of her past and future lost earnings and compensatory damages. Judge Paul Crotty also charged the jury to consider punitive damages.

RESULT The jury found that Garafolo was not subjected to age-based discrimination, that she did not submit any complaints regarding discriminatory acts and that, therefore, she was not subjected to retaliation. However, it also found that she was subjected to gender-based discrimination. It determined that her damages totaled \$1 million.

THERESA**GARAFOLO**
\$65,000 past lost earnings
\$85,000 future lost earnings
\$775,000 punitive damages
\$75,000 compensatory damages
\$1,000,000**TRIAL DETAILS**Trial Length: 4 days
Jury Deliberations: 1 day
Jury Composition: 3 male, 5 female

POST-TRIAL Defense counsel has expressed an intention to move for reduction or vacatur of the punitive damages.

EDITOR'S NOTE This report is based on information that was provided by plaintiff's and defense counsel.

—Jaclyn Stewart