

MAINE HUMAN RIGHTS COMMISSION et al.

v.

SADDLEBACK, INC., et al.

Argued May 21, 2009

Decided July 16, 2009

Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, SILVER,
MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

Saddleback, Inc. appeals, and Robert Duggan Jr. cross-appeals, from a judgment entered in the Superior Court (Androscoggin County, *Wheeler, J.*) after a jury trial. The jury found that Saddleback had tortiously interfered with Duggan's business relationship with his employer, Integrity Electrical Installation & Service, Inc., and awarded him \$42,000 in compensatory damages. On the nonjury counts, the trial court found that Saddleback had violated the whistleblower protection provisions of the Maine Human Rights Act (MHRA), 5 M.R.S. §§ 4551-4634 (2008), issued a declaratory judgment and an injunction, and indicated that Duggan would be awarded his attorney fees. Saddleback contends that the trial court erred by: (1) finding that the evidence was sufficient to support the judgment; (2) applying the MHRA to Saddleback; and (3) awarding Duggan attorney fees. On cross-appeal, Duggan asserts that the trial court erred in failing to give a jury instruction on punitive damages.

Review of the record indicates evidence, including circumstantial evidence, that, when viewed most favorably to the trial court's judgment, is sufficient to support the findings of the jury and the trial court. *See State v. Woo*, 2007 ME 151, ¶ 5, 938 A.2d 13, 14; *Pratt v. Spaulding*, 2003 ME 56, ¶ 10, 822 A.2d 1183, 1186.

Liability for the MHRA violations can attach to Saddleback when, as here, the evidence supports the finding that Saddleback was “aiding, abetting, inciting, compelling or coercing another” to penalize an individual for exercising rights protected by the Act, 5 M.R.S. § 4553(10)(D). The evidence would not have supported a finding of malice to the clear and convincing evidence standard, and thus the trial court properly declined to instruct on punitive damages. *See Waxler v. Waxler*, 1997 ME 190, ¶¶ 15-16, 699 A.2d 1161, 1165.

A prevailing private party may recover reasonable attorney fees on a MHRA claim, 5 M.R.S. § 4614; *Maine Human Rights Comm’n v. Allen*, 474 A.2d 853, 857 (Me. 1984). Because no specific attorney fees award has been determined, the matter must be remanded for determination of attorney fees on the MHRA claim.

The entry is:

Judgment affirmed. Remanded for determination
of attorney fees.

Attorneys for Saddleback, Inc.:

Stephen E.F. Langsdorf, Esq. (orally)
Megan A. Sanders, Esq.
Preti, Flaherty, Beliveau & Pachios, LLP
45 Memorial Circle
PO Box 1058
Augusta, Maine 04332-1058

Attorney for Robert Duggan Jr.:

Rebecca S. Webber, Esq. (orally)
Linnell, Choate & Webber, LLP
83 Pleasant Street
PO Box 190
Auburn, Maine 04212-0190

Attorney for Maine Human Rights Commission:

John P. Gause, Commission Counsel (orally)
Maine Human Rights Commission
51 State House Station
Augusta, Maine 04333-0051