

## Fired UPS Worker Is Awarded \$21 Million

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A Los Angeles County jury has awarded nearly \$21 million to a former United Parcel Service manager who was fired for allegedly falsifying a worker's time sheet by deducting one minute from his shift.

In his wrongful-termination suit, Michael Gnesda of Aliso Viejo claimed that the alleged doctoring of documents was a red herring. He said the real reason he was fired was because he had complained to higher-ups about excessive surcharges on customers shipping odd-sized packages.

"The true motivation was a desire to retaliate against Mr. Gnesda," his attorney, David Wiechert, said Friday. "At the end of the trial, the jury found that Gnesda's termination was motivated by his efforts on behalf of customers."

UPS spokeswoman Heather Robinson disputed that claim, saying Gnesda altered a time sheet to avoid being mentioned in a "report that would reflect poorly" on his oversight of his subordinates' work hours. She declined to elaborate.

Robinson acknowledged that the amount of time in question was "under five minutes," but said the number of minutes wasn't the issue. "It all comes down to honesty and integrity," she said.

After a three-week trial, a Los Angeles County Superior Court jury in Norwalk on Thursday awarded Gnesda \$748,000 in compensatory damages and \$20 million in punitive damages. UPS is weighing an appeal, Robinson said.

Gnesda, 44, had worked at UPS for 16 years in Los Angeles and Orange counties before he was fired in 2002, according to the suit. In the early 1990s, he was working in the company's business development office when he uncovered "serious internal problems involving overcharging of customers," the suit alleged.

According to Wiechert, the company publishes rate sheets that explain how customers can package bulky, irregularly shaped items to avoid surcharges of as much as \$50 a package. Despite this, Wiechert said, Gnesda found that the company was levying the surcharge on customers who had taken the steps to avoid added fees.

"These overcharges resulted, and continue to result, in tens of millions of dollars per year to UPS," Gnesda said in his suit.

Thomas Bienert, another of Gnesda's attorneys, said his client lodged an objection with his superiors and helped a customer write a letter complaining to management in 2000. Within a month, Bienert said, Gnesda was transferred out of business development into operations.

"Thereafter, UPS and its senior managers embarked on a pattern of punitive job assignments and sanctions, intended to induce [Gnesda] to quit," the suit said.

According to the suit, these assignments included scheduling Gnesda to work the graveyard shift and to sweep warehouse floors.

When Gnesda refused to quit his job, which paid \$68,000 annually plus bonuses, "UPS trumped up a charge" that he had falsified a subordinate's time card to show the employee worked three hours and 59 minutes instead of four hours, Wiechert said. Gnesda was fired March 30, 2002.

Robinson said UPS investigated Gnesda's claims that customers were being overcharged and determined they were unfounded. His complaints to management were not a factor in his firing, she said.

"There have been numerous terminations in the past for falsifying time cards," Robinson said. She could not provide the number of other firings nor discuss the circumstances of these other terminations.

She did, however, say that "Mr. Gnesda's time card change occurred less than three months after he had participated in special training on the importance of time card accuracy."

Labor attorneys said the case was certain to be appealed, but it was difficult to say whether the award would stand.

"Anyone is going to react to a punitive damage award of such magnitude," said Richard Simmons at Sheppard Mullin Richter & Hampton, who was not involved in the case.

The idea that someone would change a time sheet for one minute or be fired for it defies logic, Simmons said.

One thing is clear: The jury was outraged by the company's response, he said.

Credit: Times Staff Writer

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