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IN SIGNIFICANT RULING, APPEALS COURT REINSTATES MCAD EMOTIONAL DISTRESS AWARD

In City of Boston v. MCAD, the Massachusetts Appeals Court reinstated the MCAD hearing officer's award of $195,000 in emotional distress damages to MCAD Complainant, Diane Sabella, after the Superior Court reduced the award to $50,000. Commission Counsel Lynn Milinazzo-Gaudet presented the case on behalf of Ms. Sabella at the Public Hearing and on review in the Superior and Appeals Courts.

Following a Public Hearing, Ms. Sabella prevailed before the MCAD on her disability discrimination claim against the City of Boston and was awarded by the hearing officer, among other relief, $195,000 for emotional distress. The City appealed to the Superior Court, which affirmed the decision in all respects but one: the award for emotional distress damages was reduced from $195,000 to $50,000. The MCAD appealed and the Appeals Court, in a Rule 1:28 decision, reversed the decision of the Superior Court, concluding that the judge had overstepped her bounds when she "substitute[d] her valuation of the harm for that of the [MCAD] hearing officer."

In reversing the decision, the Appeals Court set forth in clear and succinct language the rules the Superior Court must abide by when reviewing an emotional distress award by the MCAD. The Court stated that the Superior Court's "role" is "limited" to determining whether the award is supported by "substantial evidence" (i.e. "such evidence as a reasonable mind might accept as adequate to support a

conclusion") or is "arbitrary or capricious." In determining whether an award is supported by "substantial evidence", the Superior Court must NOT evaluate the Stonehill factors [which the MCAD uses in awarding emotional distress damages] "afresh" nor "decide the case anew." Moreover, the Superior Court judge is barred from "mak[ing] credibility evaluations or different choices about how the evidence adds up," and must give "due weight" to the "experience, technical competence, and specialized knowledge" [of the MCAD] and the "discretionary authority conferred" on the MCAD by the legislature.

Applying these "principles," the Appeals Court concluded that the hearing officer's award of $195,000 in emotional distress damages was supported by substantial evidence -- that is, a reasonable person could have concluded that the City was responsible for a portion of Ms. Sabella's emotional distress at a "value" of $195,000. The Appeals Court opined that a reasonable person could also have valued the emotional distress "less richly," as the Superior Court judge sought to do; however, because there is no scientific precision to the analysis, the judge could not simply substitute her valuation of the harm for that of the hearing officer.

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