

LEGAL NEWS

Ex-Lockheed employee gets \$830K in retaliation suit

By **DANNY JACOBS**

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A former employee of Lockheed Martin Corp. has been awarded \$830,000 in a retaliation lawsuit against the company.

Vincent Balderrama alleged he was fired in 2013 for challenging a poor performance review, his first bad review in nine years at the company. It was his annual review for 2012, a year in which he had been widely praised for closing Lockheed's only international sale of helicopters for the year.

A Montgomery County Circuit Court jury returned the verdict Friday following a week-long trial and nine hours of deliberations.

"This is a very hardworking man who stood up against a totally incompetent human resources department of Lockheed Martin," said Adam Carter, a principal at The Employment Law Group P.C. in Washington, D.C., and Balderrama's lawyer.

Carolyn Nelson, a spokesman for Bethesda-based Lockheed, said the company will appeal the verdict.

"At Lockheed Martin, ethics and integrity have always been, and continue to be, core principles and we do not tolerate retaliation in any form," she said.

A discrimination claim against Lockheed was thrown out prior to trial.

Balderrama, a Mexican-American and U.S. Naval Academy graduate, was hired by Lockheed in 2004 as a business



Lockheed Martin's corporate headquarters in Bethesda.

COURTESY OF WIKI COMMONS.

development manager based in upstate New York, according to the lawsuit. He began focusing on helicopter sales to foreign countries in 2007 and was relocated to the Washington area in 2010 to work with the U.S. Navy and U.S. Marine Corps, two of his primary clients, according to the lawsuit.

As he began to close on a deal with Denmark's Navy, his new boss, Doug Laurendeau, "quickly began to apply an unwarranted level of scrutiny and criticism towards Balderrama," according to the lawsuit.

Despite Laurendeau allegedly making threats and hostile statements to Balderrama about the Denmark deal, Balderrama was able to close the deal, which was noted in Lockheed's annual report for 2012, the lawsuit states. Balderrama's work was praised in reports on the deal by Lockheed, the U.S. Navy and the Danish navy, the lawsuit states.

But Laurendeau "influenced" Lockheed management to revise its internal report to be more critical of Balderrama while not criticizing a non-Hispanic colleague who did not close a similar deal

with South Korea, according to the complaint. Laurendeau later reassigned part of Balderrama's portfolio to the non-Hispanic colleague and issued Balderrama an "unfairly negative performance review" for 2012 that was highly critical of the Denmark deal, according to the complaint.

Balderrama submitted to human resources officials in March 2013 a 16-page rebuttal to Laurendeau's evaluation but the appeal was dismissed in July 2013 without an investigation, the complaint states. Around that same time, Lockheed announced it would be laying off hundreds of employees in a cost-cutting measure, which the lawsuit alleges Laurendeau used as pretext to fire Balderrama.

Balderrama was one of 600 employees laid off in November 2013, according to the lawsuit. Carter, Balderrama's lawyer, said Lockheed claimed at trial the layoffs were all done by computer. But Carter created for trial a "stark timeline of retaliation," including an email asking for underperforming employees to let go that included Balderrama's name.

"It didn't pass the smell test," Carter said.

Balderrama now works for the Naval Academy as a fundraiser, Carter added.

The jury award does not include attorneys' fees, which Balderrama can recover separately, he said.

Judge Ronald B. Rubin presided over the trial.

Child custody must be gender-blind, Maryland appeals court says

By **STEVE LASH**

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A Maryland appeals court has vacated an award of child custody to a mother, saying the trial judge had improperly considered the parents' genders in deciding with whom their adolescent daughter should live.

The intermediate Court of Special Appeals said in an unreported opinion last week that Maryland abandoned by statute in 1974 the so-called "maternal preference doctrine," under which children were presumed to belong with their mother. In 1998, Maryland's top court, the Court of Appeals, ruled in *Griffin v. Crane* that the state Constitution's Equal Rights Amendment also prohibits gender-based preferences in custody determinations, the Court of Special Appeals said in sending the custody case back to the Talbot County Circuit Court.

In its 3-0 decision, the appellate court faulted Judge Broughton M. Earnest's award of custody to the then-14-year-old girl to Michelle Hostetter over the objections of the father, Edward Hostetter Jr.

Earnest stated in his memorandum opinion last year that as "an adolescent female, this may be the most important time in her life to have a solid relationship with her mother."

Earnest's statement "gave improper weight to mother's gender," Judge Timothy E. Meredith wrote in the Court of Special Appeals' opinion.

The court added that Earnest's statement was similar to the one a different trial judge made in the *Griffin* case—and which the high court found indicated an improper bias in favor of the mother. In that instance, the judge had awarded custody of a daughter to the mother because

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The testimony at trial was that Ms. Hostetter was in frequent contact with [the daughter] via telephone. The best interest attorney suggested that this was because of Elizabeth's need to have more contact with her mother. This factor weighs in Ms. Hostetter's favor.

JUDGE BROUGHTON M. EARNEST

of the girl's "need [for] a female hand."

"[W]e are unable to discern a significant difference between the trial court's reference to gender in this case and the statement that the Court of Appeals held to constitute an impermissible consideration in *Griffin*," Meredith wrote.

The Court of Special Appeals, however, permitted Earnest's award of custody to the mother to stand pending reconsideration by the trial court "to avoid unnecessary disruption in the child's life."

The appellate court's decision came as the General Assembly considers Senate Bill 650 and House Bill 888, which would impose upon judges a "rebuttable presumption" of giving estranged parents joint custody of their children. Sponsors of the measure — Sen. C. Anthony Muse,

D-Prince George's, and Del. Jill P. Carter, D-Baltimore City — have said the presumption is necessary to prevent a latent preference by judges to award custody to mothers rather than fathers.

Cynthia E. Young, Edward Hostetter's appellate counsel, said the Court of Special Appeals' holding makes clear that Maryland law prohibits judges in custody cases from making "the generalization that women are better at raising daughters" or that fathers are superior in rearing sons.

"There is no reason to give preference to either parent simply because of their gender, but that is what happened here," said Young, an Annapolis solo practitioner.

Philip T. Cronan, Michelle Hostetter's attorney, said he made a gender-neutral argument at trial and on appeal in support of awarding primary custody to his client.

"The [trial] court wasn't basing its decision on the gender of the mother," said Cronan, of Hollis, Cronan & Fronk P.A. in Easton. "The trial court was just expressing the importance of having a solid relationship with the mother. It wasn't because the mother was a woman."

Cronan said he and his client have not yet decided if they will appeal.

The Hostetters divorced in January 2007 and agreed that Michelle would have primary physical custody of their daughter. In November 2008, the agreement was redrafted to provide for shared physical custody.

But in March 2010, the father sought primary physical custody, alleging the mother was unable to care for the child due to alcohol and drug addiction. The court awarded Edward sole legal and primary physical custody of the daughter in March 2011.

In April 2012, the father and daughter moved to Houston, where they lived with his new wife and her adult son.

On April 8, 2013, Michelle filed a motion to modify custody, which was heard 13 months later.

At the May 2014 hearing, evidence showed the daughter to be a healthy, well-adjusted teenager who was doing well in school, participated in sports and got along well with her stepmother and stepbrother, according to the Court of Special Appeals' opinion.

Michelle testified she was sober, gainfully employed and communicated frequently with her daughter by telephone and text message. A court-appointed attorney for the daughter testified that her preference was to return to Maryland and live with her mother.

Earnest found both parents fit to care for the daughter and ultimately awarded primary physical custody to the mother, noting that the daughter was about to enter high school.

"As she is an adolescent female, this may be the most important time in her life to have a solid relationship with her mother," Earnest wrote.

"The testimony at trial was that Ms. Hostetter was in frequent contact with [the daughter] via telephone," he added. "The best interest attorney suggested that this was because of Elizabeth's need to have more contact with her mother. This factor weighs in Ms. Hostetter's favor."

Michael Hostetter then sought review by the Court of Special Appeals, challenging what he called the judge's improper gender-based decision.

Chief Judge Peter B. Krauser and Judge Kevin F. Arthur joined Meredith's opinion in *Hostetter v. Hostetter*, No. 904, September Term 2014.