

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

WENDY KUBIK, et al.,  
Michigan residents,

Plaintiffs,

vs.

Civil Action No. 03-73350  
Hon. Paul D. Borman  
Magistrate Judge Mona Majzoub

WILLIE GARY, et al.  
Florida residents,

Defendants.

AND

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

SARA AGUINAGA, et al,

Plaintiffs,

vs.

Case No: 04-3238-CK

RUNDELL, et al

Defendants.

SCHWARTZ LAW FIRM, P.C.  
By: Jay A. Schwartz (P45268)  
Attorney for Plaintiffs

CLARK HILL, PLC  
By: Timothy D. Wittlinger (P22490)  
Reginald M. Turner, Jr. (P40543)  
Attorney for Defendants

WIGOD, FALZON, ET AL.  
By: Lawrence C. Falzon (P30655)  
Attorney for Plaintiffs

ZAUSMER, KAUFMAN, ET AL.  
By: Mark J. Zausmer (P31721)  
Co-Counsel for Defendants

GARY, WILLIAMS, ET AL.  
By: Willie E. Gary  
Tricia P. Hoffler  
Attorney for Defendants

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**VOLUNTARY BINDING ARBITRATION OF  
DISTRIBUTION OF SETTLEMENT PROCEEDS**

LAW OFFICES  
SOMMERS SCHWARTZ, P.C.  
2000 TOWN CENTER • SUITE 900 • SOUTHFIELD, MICHIGAN 48075 • (248) 355-0300

**ARBITRATOR'S FINDINGS AND RULINGS**

**I. Introduction**

This binding arbitration proceeding has been voluntarily established by the 42 party Plaintiffs in the two captioned cases. In their writing, each of them has agreed to allow the undersigned arbitrator to conduct an arbitration hearing and to make binding findings of fact and rulings regarding the final disposition of all funds, on a percentage basis, which the Plaintiffs in the two captioned cases are entitled to receive in a final disposition of the settlement proceeds of both cases.

By notice to all 42 Plaintiffs dated September 12, 2005, the date of the arbitration hearing was set for Monday, November 7, 2005, beginning at 8:00 a.m. Each of the 42 Plaintiffs was invited to participate in person, or to be represented by an attorney, at the option of each Plaintiff. In addition, each Plaintiff was invited to file directly with the undersigned, if she chose to do so, anything in writing to support her position regarding the amount of her entitlement to payment of funds as a percentage of the total recovery that is available for distribution to all of the 42 Plaintiffs.

Of the 42 Plaintiffs, 30 did file directly with the office of the undersigned arbitrator, something in writing. The arbitration hearing was conducted on November 7, 2005 at the offices of the undersigned, beginning at 8:00 a.m. Twenty-six of the 42 Plaintiffs appeared and made a presentation at the arbitration hearing. Sixteen of the Plaintiffs did not attend the arbitration hearing. The arbitration hearing was closed at 5:00 p.m. on November 7, 2005. The following findings and ruling are made.

**II. Findings And Rulings**

All of the Plaintiffs reported having been subjected to gender discrimination in the workplace. Almost without exception, each of the Plaintiffs reported having been subjected to some form of sexual harassment, including vulgar body motions directed at them from males, sexual comments to them and in their presence about their bodies, cat calls, whistling, and pornographic pictures and reading materials

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in the workplace. A disturbing majority of the Plaintiffs reported detailed *quid pro quo* requests for sexual favors from their male supervisors. Many of the Plaintiffs reported inappropriate sexual touching of their bodies by male employees in the workplace. A few of the Plaintiffs reported attempted criminal sexual assault on them by male employees, and one Plaintiff even reported a criminal sexual assault on her by a female employee.

As to damages, the most common result of the unlawful conduct in the workplace to the 42 Plaintiffs was disparate workplace treatment compared to the male employees. The resulting damage most commonly was in the form of job assignment discrimination, usually in retaliation for refusal of *quid pro quo* sex demands from supervisors. Also commonly experienced by many of the Plaintiffs was emotional and/or psychological disorder, for which there was treatment by a psychiatrist, psychologist, or clinical social worker. Many of the Plaintiffs were regularly denied overtime opportunities and job promotions for which they were well qualified. The damages were not exclusively to females who were hourly employees. More than one female salaried employee suffered damages from disparate treatment and retaliation in the workplace that was related to gender and/or sexual harassment. A number of the Plaintiffs are presently undergoing medical treatment and are on prescription medications as a result of their damages arising from their treatment in the workplace.

Without specifically outlining here the nature and extent of the damages to each of the Plaintiffs, the following percentages of recovery of the total recovery in the two captioned cases is assigned to the individual Plaintiffs:

- |    |                  |       |
|----|------------------|-------|
| 1. | Aguinaga, Sara   | 3.6 % |
| 2. | Arnold, Barbara  | 2.2%  |
| 3. | Battaglia, Lisa  | 3.9%  |
| 4. | Blajic, Georgina | 2.2%  |

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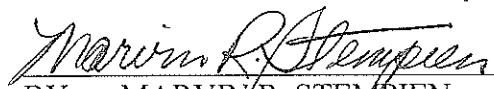
5.	Bolone, Pat	2.2%
6.	Bott, Janet	2.2%
7.	Boulton, Michele	3.6%
8.	Bousson, Bonnie	2.2%
9.	DeTomaso, Michelle	2.2%
10.	Diem, Christina	1.0%
11.	Diem, Kathy	1.0%
12.	Dillon, Rita	2.2%
13.	Ditch, Rebecca	2.2%
14.	Ewald, Christine	1.0%
15.	Flenna, Judith	2.9%
16.	Gould, Theresa	2.9%
17.	Haddix, Lisa	3.6%
18.	Harbin, Stephanie	1.5%
19.	Harder, Marjorie	1.5%
20.	Harsen, Patricia	2.9%
21.	Kolodziej, Elaine	2.9%
22.	Kubik, Wendy	2.2%
23.	Lindstrom, Pamela	2.2%
24.	Maniaci, Sandra	2.2%
25.	Mayo, Osuil	2.9%
26.	Presley, Deborah	2.2%
27.	Pryzbylski, Peggy	1.5%

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- |     |                   |      |
|-----|-------------------|------|
| 28. | Rahill, Joan E.   | 2.2% |
| 29. | Richardson, Mary  | 2.9% |
| 30. | Ritch, Joan       | 2.9% |
| 31. | Rogers, Pamela    | 3.6% |
| 32. | Sandora, Janice   | 2.2% |
| 33. | Schmaltz, Susan   | 2.9% |
| 34. | Spradley, Judy    | 1.5% |
| 35. | Stewart, Barbara  | 2.2% |
| 36. | Taylor, Eleanor   | 3.1% |
| 37. | Thomas, Beverly   | 1.0% |
| 38. | Thornton, Judith  | 1.5% |
| 39. | Trombley, Kristie | 3.9% |
| 40. | Van Tiem, Mary Jo | 3.1% |
| 41. | Vaughn, Donna     | 2.9% |
| 42. | Willits, Renee    | 1.5% |

Respectfully submitted,

SOMMERS SCHWARTZ, P.C.



BY: MARVIN R. STEMPIEN  
Binding Arbitrator  
2000 Town Center, Suite 900  
Southfield, MI 48075  
(248) 355-0300

Dated: December 22, 2006

# Kubik v Gary et al Award Figures

Civil Action 03-73350

Total Payout in millions:

**\$20,391,367**

<u>Last Name</u>	<u>First Name</u>	<u>Award %</u>	<u>Dollars</u>
1 Aguinaga	Sara	3.60%	\$734,089
2 Arnold	Barbara	2.20%	\$448,610
3 Battaglia	Lisa	3.90%	\$795,263
4 Blajic	Georgina	2.20%	\$448,610
5 Bolone	Pat	2.20%	\$448,610
6 Bott	Janet	3.60%	\$734,089
7 Boulton	Michele	2.20%	\$448,610
8 Bousson	Bonnie	2.20%	\$448,610
9 DeTomaso	Michelle	1.00%	\$203,914
10 Diem	Christina	1.00%	\$203,914
11 Diem	Kathy	2.20%	\$448,610
12 Dillon	Rita	2.20%	\$448,610
13 Ditch	Rebecca	1.00%	\$203,914
14 Ewald	Christine	2.90%	\$591,350
15 Flenna	Judith	2.90%	\$591,350
16 Gould	Theresa	3.60%	\$734,089
17 Haddix	Lisa	1.50%	\$305,871
18 Harbin	Stephanie	1.50%	\$305,871
19 Harder	Marjorie	2.90%	\$591,350
20 Harsen	Patricia	2.90%	\$591,350
21 Kolodziej	Elaine	2.20%	\$448,610
22 Kubik	Wendy	2.20%	\$448,610
23 Lindstrom	Pamela	2.20%	\$448,610
24 Maniaci	Sandra	2.20%	\$448,610
25 Mayo	Osuil	2.90%	\$591,350
26 Presley	Deborah	2.20%	\$448,610
27 Pryzbylski	Peggy	1.50%	\$305,871
28 Rahill	Joan	2.20%	\$448,610
29 Richardson	Mary	2.90%	\$591,350
30 Ritch	Joan	2.90%	\$591,350
31 Rogers	Pamela	3.60%	\$734,089
32 Sandora	Janice	2.20%	\$448,610
33 Schmaltz	Susan	2.90%	\$591,350
34 Spradley	Judy	1.50%	\$305,871
35 Stewart	Barbara	2.20%	\$448,610

<u>Last Name</u>	<u>First Name</u>	<u>Award %</u>	<u>Dollars</u>
36 Taylor	Eleanor	3.10%	\$632,132
37 Thomas	Beverly	1.00%	\$203,914
38 Thornton	Judith	1.50%	\$305,871
39 Trombley	Kristie	3.90%	\$795,263
40 Van Tiem	Mary Jo	3.10%	\$632,132
41 Vaughn	Donna	2.90%	\$591,350
42 Willits	Renee	1.50%	\$305,871
			<b>\$20,493,324</b>