EEOC v. AutoZone
707 F. 3d 824 (6th Cir. 2012)

OPINION BY CIRCUIT JUDGE MANION:

The Equal Employment Opportunity Commission filed this employment discrimination case on behalf of John Shepherd, a former employee of AutoZone, and alleged that AutoZone had violated the Americans with Disabilities Act. * * * [A] jury returned a verdict in Shepherd's favor. The magistrate judge then approved $100,000 in compensatory damages, $200,000 in punitive damages, $115,000 in back pay, [and] an injunction on AutoZone's anti-discrimination practices. . . . AutoZone appeals the . . . remedies. We affirm . . . except for a provision in the injunction, which we remand for further proceedings.

Shepherd started working for AutoZone in 1998. He initially worked as a sales clerk—a non-supervisory

position—but was promoted to parts sales manager a year later. * * * Shepherd averaged the highest sales per customer among the employees at his store in 2003. Although Shepherd received several reprimands at work, he won the AutoZone Extra Miler award, which AutoZone characterized as a "prestigious honor," and AutoZone even asked Shepherd to train new employees.

But Shepherd suffered from a chronic back injury. In 1996, Shepherd had been permanently injured while working for a different employer, and he sought help from his neurologist, Dr. Marc Katchen. Dr. Katchen determined that Shepherd had impairments to his trapezius and rhomboid muscles of the upper-left side of his back, a degenerative-disc disease of the cervical vertebrae, and a herniated disc of the cervical vertebrae. As a result, Shepherd could rotate his torso, but repetitive twisting aggravated his condition and caused "flare-ups," which brought on severe pain in his neck and back.

About 80% of Shepherd's work at AutoZone was devoted to sales and customer service, and these activities did not affect his health. However, soon after starting work at AutoZone, Shepherd began to experience severe flare-ups that caused his back and neck to swell, and would cause pain with the slightest of movements. * * * Dr. Katchen determined that these flare-ups were caused by the repetitive motions involved in mopping AutoZone's floors, which was one of Shepherd's job requirements. Shepherd asked his store manager, Larry Gray, if he could be released from mopping, and Gray informally allowed Shepherd to perform other tasks instead. But when the district manager, Steven Smith, found out that Shepherd was no longer mopping the floors, he directed Gray to have Shepherd resume mopping. Gray complied.

After Shepherd transferred to another AutoZone store in Smith's district, he again sought to avoid mopping the floors. The store manager, Terry Wilmot, was willing to accommodate Shepherd's back injury, but when one of Shepherd's coworkers complained about Shepherd's special treatment, Smith again insisted that Shepherd should mop the floors. Although Wilmot allowed Shepherd to avoid mopping duties when Smith was not around, Smith demoted Wilmot in July 2002, and replaced him with a new store manager, Steven Thompson. * * * Shepherd testified that Thompson and Smith still required him to mop the floors. He stated that he had sent a myriad of health and medical forms—some produced in conjunction with Dr. Katchen—to AutoZone officials, but he never received an accommodation.

In March 2003, Shepherd took a medical leave of absence because his mopping duties had caused his condition to worsen. He returned to work in April, and . . . was still compelled to mop the floors. As a result, he suffered from flare-ups four or five times a week and was unable to perform basic tasks of his daily routine. Shepherd's wife, Susan, had to help Shepherd get dressed, wash his body, and engage in other activities around the house. Shepherd began to suffer from depression and Dr. Katchen prescribed an antidepressant.

Shepherd continued to seek an accommodation that would allow him to stop mopping the floors. Shepherd contacted a number of corporate officials at AutoZone and was quite insistent that he needed an accommodation. Among other corporate officials, Shepherd frequently contacted Jackie Moore, the lead disability coordinator who worked at AutoZone's corporate benefits department in Memphis, Tennessee.

On September 12, 2003, Shepherd was wringing out a mop when he felt a sharp pain. He tried to continue his work, but the pain persisted, and he suffered a disabling flare-up that left him unable to return to work for the rest of the year. Three days after this flare-up, Smith sent Shepherd a written letter that relieved Shepherd of his mopping duties because of his back condition. Over the next few months, Shepherd received extensive treatments from Dr. Katchen, including heat treatment, physical therapy, medications, deep tissue massage, ultrasound, antidepressants, and sleep inducers. When Shepherd tried to return to work in January 2004, he learned that AutoZone would not allow him to return. Instead, AutoZone kept Shepherd on involuntary medical leave until February 2005, when it terminated his employment with AutoZone. * * *

[W]e must now address AutoZone's arguments about the remedies that resulted from that trial. AutoZone raises issues relating to (1) the compensatory damages; (2) the punitive damages; [and] (3) the injunction.

1. Compensatory Damages

AutoZone first argues that the compensatory damages are excessive and should be remitted from $100,000 to $10,000. The jury awarded compensatory damages of $100,000 for the "physical, emotional and/or mental pain [Shepherd] experienced . . . as a result of AutoZone's failure to provide him with reasonable accommodation."

* * * To determine whether an award of compensatory damages is excessive, we consider whether the damages awarded (1) were monstrously excessive; (2) had no rational connection between the award and the evidence; and (3) were roughly comparable to awards made in similar cases. We agree with the magistrate judge that the EEOC provided sufficient evidence to support the award of compensatory damages. First, Shepherd testified about the symptoms of his back condition and the details of his disabling September 12, 2003, back injury. Additionally, evidence from Shepherd's wife provided a detailed account of the effect that Shepherd's injuries had on his daily life while working at AutoZone. Finally, Dr. Katchen testified in great detail about his diagnosis and treatment of Shepherd's myofascial pain. This evidence provides a basis for concluding that the compensatory damages were not monstrously excessive, but were instead rationally connected to Shepherd's pain.

Additionally, the magistrate judge accurately observed that the compensatory damages in this case are approximately the same value as the compensatory damages awarded in comparable cases. In fact, Shepherd's case is more extreme than some of these cases because Shepherd experienced near-daily pain that left him incapable of performing common activities, such as putting on his clothes and taking a shower. We have recognized that cases that include even the slightest "physical element" are often associated with more substantial compensatory-damages awards.

We conclude that all three factors used to determine whether compensatory damages are excessive weigh in favor of the EEOC. The magistrate judge therefore did not abuse his discretion when he upheld the award of $100,000 in compensatory damages for Shepherd's pain and suffering.

2. Punitive Damages

The jury awarded $500,000 in punitive damages against AutoZone, but the magistrate judge reduced the punitive damages to $200,000 to comply with a statutory cap. AutoZone first asks us to vacate the punitive damages for insufficient evidence. If we decline to do so, AutoZone alternatively asks us to remit punitive damages under the Due Process Clause to no more than $10,000. * * *

Punitive damages are available to the EEOC if it can demonstrate that AutoZone engaged in intentional discrimination "with malice or with reckless indifference to the federally protected rights of an aggrieved individual." [T]he Supreme Court [has] established a three-part framework to determine whether punitive damages are proper. . . . First, the plaintiff must show that the employer acted with "malice" or "reckless indifference" toward the employee's rights under federal law. A plaintiff "may satisfy this element by demonstrating that the relevant individuals knew of or were familiar with the anti-discrimination laws" but nonetheless ignored them or lied about their discriminatory activities. The plaintiff has the burden of proving "malice" or "reckless indifference" by a preponderance of the evidence. Second, the plaintiff must establish a basis for imputing liability to the employer based on agency principles. Employers can be liable for the acts of their agents when the employer authorizes or ratifies a discriminatory act, the employer recklessly employs an unfit agent, or the agent commits a discriminatory act while "employed in a managerial capacity and . . . acting in the scope of employment." Third, when a plaintiff imputes liability to the employer through an agent working in a "managerial capacity . . . in the scope of employment," the employer has the opportunity to avoid liability for punitive damages by showing that it engaged in good-faith efforts to implement an anti-discrimination policy. This is a fact-intensive analysis, and "although the implementation of a written or formal anti-discrimination policy is relevant to evaluating an employer's good faith efforts . . . , it is not sufficient in and of itself to insulate an employer from a punitive damages award."

* * * First, a rational jury could have found that AutoZone acted with "reckless indifference" to Shepherd's federal employment rights. AutoZone stipulated that Thompson, Smith, and Moore had all received ADA training. Furthermore, Teresa James, the benefits manager for AutoZone and Moore's supervisor, testified about AutoZone's established procedure for handling employees' accommodation requests. If an AutoZone employee made an accommodation request, the benefits department would obtain the employee's medical documentation, such as a physician's report, then coordinate with AutoZone's legal department to "ensure that there is a consensus on what the request is." The benefits department would then review the physical demands of the employee's position and coordinate with a human resources manager in the field to determine whether AutoZone could accommodate the employee's disability.

* * * Although Moore was aware of Shepherd's situation, her testimony revealed that she did not address Shepherd's disability through AutoZone's typical

procedures. Instead, when asked whether she could "recall having considered any potential accommodations that would address [Shepherd's] limitation," . . . Moore testified about what she hypothetically "would" do in Shepherd's case—not what she actually did. * * * Moore eventually did take concrete action to address Shepherd's situation. She coordinated with Smith and instructed him to type up a letter for Shepherd. This letter informed Shepherd that he should not engage in any activities that affected his medical condition. But this letter was dated September 15, 2003—three days after Shepherd suffered his disabling back injury, and the day that Dr. Katchen placed Shepherd on medical leave. A jury could easily conclude that this letter was delivered too late to affect Shepherd's work requirements. A jury might even conclude that this letter was nothing more than AutoZone's attempt to cover up its prior failure to accommodate Shepherd's disability.

AutoZone argues that its mistakes—if any—were not the result of reckless disregard for Shepherd's rights, but were caused by mere negligence, which is not sufficient to support punitive damages. . . . * * * AutoZone, however, understood that Shepherd had a back injury and regarded it as a disability. Thompson, Smith, and Moore did not deny Shepherd an accommodation because they doubted the veracity of Dr. Katchen's medical reports or because they were relying on another doctor's analysis. . . . Instead, a rational jury could have concluded that they failed to accommodate Shepherd's disability because they ignored AutoZone's established procedures for handling accommodation requests. Failing to follow up on an accommodation request might only be negligence if it occurs infrequently, but an employer's response sinks from negligence to reckless indifference when it repeatedly fails to accommodate an employee's disability. Because Shepherd repeatedly asked Moore for an accommodation, and asked for an accommodation so often that Moore became frustrated by his persistence, a rational jury could have decided that AutoZone's response was not mere negligence, but reckless indifference.

Second, a rational jury could have imputed liability to AutoZone through a manager acting in the scope of employment at AutoZone. * * * Moore was the lead disability coordinator in AutoZone's benefits department and was responsible for coordinating employees' accommodations. * * * Because Moore had the authority and discretion to make decisions about employees' accommodations, a rational jury could have concluded that Moore was acting in a managerial capacity in the scope of her employment when she authorized accommodations for AutoZone employees. Therefore, a rational jury could have imputed liability to AutoZone based on the evidence presented at trial.

Third, a rational jury could have concluded that AutoZone did not engage in good-faith efforts to enforce an anti-discrimination policy. AutoZone did not introduce a written anti-discrimination policy into evidence, but instead relied on James, AutoZone's benefits manager, to explain AutoZone's procedures for handling disability accommodations in her testimony. Although the employer is not required to present a written or formal anti-discrimination policy, "it is difficult to ascertain the contours of this policy without physical evidence of its existence."

Nor did AutoZone present evidence that an anti-discrimination policy was properly enforced in Shepherd's case. We have held that an employer is unable to establish good-faith efforts when "top management officials" disregard the company's anti-discrimination policy. * * * [A] rational jury could have concluded that Moore exhibited reckless indifference to Shepherd's federal employment rights, and a rational jury could also have concluded that she disregarded AutoZone's anti-discrimination procedures.

. . . [W]e conclude that the magistrate judge correctly ruled that a rational jury had sufficient evidence to impose punitive damages. We therefore decline to vacate the punitive damages.

Because we find sufficient evidence for a rational jury to impose punitive damages, we must next consider whether the punitive damages in this case are so grossly excessive that they offend the Due Process Clause of the Fourteenth Amendment. We analyze the punitive-damages award of $200,000 under the framework the Supreme Court established in *BMW of North America, Inc. v. Gore*. In Gore, the Supreme Court observed that punitive damages "may properly be imposed to further a State's legitimate interests in punishing unlawful conduct and deterring its repetition," but punitive damages violate the Due Process Clause "[o]nly when an award can fairly be categorized as 'grossly excessive' in relation to these interests." The Supreme Court then instructed courts to consider three guideposts: "(1) the degree of reprehensibility of the defendant's misconduct; (2) the disparity between the actual or potential harm suffered by the plaintiff and the punitive damages award; and (3) the difference between the punitive damages awarded by the jury and the civil penalties authorized or imposed in comparable cases."

The first guidepost requires us to consider the reprehensibility of the defendant's conduct and is "[p]erhaps the most important indicium of the reasonableness of a punitive damages award." * * * These five factors weigh against AutoZone. First, Shepherd suffered physical—not just economic—harm. Mopping the floors aggravated Shepherd's back condition, and Shepherd suffered severe, and ultimately disabling, pain as a result. Second, AutoZone's conduct demonstrated a reckless disregard for Shepherd's health. AutoZone was aware that Shepherd suffered from a back injury but did not adequately accommodate his disability and required him to mop the floors anyway. Third, Shepherd was financially vulnerable. When Shepherd was asked at trial why he continued to mop the floors even though it caused him pain, he stated he could not afford to lose his job because he had a wife and children. Fourth, AutoZone's dismissiveness of Shepherd's health concerns occurred on multiple occasions and was not an isolated incident. Indeed, Shepherd had contacted Moore so often that she expressed frustration with Shepherd's persistence. The fifth factor considers whether the harm was caused intentionally or accidentally. Shepherd's flare-ups were not the result of a mere accident, but were instead the result of AutoZone's reckless indifference. Therefore, when we consider these factors as a whole, we conclude that AutoZone's conduct was sufficiently reprehensible to justify imposing punitive damages.

The second guidepost requires us to examine the ratio between punitive damages and "the actual harm inflicted on the plaintiff." The Supreme Court has repeatedly declined to set a fixed ratio to limit punitive damages based on constitutional grounds, but it has recognized that in practice, "few awards exceeding a single-digit ratio between punitive and compensatory damages . . . will satisfy due process." * * * The jury awarded the EEOC $100,000 in compensatory damages, $500,000 in punitive damages, and $115,000 in back pay. The magistrate judge later remitted the punitive damages to $200,000. This is a two-to-one ratio between punitive and compensatory damages, and if back pay is added to the compensatory damages, the value of the punitive damages is actually less than the value of the back pay and compensatory damages by $15,000. We conclude that these ratios are well within the range of constitutionally acceptable values.

The third guidepost requires us to compare the punitive damages in this case to the "civil or criminal penalties that could be imposed for comparable misconduct." * * * Thankfully, we need not look far to determine the legislature's judgment concerning the appropriate level of damages in this case: Congress has already defined the statutory cap for the sum of punitive and compensatory damages at $300,000 for this case. We recognize that this statutory cap suggests that an award of damages at the capped maximum is not outlandish.

Because all three of the Gore guideposts favor the EEOC, we conclude that the punitive-damages award of $200,000 does not violate due process. We therefore decline to further remit the punitive damages.

3. Injunction

AutoZone also argues that the magistrate judge's injunction was unwarranted and should be vacated. District courts have wide discretion "to fashion a complete remedy, which may include injunctive relief, in order to make whole victims of employment discrimination." * * * [T]he magistrate judge entered an injunction that . . . required AutoZone to (1) comply with the reasonable-accommodations requirement of the ADA for employees in the Central District of Illinois; (2) to notify the EEOC of any employee who requests an accommodation during the next three years in the Central District of Illinois; and (3) to maintain complete records of its responses to such accommodation requests. * * *

i. First Provision of the Injunction

AutoZone challenges the first provision of the injunction, which, more specifically, states as follows: "AutoZone shall make reasonable accommodations to the known physical limitations of any qualified employee with a disability who is working at an AutoZone retail store within the Central District of Illinois and who requests an accommodation or whose need for an accommodation is otherwise known to AutoZone."

Unlike the second and third provisions of the injunction, this provision has no time limit. In essence, the magistrate judge permanently ordered AutoZone to comply with the ADA's accommodation requirement. The order is enforceable via contempt motion, bypassing the normal administrative and adjudicative processes for ADA accommodation claims. AutoZone argues that this part of the judge's order amounts to an impermissible "obey the law" injunction. An injunction that does no more than order a defeated litigant to obey the law raises several concerns. One is overbreadth. An obey-the-law injunction departs from the traditional equitable principle that injunctions should prohibit no more than the violation established in the litigation

or similar conduct reasonably related to the violation. * * * [T]his means that a request for an obey-the-law injunction must be evaluated with great care; this type of injunction will be an "appropriate" form of equitable relief only where the evidence suggests that the proven illegal conduct may be resumed. * * *

Although the judge did not explicitly discuss the factors that we have said might support the limited use of an obey-the-law injunction, AutoZone's inaction over eight years was sufficient to convince the judge that compliance with the law will not be forthcoming without an obey-the-law injunction. As the district court emphasized:

[T]he conduct of the Defendant's managerial employees at the highest level was clearly an intentional violation of the ADA. The evidence showed that these employees knew of Shepherd's back problems, knew that he was under a physician's care for those problems, and knew that the problems were exacerbated by mopping. Despite that knowledge, those managers insisted for no good reason at all that Shepherd continue to mop. In light of the evidence showing AutoZone's intransigence at quite senior levels of management, we are satisfied that the district court did not abuse its discretion in ordering AutoZone to comply with the ADA's reasonable accommodation requirement in the Central District of Illinois. Nonetheless, even though the judge limited the geographic reach of the EEOC's proposed obey-the-law injunction, the order has no temporal limit. It is permanent, which would permit any ADA accommodation claim arising at an AutoZone store in the Central District to be raised via contempt motion no matter how remote in time or different from the violation proven in this case. This would indefinitely deny AutoZone the protections of the normal administrative and adjudicative processes in that region. We are satisfied that AutoZone has earned this treatment for at least a reasonable time, or at least that the district court did not abuse its discretion in so finding, but we must remand to the district court with instructions to modify the injunction to impose a reasonable time limit on the first provision requiring compliance with the ADA.

ii. Second and Third Provisions of the Injunction

AutoZone further argues that the second and third provisions of the injunction are unwarranted because AutoZone's 2011 employee manual contains an ADA policy against disability discrimination. But a mere policy statement in an employee manual would not have been sufficient to remedy Shepherd's situation. Shepherd's requests for an accommodation were left unresolved because of a systemic failure to properly implement AutoZone's established procedures. AutoZone asserts that the facts of this case cannot justify the injunction because eight years have passed since Shepherd's disabling accident and many of the individuals in this case no longer work for AutoZone, but the passage of time and changes in management personnel do not guarantee the enforcement of AutoZone's anti-discrimination procedures. By requiring AutoZone to notify the EEOC of employees seeking accommodations and to record its responses to these requests in writing, the injunction ensures that AutoZone will implement the anti-discrimination procedure it purports to follow. Finally, AutoZone asserts that the injunction is too broad because it applies to all stores throughout the Central District of Illinois, but the magistrate judge appropriately crafted the scope of the injunction because AutoZone's problem was not limited to just Shepherd's store.

Overall, the first provision of the injunction should have a reasonable time limit, which the second and third provisions already contain. Therefore, we remand the first provision of the injunction but affirm the second and third provisions. * * *

CASE QUESTIONS

1. What were the legal issues in this case? What did the court decide?
2. What are compensatory damages? Why did the appeals court uphold the compensatory damages awarded to the plaintiff?
3. What are punitive damages? Why did the appeals court uphold the awarding of punitive damages in this case? Why was the amount of punitive damages deemed not constitutionally excessive?
4. What is injunctive relief? What was the employer ordered to do? Why was the first injunction "remanded" to the trial court?
5. Overall, do the damages awarded to the plaintiff in this case seem "just?" Why or why not?