

How a Labor Defense Lawyer and #MeToo Won \$1.5M for PBS

"With the backdrop of the #MeToo movement, and PBS's unyielding commitment to stand up for what was right, the case was so much more than the interpretation of contracts," said Morgan, Lewis & Bockius partner Grace Speights.

BY KATHERYN TUCKER

It was a trial to remember for Morgan, Lewis & Bockius partner Grace Speights, lead defense attorney for PBS against Tavis Smiley—and not just because she defeated a million-dollar labor and employment claim against her client in a high-profile case.

She also won a million and a half—and she did it with a hundred-year-old movie morals contract clause that no one seems to remember ever using before.

"This was a landmark case, both in terms of the precedent-setting nature of testing the morals clause in contracts before a jury, and by the fact that our client was the one being sued by someone accused of sexual misconduct," Speights told the National Law Journal by email Thursday as she flew



Grace Speights, partner with Morgan, Lewis & Bockius in Washington, D.C.

Diego M. Radzinski/ALM

to the West Coast for a client meeting.

But she'll be back in Washington before D.C. Superior Court Judge Yvonne Williams for a status conference next Wednesday to discuss what to do now. The \$1.486 million the jury awarded Wednesday wasn't the end of the story. There will be the matter of attorney fees.

Smiley's lawyers plan to appeal.

"We are disappointed in the jury's verdict but respect the process," said Smiley attorney John K. Rubiner of Barton, Klugman & Oetting in Los Angeles. "We are planning to appeal based on a variety of issues that were raised in pretrial and trial rulings."

Smiley's team also included Harvard Law School professor

Ronald S. Sullivan Jr. and Jeffrey D. Robinson of Lewis Baach Kaufmann Middlemiss in Washington. They were up against more than just Speights and her team, which included W. Brad Nes, Amanda B. Robinson and Elliott Brown.

The entire #MeToo movement informed the trial, embodied by the six women who testified by video deposition that Smiley—their boss—made sexual demands on them or subjected them to lewd jokes.

Smiley denied the charges, calling them all lies, and saying sexual relationships he had with the women were consensual, according to published reports. He also said his sexual jokes were innocent and not intended to offend.

But the women won the day with the jury. “This wasn’t just ‘he said, she said,’ ” wrote Washington Post reporter Keith Alexander, quoting one of the 10 men on the jury. “This was ‘he said, she said.’ ”

The story started in 2017 at the height of the #MeToo move-

ment. PBS fired Smiley—and another host, Charlie Rose—after investigating a series of employee complaints of sexual harassment. Smiley sued PBS for breach of contract, demanding \$1 million he said he should have been paid. PBS countersued, saying he had been paid for shows he didn’t produce. Ultimately, PBS alleged Smiley’s conduct violated the contract’s morals clause, which prohibits on-air talent from participating in behavior that would negatively affect the network’s reputation.

“Over the course of two years, we were able to get several aspects of the case dismissed, so what came before the jury were contract claims by both sides,” Speights said. “But with the backdrop of the #MeToo movement, and PBS’s unyielding commitment to stand up for what was right, the case was so much more than the interpretation of contracts.”

In addition to being the global head of the Morgan Lewis labor and employment practice

group, Speights is a member of the firm’s cross-disciplinary crisis management practice team. “Morgan Lewis has always recognized the importance of employing a strategic and business-focused approach to addressing client matters,” she said. “My team on this case each brought their own unique and complementary trial skills to the table to mitigate the long-term public relations impact of such a high-profile case.”

The end result will affect far more than this case, according to Speights.

“PBS stood up for the women who were brave enough to share their stories and went to tremendous lengths to protect its hard-earned brand and reputation for public trust,” Speights said. “Ultimately the case has given employers another tool in their arsenal to ensure a safe and respectful workplace culture.”

Katheryn Hayes Tucker is an Atlanta-based reporter covering legal news for the Daily Report and other ALM publications.