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## Tech Co. Must Pay \$7.4M To Worker Choked At Office

By **Kevin Penton**

Law360, New York (March 21, 2016, 3:36 PM ET) -- A California federal jury awarded \$7.4 million to a former help desk technician who claimed he was wrongfully terminated by a federal contractor after a coworker choked him over a personal dispute involving where the employees sat and the chewing of ice.

The jury ordered technology company ActioNet Inc. to pay Yowan Yang \$5 million in punitive damages and \$2.4 million for past and future lost earnings and emotional and psychological harm, finding that the Federal Aviation Administration contractor failed to provide a safe workplace was a substantial reason for terminating him following the July 2012 incident, according to the verdict form.

Yang's 2014 complaint said that rather than properly investigate the incident, ActioNet simply moved to quickly fire him and the other employee, causing him emotional harm and making it difficult for him to find a new job.

"Mr. Yang lost his career, his apartment, his independence, his self-worth, and his self-esteem," Yang's attorney Vincent James DeSimone said in a statement. "The jury fairly compensated Mr. Yang and punished ActioNet for its callous disregard of his rights."

Counsel for ActioNet could not be reached on Monday for comment.

Yang filed the complaint against ActioNet and joint employer L-3 National Security Solutions, alleging in a July 2015 amended complaint that the companies violated California labor laws by wrongfully terminating him and inflicting emotional distress and by negligently hiring, retaining and supervising the coworker, Cy Tymony, among other things.

L-3 settled with Yang in October, according to court documents.

Yang said he and Tymony had several public incidents in the workplace, including some where Tymony was publicly upset because Yang had either stored cans of soda in the office freezer or was eating candy during a staff meeting, according to the amended complaint.

Towards the end of the meeting, Tymony pounded his fist against a cubicle, told Yang that he had no respect for others and cursed several times, the complaint said.

On July 24, 2012, both Tymony and Yang met individually with supervisors to see who would be willing to move to another cubicle, according to the complaint. After Tymony left the meeting, he loudly complained that Yang is an "asshole" who chews ice. After Yang suggested that Tymony move his cubicle, Tymony grabbed him by the neck and threatened his life.

ActioNet argued in the case that it should not be held responsible because it was unaware of

any violent tendencies of Tymony, because he was fit to perform his job, because there is no evidence that the company tolerated Tymony's conduct and because Tymony was not acting in the "course and scope" of his job during the July 2012 altercation.

Yang is represented by Vincent James DeSimone of V. James DeSimone Law and Kaveh Navab of Navab Law.

ActioNet is represented by Rebecca M. Aragon, Jessica Sung Hwa Kang and Emily T. Patajo of Littler Mendelson PC.

The case is Yang v. ActioNet Inc. et al., case number 2:14-cv-00792, in the U.S. District Court for the Central District of California.

--Editing by Brian Baresch.

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