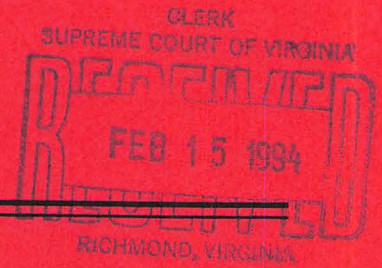
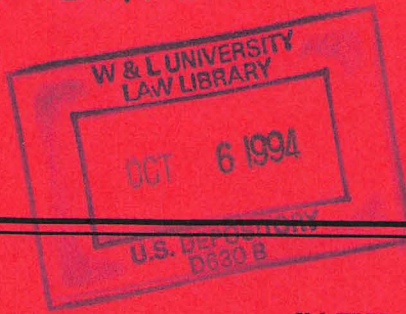


248VA138



IN THE

**Supreme Court of Virginia**

AT RICHMOND

RECORD NO. 931464

HELENE LICHTMAN,

Appellant,

v.

JUDI KNOUF, et al.,

Appellee.

JOINT APPENDIX

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WINN & JANKELL  
1417 N. Battlefield Blvd.  
Suite 220  
Chesapeake, VA 23320  
(804) 547-5405

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Post Office Box 3490  
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(804) 625-7300

Counsel for Appellant

Counsel for Appellee

TABLE OF CONTENTS

	<u>Page</u>
1. MOTION FOR JUDGMENT FILED DECEMBER 15, 1992. . . . .	1
2. DEFENDANT'S SPECIAL PLEA IN BAR FILED JANUARY 7, 1993. . . . .	6
3. FINAL ORDER ENTERED JULY 14, 1993. . . . .	8
4. WRITTEN STATEMENT ENTERED BY JUDGE MCNAMARA ON SEPTEMBER 21, 1993. . . . .	9
5. ASSIGNMENT OF ERROR. . . . .	16



VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

HELENE LICHTMAN,

Plaintiff,

vs.

AT LAW NO.: L92-3892

JUDI KNOUF

SERVE: USAA  
5800 N. Hampton Boulevard  
Norfolk, VA 23508

and

JACK WOLCOTT

SERVE: USAA  
5800 N. Hampton Boulevard  
Norfolk, VA 23508

and

UNITED SERVICES AUTOMOBILE ASSOCIATION

SERVE: The Clerk of the State Corporation Commission  
P.O. Box 1197  
Richmond, VA 23219

Defendants.

MOTION FOR JUDGMENT

COMES NOW the plaintiff, Helene Lichtman, by counsel, and moves this Honorable Court to enter an Order awarding the plaintiff judgment against the defendants, Judi Knouf, Jack Wolcott and United Services Automobile Association, on the grounds and in the amount set forth as follows:

1. Plaintiff is a private individual and resides with her husband at 19749 River Road, Apartment F, Gladstone, Oregon.
2. Defendant, United Services Automobile Association, (hereinafter "USAA") is a reciprocal insurance association with its principal office in San Antonio, Texas and which regularly and systematically conducts business in the Commonwealth of Virginia in the City of Norfolk. Defendant Judi Knouf, (hereinafter "Knouf") and defendant Jack Wolcott, (hereinafter

"Wolcott") are employees of USAA working at its Mid Atlantic Regional Office in the City of Norfolk.

3. On October 23, 1989, plaintiff, who lived at 4832 Phoenix Drive, Chesapeake, Virginia, was hired by USAA as Director of Facilities and Services for its Mid Atlantic Regional Office in the City of Norfolk.

4. While employed by USAA, plaintiff performed her duties with distinction. On or about March 15, 1991, plaintiff earned the second-highest possible merit rating following receipt of her first performance appraisal, received an 8.5 percent pay raise, and was informed by her supervisors that she was a highly valued member of the organization.

5. On or about July 1, 1991, defendant Wolcott, Regional Vice President for the Mid Atlantic Region, appointed defendant Knouf to the position of Director of Administration and Support, which was plaintiff's immediate supervisor.

6. On or about July 1, 1991, following Knouf's appointment, defendants intentionally began a campaign of systematic harassment directed at plaintiff, consisting of, among other things, undocumented complaints and groundless, unfair criticisms about plaintiff's job performance, false accusations and the malicious spreading of insidious and defamatory innuendo about plaintiff, harming plaintiff's personal and professional reputations, an adverse 1991 performance appraisal and merit rating lacking factual justification, contradictory instructions and signals, and the imposition of a constant threat of job termination.

7. On or about July 16, 1991, Knouf told plaintiff that she had a poor attitude. When plaintiff requested specific examples to illustrate the

charge, however, defendant was unable to provide even one.

8. On or about September 1, 1991, and several occasions thereafter, defendant Knouf rejected plaintiff's requests for a clarification of defendant's supervisory expectations regarding plaintiff's job performance.

9. On or about February 5, 1992, Knouf issued a 1991 performance appraisal for plaintiff which: (a) assigned a score of "2" for teamwork, indicating that plaintiff "rarely takes the initiative . . ." and (b) assigned a score of "5" for initiative, the highest score possible.

10. On or about February 11, 1992, Knouf reprimanded plaintiff for the manner in which she had driven her personal automobile on January 29, 1992 while off of company property during off hours, stating that it was indicative of an attitude problem and relevant to job performance. That same day, defendant threatened to initiate progressive discipline.

11. On or about May 28, 1992, defendant Wolcott initiated an internal security audit to investigate what he alleged was unethical conduct on the part of plaintiff. Defendant's allegations were completely false, and were knowingly and intentionally fabricated by defendant to cause plaintiff to suffer severe mental anguish. At no time did defendant discuss his concerns with plaintiff.

12. On or about June 5, 1992, plaintiff was cleared of any wrongdoing in a report issued to Wolcott by internal security personnel.

13. Although defendants Wolcott and Knouf knew plaintiff was cognizant of the charges pending against her, defendants deliberately failed to inform her of the results of the audit.

14. For a period of 358 days, defendants intentionally engaged in these and other similar outrageous courses of conduct which they well knew were likely to cause mental suffering and distress.

15. As a direct and proximate result of defendants' actions, plaintiff suffered extreme mental anguish, worry, and distress about her relationship with her supervisors, her ability to satisfactorily perform her job, her personal and professional reputations, and her ability to retain her employment. By reason of defendants' intentional infliction of emotional distress, plaintiff has suffered grievous mental harm and has been impaired all to the plaintiff's damages in the sum of \$100,000.00 (One Hundred Thousand and no/100 Dollars).

16. As a consequence of her extreme mental anguish, worry, and distress, plaintiff was forced to seek professional psychiatric and psychological assistance, and to incur medical expenses for such services and for medication prescribed for her mental condition in the sum of \$485.87 (Four Hundred Eighty-five and 87/100 Dollars), \$239.67 (Two Hundred Thirty-nine and 67/100 Dollars) of which has not been paid by plaintiff's employee benefit plan.

17. As a consequence of her extreme mental anguish, worry, and distress, plaintiff was forced to resign from her job on June 24, 1992. Because plaintiff was unable to begin a new job until July 6, 1992, she incurred lost wages and salaries for six days, all to plaintiff's damages in the sum of \$916.56 (Nine Hundred Sixteen and 56/100 Dollars).

18. Because defendants' conduct was motivated by a spirit of malevolence and wicked intention and constituted a conscious and wilfull disregard for the rights of the plaintiff, plaintiff prays that this Court

award punitive damages against the defendants in the amount of \$100,000.00  
(One Hundred Thousand and no/100 Dollars).

WHEREFORE, plaintiff prays that judgment against the defendants be  
awarded in the sum of \$201,156.23 (Two Hundred One Thousand One Hundred  
Fifty-six and 23/100 Dollars), being damages for severe emotional distress  
experienced by the plaintiff as a result of defendants' intentional acts,  
medical expenses not covered by an employee benefit plan, lost wages and  
salaries, and punitive damages, and for cost of this suit and for such other  
and further relief as the Court may deem proper.

HELENE LICHTMAN

BY: A. Robinson Winn  
Of Counsel

A. Robinson Winn  
Attorney at Law  
119 York Street  
Norfolk, VA 23510  
(804) 533-5532

Filed in the Clerk's Office of the Court of Appeals for the District of Columbia  
15<sup>th</sup> Dec 1992  
25.  
50.  
4.  
Leg. Fee  
Total \$ 82.  
Wendy J. Dampier D.C.

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

HELENE LICHTMAN,  
Plaintiff,

v.

AT LAW NO.: L92-3892

JUDI KNOUF,  
JACK WOLCOTT  
and  
UNITED SERVICES AUTOMOBILE ASSOCIATION,  
Defendants.

SPECIAL PLEA IN BAR

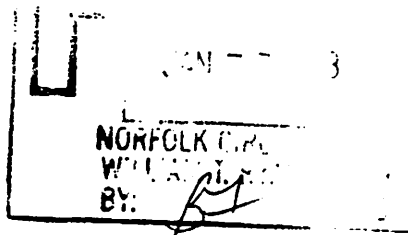
COME NOW the defendants, Judi Knouf, Jack Wolcott and United Services Automobile Association, by counsel, and for their Special Plea in Bar to the plaintiff's Motion for Judgment state that the plaintiff's sole and exclusive remedy for the injuries which she claims to have sustained are those as might be afforded her pursuant to the provisions of the Virginia Workers' Compensation Act, Code §65.2-100, et seq. See, e.g. Guiden v. Southeastern Public Serv. Auth., 760 F. Supp. 1171 (E.D. Va. 1991).

WHEREFORE, defendants pray that the plaintiff's Motion for Judgment against them be dismissed with prejudice.

JUDI KNOUF  
JACK WOLCOTT  
and UNITED SERVICES AUTOMOBILE  
AUTOMOBILE ASSOCIATION

By

  
Of Counsel





PETER C. MANSON, JR.  
PENDER & COWARD, P.C.  
4th Floor, 192 Ballard Court  
[At Greenwich Road]  
Virginia Beach, VA 23462  
(804) 490-3000

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Special Plea in Bar was mailed this 28<sup>th</sup> day of January, 1993, to A. Robinson Winn, Esquire, 119 York Street, Norfolk, Virginia 23510.

  
PETER C. MANSON, JR.

PCM0107.4/js

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TRM

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

HELENE LICHTMAN,

Plaintiff,

v.

AT LAW NO.: L92-3892

JUDI KNOUF, JACK WOLCOTT, and  
UNITED SERVICES AUTOMOBILE ASSOCIATION,

L2783-93

Defendants.

ORDER

THIS DAY came again the parties, by counsel, on the Defendants' Special Plea in Bar, the matter having heretofore been argued to the Court on March 12, 1993, and June 18, 1993, and memoranda of law having thereafter been submitted on behalf of the parties, and the Court having maturely considered the arguments and memoranda is of the opinion that the Plaintiff's cause of action as set forth in her Motion for Judgment is controlled by Haddon v. Metropolitan Life Insurance Ins. Co., 239 Va. 397, 389 S.E.2d 712 (1990), it is therefore

ORDERED that the Defendants' Special Plea in Bar be, and the same is hereby, sustained and this action is accordingly dismissed with prejudice, to which action of the Court the Plaintiff, by her counsel, objects <sup>OR</sup> and ~~accepts~~ to.


ENTERED this 14 day of July, 1993.

  
JUDGE

WE ASK FOR THIS:

, p.d.

SEEN AND OBJECTED TO

, p.q.

AYLOR & WALKER, P.C.  
NORFOLK, VIRGINIA  
23514

CU

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

HELENE LICHTMAN,

Appellant,

v.

AT LAW NO.: L92-3892

JUDI KNOUF, JACK WOLCOTT, and  
UNITED SERVICES AUTOMOBILE ASSOCIATION,

Appellees.

WRITTEN STATEMENT

Appellant, Helene Lichtman, pursuant to the provisions of Supreme Court Rule 5A:8(c), and with the subjoined consent of the Appellees, Judy Knouf, Jack Wolcott and United Services Automobile Association (USAA), submits the following as her written statement of fact, testimony and other incidents of the case.

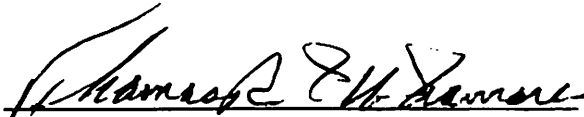
This action was filed on December 14, 1992, by the Appellant, Helene Lichtman, against her former employer, USAA, and two of her former co-workers, Judy Knouf and Jack Wolcott. The Defendants/Appellees interposed a special plea asserting that the Appellant's exclusive remedy for the injuries and damages claimed was the Virginia Workers' Compensation Act.

Following an initial hearing before the Court on March 12, 1993, memoranda were submitted on behalf of the parties and, after additional argument was heard on June 18, 1993, the trial court ruled in favor of the Defendants holding that Haddon v. Metropolitan Life Ins. Co., 239 Va. 397, 398 S.E.2d 712 (1990), was controlling. A final Order sustaining the plea and dismissing the Appellant's Motion for Judgment with prejudice

was entered by the court on July 14, 1993. Appellant's Amended Notice of Appeal was thereafter timely filed on July 22, 1993.

As regards the pertinent underlying facts, since the matter was decided on the basis of Appellant's Motion for Judgment, the factual allegations contained there are adopted and incorporated by this reference. A copy of the Motion for Judgment is attached as Exhibit A.


ENTER: *Sept 21, 1993*

  
JUDGE

SEEN AND AGREED:



A. Robinson Winn, Counsel for  
Helene Lichtman

  
Peter C. Manson, Jr., Counsel  
for Judi Knouf, Jack Wolcott  
and United Services Automobile  
Association

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

HELENE LICHTMAN,

Plaintiff,

vs.

AT LAW NO.: L92-3892

JUDI KNOUF

SERVE: USAA

5800 N. Hampton Boulevard  
Norfolk, VA 23508

EXHIBIT A

and

JACK WOLCOTT

SERVE: USAA

5800 N. Hampton Boulevard  
Norfolk, VA 23508

and

UNITED SERVICES AUTOMOBILE ASSOCIATION

SERVE: The Clerk of the State Corporation Commission

P.O. Box 1197  
Richmond, VA 23219

Defendants.

MOTION FOR JUDGMENT

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WHEREFORE, plaintiff prays that judgment against the defendants be awarded in the sum of \$201,156.23 (Two Hundred One Thousand One Hundred Fifty-six and 23/100 Dollars), being damages for severe emotional distress experienced by the plaintiff as a result of defendants' intentional acts, medical expenses not covered by an employee benefit plan, lost wages and salaries, and punitive damages, and for cost of this suit and for such other and further relief as the Court may deem proper.

HELENE LICHIMAN

BY:

*A. Robinson Winn*

Of Counsel

A. Robinson Winn  
Attorney at Law  
119 York Street  
Norfolk, VA 23510  
(804) 533-5532

**ASSIGNMENT OF ERROR**

1. The trial court erred in granting the special plea in bar when there existed a genuine issue of material fact as to whether the alleged harassment was an "accident."