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TECHNOLOGY

Ellen Pao Loses Sex-Bias Suit Against Kleiner

San Francisco jury finds Silicon Valley venture firm didn't discriminate against former partner



Ellen Pao, second from the left, enters the courthouse to hear the verdict of her sex discrimination case against Kleiner Perkins Caufield & Byers. PHOTO: BECK DIEFENBACH/REUTERS

By **JEFF ELDER**

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SAN FRANCISCO—A jury here Friday said prominent venture-capital firm Kleiner Perkins Caufield & Byers didn't sexually discriminate or retaliate against a former female partner, in a closely watched case that raised questions about the treatment of women in Silicon Valley.

The trial drew international attention because of the highly charged claim that the venture firm had stymied the career of a promising woman, and because it followed other recent allegations of unfair treatment at tech firms.

MORE ON SEX-BIAS TRIAL

- Jury in Pao Case Has Spoken, Now Silicon Valley Weighs In (<http://blogs.wsj.com/digits/2015/03/27/jury-in-pao-case-has-spoken-now-silicon-valley-weighs-in/>)
- Jury Verdict Form (<http://online.wsj.com/public/resources/documents/PaoVerdict.pdf>)
- Trial Takes Big Toll on Kleiner (<http://www.wsj.com/articles/sex-bias-trial-takes-big-toll-on-kleiner-1427243088>) (March 24)
- Kleiner Accuser Testifies on Sexism (<http://www.wsj.com/articles/kleiner-accuser-testifies-on-sexism-1425945182>) (March 9)
- Silicon Valley Sex-Bias Trial Gets Under Way (<http://www.wsj.com/articles/silicon-valley-sex-bias-trial-gets-under-way-1424825202>) (Feb. 24)

verdict was a victory for Kleiner Perkins, one of the oldest and best-known firms in Silicon Valley, and a defeat for Ellen Pao after a three-year legal fight and a grueling four-week trial. Kleiner Perkins was an early backer of Amazon.com Inc., Google Inc. and many others.

“If I have helped to level the playing field for women and minorities in venture capital, then the battle was worth it,” Ms. Pao, 45 years old, said outside the courtroom. She said many people had reached out to say, “My story is their story.” She declined to answer questions.

The six-man, six-woman jury had to work through 14 pages of instructions and a seven-page verdict form with 30 questions to formulate its verdict on two charges of gender discrimination and two charges of retaliation.

Ms. Pao, dressed in a white linen jacket, waited in the tense courtroom as the verdict was read. Her mother sat behind her in the front row.

“Today’s verdict reaffirms that Ellen Pao’s claims have no legal merit,” Kleiner Perkins said after the decision. “There is no question gender diversity in the workplace is an important issue. KPCB remains committed to supporting women in venture capital and technology both inside our firm and within our industry.”

Ms. Pao, who worked at Kleiner Perkins from 2005 to 2012, claimed the firm assigned her menial tasks, denied her promotions, and then retaliated, after she complained. Kleiner Perkins said Ms. Pao didn’t advance because of her own shortcomings, and misrepresented key incidents at the firm.

The trial followed recent reports showing few women in management or high-prestige

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—Ellen Pao

tech jobs at companies like Google, Yahoo Inc. and Apple Inc. At Google, for example, women fill 48% of nontech jobs, such as marketing and human resources, but just 17% of the software engineering, database analysis and other tech jobs.

Nationally, women’s representation in those high-paying tech jobs has declined in the past 25 years, according to the U.S. Census. Just over a quarter of computer professionals are women, down from 34% in 1990.

In venture capital, the numbers are even lower. The share of women partners in venture-capital firms declined to 6% in 2014, from 10% in 1999, according to a study from Babson College.

“I was very disappointed in the verdict,” juror Marshalette Ramsey said after the decision. Ms. Ramsey, a transit manager, said she thought Kleiner Perkins partner Ted Schlein had showed prejudice when he said Ms. Pao did not have the “genetic makeup” to be a good venture capitalist.

Kleiner Perkins prevailed but the trial bared unseemly details about the operations of the firm.

In testimony, Ms. Pao said a Kleiner Perkins partner discussed porn stars and the Playboy mansion on a partner’s private jet. A married partner gave Ms. Pao a book of erotic poetry on Valentine’s Day. Another male partner asked her to take notes at a meeting. When an investigator hired by Kleiner Perkins asked for the firm’s antidiscrimination policy, executives couldn’t produce it.

Early Friday afternoon, the jury thought it had reached verdicts favoring Kleiner Perkins on all four of Ms. Pao’s claims. But San Francisco Superior Court Judge Harold Kahn polled the jury, and found that only eight jurors—rather than the required nine—had agreed on the question of whether Kleiner Perkins had fired Ms. Pao in retaliation.

Steve Sammut, one of the jurors, later said he and the other jurors thought they were

ready with the verdict. But, he said, while the judge polled the jury individually, one of the jurors changed his mind about the final claim. “We were all caught off guard,” Mr. Sammut said.

The judge ordered the jury to resume deliberations. They returned late Friday afternoon with a 9-3 verdict on the final count, finding that Kleiner Perkins had not retaliated.

Despite the verdict, several prominent Silicon Valley investors and entrepreneurs said the case brought much-needed attention to the treatment of women in the technology industry.

“Verdict aside, we have a deep gender discrimination problem in tech,” tweeted investor Chris Sacca, shortly after the partial verdict was announced. Mr. Sacca thanked Ms. Pao for “reminding us” of the issue, adding, “Let’s not let the conversation end here.”

“I don’t think there are any winners coming out of this case,” said Mike Dauber, a general partner at Amplify Partners. “I’m hopeful this is a watershed moment for getting more gender balance in the [venture-capital] industry. It’s created a spotlight for all of us and I hope and think it will create change in behavior going forward.”

Katia Beauchamp, the co-CEO of Birchbox Inc., an online subscription service for beauty products, said the trial got people in the tech community talking, which could propel change in the long run. Investors are realizing that they are losing out on solid leaders and businesses if they don’t have any diversity in their portfolio, she said.

—Deborah Gage and Rachel Feintzeig contributed to this article.

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