Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

POLLARD *v.* E. I. DU PONT DE NEMOURS & CO.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 00–763. Argued April 23, 2001– Decided June 4, 2001

Petitioner Pollard sued respondent, her former employer, alleging that she had been subjected to a hostile work environment based on her sex, in violation of Title VII of the Civil Rights Act of 1964. Finding that Pollard was subjected to co-worker sexual harassment of which her supervisors were aware, and that the harassment resulted in a medical leave of absence for psychological assistance and her eventual dismissal for refusing to return to the same hostile work environment, the District Court awarded her, as relevant here, $300,000 in compensatory damages– the maximum permitted under 42 U. S. C. §1981a(b)(3). The court observed that the award was insufficient to compensate Pollard, but was bound by an earlier Sixth Circuit holding that front pay– money awarded for lost compensation during the period between judgment and reinstatement or in lieu of reinstatement– was subject to the damages cap of §1981a(b)(3). The Sixth Circuit affirmed.

Held: Front pay is not an element of compensatory damages under §1981a and thus is not subject to the damages cap imposed by §1981a(b)(3). Pp. 3–10.

(a) Under §706(g) of the Civil Rights Act of 1964, as originally enacted, when a court found that an employer had intentionally engaged in an unlawful employment practice, the court was authorized to award such remedies as injunctions, reinstatement, backpay, and lost benefits. 42 U. S. C. §2000e–5(g)(1). Because this provision closely tracked the language of §10(c) of the National Labor Relations Act (NLRA), §10(c)'s meaning before the Civil Rights Act of 1964 was enacted provides guidance as to §706(g)'s proper meaning. In applying §10(c), the National Labor Relations Board consistently had made "backpay" awards up to the date the employee was reinstated or re-

turned to the position he should have been in had the NLRA violation not occurred, even if such event occurred after judgment. Consistent with that interpretation, courts finding unlawful intentional discrimination in Title VII actions awarded this same type of backpay (known today as "front pay" when it occurs after the judgment) under §706(g). After Congress expanded §706(g)'s remedies in 1972 to include "any other equitable relief as the court deems appropriate," courts endorsed a broad view of front pay, which included front pay awards made in lieu of reinstatement. By 1991, virtually all of the courts of appeals had recognized front pay as a remedy authorized by §706(g). In 1991, Congress further expanded the available remedies to include compensatory and punitive damages, subject to §1981a(b)(3)'s cap. Pp. 3–7.

(b) The 1991 Act's plain language makes clear that the newly authorized §1981a remedies were *in addition to* the relief authorized by §706(g). Thus, if front pay was a type of relief authorized under §706(g), it is excluded from the meaning of compensatory damages under §1981a and it would not be subject to §1981a(b)(3)'s cap. As the original language of §706(g) authorizing backpay awards was modeled after the same language in the NLRA, backpay awards (now called front pay awards under Title VII) made for the period between the judgment date and the reinstatement date were authorized under §706(g). Because there is no logical difference between front pay awards made when there eventually is reinstatement and those made when there is not, front pay awards made in lieu of reinstatement are authorized under §706(g) as well. To distinguish between the two cases would lead to the strange result that employees could receive front pay when reinstatement eventually is available but not when it is unavailable— whether because of continuing hostility between the plaintiff and the employer or its workers, or because of psychological injuries that the discrimination has caused the plaintiff. Thus, the most egregious offenders could be subject to the least sanctions. The text of §706(g) does not lend itself to such a distinction. Front pay awards made in lieu of reinstatement fit within §706(g)'s authorization for courts to "order such affirmative action as may be appropriate." Pp. 8–10.

213 F. 3d 933, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which all other Members joined, except O'CONNOR, J., who took no part in the consideration or decision of the case.