COURAGEOUS PLAINTIFFS 2017: BAKHIT v. SAFETY MARKING THE GOOD GUYS WIN

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Be The Change
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Yosif Bakhit was a black Muslim Sudanese immigrant who was granted political asylum in the United States after he fled his native country, Sudan. Bakhit was a high school student who had been arrested and beaten several times as a result of his political opposition to the ongoing civil war in the Sudan. He came to the United States in 2000. When he came to the United States, he spoke very little English and had no money. He was homeless for a period of time. He got a job, learned English and ended up in Bridgeport Connecticut. Yosif became a United States citizen in 2011.

In 2008, Yosif got a job at Safety Marking, a company that painted traffic lines on the highways. Nearly all of Safety Marking's business was through contracts with federal, state, and local governments and governmental authorities. Safety Marking was subject state and local fair wage and affirmative action criteria. Mr. Bakhit was sending the money that he earned at Safety Marking back to his family in Sudan. In addition to supporting his parents, he paid for his two younger sisters to attend and graduate from college.

From 2009 – 2012, Yosif Bakhit suffered severe and pervasive racism at Safety Marking. Most of this was perpetrated by his supervisors. He was referred to as an ape or gorilla, offered bananas, was compared to a black doll, and overheard a white manager shout the "white power" in the workplace. Another supervisor made a lynching reference in connection with a black employee who was accidently dragged by a truck. Employees and supervisors frequently used the "n-word" in Bakhit's presence. Arab workers were referred to as "terrorists" and "camel jockeys."

In 2012, Bakhit' s younger brother ran for Sudan in the Olympics, and Bakhit showed a picture of his brother standing with Usain Bolt, the Jamaican runner who has won four gold medals. About two weeks later, his supervisor sent a text to Bakhit of a photograph of Usain Bolt chasing a young white girl carrying a piece of fried chicken.

Bakhit complained several times, and his complaints were ignored. In 2012, he retained counsel, and requested that the company investigate his allegations. The company never interviewed Bakhit before it responded denying the allegations, and offered no specific remedial action.

Mr. Bakhit was a simple person and a hard worker with good values, an infectious smile, an innate trust in people. Since he grew up in another country and was unfamiliar with our culture, Bakhit often did not initially know that his supervisors and co-workers were making fun of him in despicable ways. His sense of betrayal was devastating. Bakhit was also quite fearful of many of his harassers. Some of them were known by him to have been violent, and one bragged about his affiliation with Hell's Angels. His car window was broken shortly after he had lodged his formal complaint.

Another African-American co-worker, Kiyada Miles also came forward, initially as a witness, and later as a co-plaintiff. Miles had also observed and experienced severe racist comments and behavior in the workplace. Miles came forward, despite the risk, because he was outraged and disgusted by what had happened to his friend. Another white co-worker, a retired police detective, also came forward as a witness for Mr. Bakhit. Numerous other individuals who had witnessed or experienced racist and abusive behavior refused to testify due to their fear of the defendants.

From 2008 - 2012, neither Bakhit nor Miles were promoted or received raises, while many of their white co-workers advanced. Bakhit and Miles were the only two black laborers at Safety Marking during that time period. The differential treatment between the plaintiffs and the white workers and the standards applied to them were made very obvious at trial.

Bakhit and Miles brought hostile environment and discrimination claims under 42 U.S.C. 1981 against Safety Marking and five individual defendants in federal court. The litigation was total war, with the defendants contesting every issue and denying every allegation.

The trial lasted over two weeks. On Thursday, March 24, 2016 the jury found for both Bakhit and Miles on both the discrimination and hostile environment claims, awarding Bakhit $305,000 and Miles $86,000. In a bifurcated hearing on punitive damages the following day, the jury both individual plaintiffs $1.5 million each. The total verdict was approximately $3.4 million, exclusive of attorney's fees and costs. This was the largest jury verdict for individual plaintiffs in a race discrimination in Connecticut in either state or federal court. Attorney's fees and costs were approximately $1,000,000.

The jury was all white. The verdict on behalf of a black Muslim immigrant came on the same day that the media reported that two presidential candidates (Trump and Cruz) were exploiting fear and prejudice by advocating patrolling Muslim neighborhoods in this country. The verdict sent a strong message that our federal courts

are open and provide a fair hearing to everybody, and that Connecticut will not Jim Crow style racism.

The case did effect change. State and local EEO organizations commenced investigations on Safety Marking and imposed sanctions on them for their civil rights violations. The verdict was reported nationally and internationally. In particular, a number of trade journals in the construction industry published the verdict as a cautionary tale. Hopefully companies in the industry will take their EEO and affirmative action obligations more seriously. Safety Marking has tightened its anti-harassment policy, and at least one supervisor has subsequently been discharged for making racially inappropriate remarks.

Contentious cases generate published decisions. Overreaching uncompromising defendants help generate favorable judicial rulings. During the litigation, the court issued several published decisions that advanced the rights of workers:

- Precluding defendants from obtaining immigration files on immigrant plaintiff; *Bakhit v. Safety Marking*, 3:13cv1049 (JCH/HBF)(D. Conn. February 17, 2015)
- Limiting discovery of post-employment records to dates and times of employment and income; *Bakhit v. Safety Marking*, 3:13cv1049 (JCH/HBF)(D. Conn. February 17, 2015)
- Permitting a human resources expert to testify on standard of care for investigation of hostile environment complaints; *Bakhit v. Safety Marking*, 3:13cv1049 (JCH)(D. Conn. February 23, 2016)
- Denying access to an employee's prior employment records; *Bakhit v. Safety Marking*, 2014 U.S. Dist. Lexis 125684 (D. Conn. 2014);
- Denying access to an employee's medical records when his physical condition has not been placed at issue; *Bakhit v. Safety Marking*, 2014 U.S. Dist. Lexis 125684 (D. Conn. 2014);
- Participation of attorney in investigation of hostile environment complaint waives attorney-client privilege; Permission to depose investigating attorney *Bakhit v. Safety Marking*, 3:13-cv-01049 (JCH/HBF) (D. Conn. Nov. 6, 2014)
- Excluding co-plaintiff's subsequent conviction for criminal sale of narcotics as being more prejudicial than probative on credibility; *Bakhit v. Safety Marking*, 3:13-cv-01049 (JCH)(D. Conn. February 23, 2016)

LESSONS LEARNED

This was an extraordinary case in every way. Here are some of the important takeaways for employment and trial lawyers.

1. 42 USC §1981 Should Always be Pleaded in Race Discrimination Cases

§1981 has many advantages over Title VII and our state (CT) discrimination statute:

a. No exhaustion requirement

b. Longer statute of limitations (4 years against private employers, 3 years against state and municipal employers (through 1983)
c. Can sue individuals
d. No caps on damages

2. **Suing Individual Defendants Was Advantageous**

Although I have always been wary about whether or not to sue individual defendants in employment cases, it worked in our case. We sued five of the supervisor/harassers, the owner, who was not individually responsible for harassment, as well as the corporate defendant.

My concern about suing individuals in other cases has been that the jury will focus on the harasser, and let the company off. In *Bakhit*, this concern was greatly alleviated when the harassers, the company, and the owner were all represented by a single firm. At trial, this presentation of a united front by the company and the harassers worked to our advantage. It strongly contributed to the jury's perception of the company shielding the harassers.

In addition, the five harassers' presence throughout the entire trial, particularly during Mr. Bakhit and Mr. Miles' descriptions of what they did to them in the workplace greatly added to the perception of how intimidating and disdainful they truly were. They laughed and sneered throughout the trial. Although they were dressed for court, they easily could have been on the cast of "Sons of Anarchy." Definitely Trump voters.

On the stand, they fell on their swords without exception. Paul Thomas, my co-counsel, and I caught them on inconsistencies and contradictions many times. The two individuals against whom we had the least evidence were so antagonistic on the stand that we received substantially higher verdicts against them than anticipated.

Ordinarily, in cases where the claims against the individual defendants are common law torts (intentional infliction of emotional distress) instead of discrimination, there are significant issues of insurance coverage. In our case, because they were being sued individually for discrimination, it appeared that there would be coverage for them if held liable individually.

3. **Experts Make a Good Case Better**

I have rarely used experts in employment cases, for all of the reasons that we tend to avoid those expenses. In this case, I used three.

a. Human Resources Expert

When Mr. Bakhit initially retained me, he was still working at Safety Marking. We sent out a detailed complaint to Safety Marking under their anti-harassment policy outlining in detail many of the racist insults that he endured. We requested an investigation of the accusations by a neutral investigator and remediation. Safety Marking had their long-time labor and employment counsel do the investigation. He responded one month later, indicating that Safety Marking had found no corroboration of Bakhit' s complaints and were not going to take any

remedial action. The only problem is that the attorney-investigator never interviewed Mr. Bakhit before reaching his conclusions. In addition, they never interviewed any minority employees.

Although the deficiency of the investigation and response were obvious, we retained Ginger McCrae, of Employment Practices Solutions, Inc., as an expert to highlight the deficiencies.[1] We wanted to educate the jury about what these investigations are supposed to be, and state, as often as possible: **RULE #1: ALWAYS INTERVIEW THE COMPLAINANT IN A HOSTILE ENVIRONMENT INVESTIGATION.**

The court viewed Ms. McCrae as a rebuttal witness, after the defendant put on their *Faragher/Ellerth* defense on their defense case. She was the last witness in the trial, and she was terrific. She put the focus on the company's overall responsibility for what took place.

b. Racial Stereotyping Expert

One of the worst reference made during Bakhit' s employment occurred when an African-American employee accidently fell out of the back of a Safety Marking truck, and was dragged several feet across the roadway. His white supervisor/driver stated several times "that at least he could die happy knowing that he had dragged a black man by the black of his truck." This reference was an obvious reference to lynching and in modern times, the death of James Byrd by white supremacists who chained him to the back of a truck and murdered him. In addition, there were many stereotypical references and jokes.

We decided to retain an expert to explain to the jury the background of many of these references. We wanted to make sure that the lynching reference was made explicitly clear to the jury, and that they understood that the history of many of these "jokes" had their roots in the era of slavery and Jim Crow. We used Matthew Hughey, A Professor of African-Studies and Sociology at the University of Connecticut.

We were initially on the fence about putting Professor Hughey on the stand. The racism in this case was not subtle, and there was an argument that using an academic would be overkill and be resented by the jury. Also, Professor Hughey had written some provocative articles on racism that were outside the mainstream of our all-white largely suburban jury that were going to subject him to attack as an academic with extremist views.

In the end, Professor Hughey testified and it worked out terrific. He showed up in a bow tie looking extremely professorial. Both plaintiffs and our other corroborating witnesses had already testified in order to lay the foundation for his testimony, and the jury had responded with appropriate outrage at what they had heard. Professor Hughey's testimony allowed us to refresh them a second time on the horrible racist statements and behavior that the plaintiffs had experienced. At our direction, he did not provide opinions on the larger and more complex issues of racism in society. The jury was already sympathetic from Mr. Bakhit and Mr. Miles' testimony, and they were extremely engrossed in the lesson about the historical context of racism

[1] We found Ms. McCrae through posts on NELANET.

that Professor Hughey provided to them. It absolutely cemented their outrage about what took place.[2]

c. Neuropsychologist

Rebecca Timlin-Scalera provided support to Mr. Bakhit pro bono for several years while the case was pending. She had an expertise in PTSD and had provided treatment to First Responders after 9/11 and also after the Newtown massacre, and agreed to serve as our retained expert. She diagnosed Yosif with PTSD.

Yosif presented some unique issues for evaluation. He was an observant Muslim with a very concrete moral view of how persons treat one another. In addition, there were significant language and cultural barriers. Dr. Timlin-Scalera cut through these issues and wrote a powerful report on Yosif's behalf.

The lesson that I took from this case was that if you have a strong case, do not be afraid to invest in it by strengthening it with appropriate use of experts. It will pay off.

4. Use of Focus Groups

Just before to trial we did a "cut-rate" focus group (We had used up all of our money on experts). We assembled the group and put together the survey questions. Although the primary purpose was to see get reaction to our clients testimony, we learned a lot of things that helped us during voir dire and trial.

a. Making Yosif's religious, cultural, and language differences a strength, not a weakness

The first thing that the focus group emphasized to us was that most of them were not put off by the fact that Yosif was Muslim or an immigrant. Instead, they were particularly incensed that Yosif had been targeted and bullied not merely because he was black, but because his cultural and language barriers made him naïve and gullible. He was an easy target. He was powerless. This was clearly in contrast to what Fox News might lead you to believe.

Instead of running away from issues that could have been perceived as weaknesses, we made them our strengths: the story of the American Dream – an immigrant success story; a level playing field, and old-fashioned bullying of the weak.

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[2] At trial, defendants attempted to distinguish between the use of the traditional derogatory term "nigger" and the use of "nigga," a term that they suggested was currently commonly used by blacks and other minorities and in hip hop culture. They argued that when used in that context, it was not offensive. They presented several Hispanic employees to support their argument. The jury rejected the idea that the term was ever appropriate in the workplace. At summation, we quoted the eminent social commentator, comedian Tracy Morgan, who stated in a monologue on the "n" word – the appropriate time for white people to use the "n" word is …NEVER.

b. My Brother-in-Law Larry/Due Process and Fairness

My brother-in-law Larry was one of our focus group jurors. Larry has been an information technology manager at a large defense contractor for over thirty years. Larry's not a racist or a sexist. But over the years, at family dinners, Larry has complained to me about the impact of diversity requirements on efficiency and productivity, and the distractions caused by human resources rules and personnel issues raised. My efforts to enlighten him had been largely unsuccessful. Larry should have been absolute "poison" as a juror in an employment discrimination trial.

But Larry ended up on our side. Like any experienced long-term manager, Larry might grumble about the rules but he followed them and applied them consistently. He focused on Safety Marking's policies and in particular the evidence that the company had not followed its own policies. Although he was offended by the conduct itself, Larry was outraged at the company's blatant failure to follow their own rules.

Larry convinced us that the evidence of this lack of fair process was just as important as the evidence of outrageous behavior. We had no blacks on our jury, but we had plenty of "Larrys." We had a retired small business owner, a paralegal for an intellectual property law firm, and several administrative and lower level management employees for large companies. They may have complained about the rules at times, but they understood the need to follow the rules and consistency and fairness in their application.

In addition to the evidence of Safety Marking's failure to follow their anti-harassment policies, we also were able to prove that Safety Marking had not followed its own policies and procedures about promotions, training, and pay raises. We identified the comparable employees to Bakhit and Miles, did a substantial amount of comparative discovery, and set up a data bank of the comparative information.

At trial, we used Safety Marking's own documents to prove that Safety Marking ignored its own rules when they wanted to promote white laborers who did not meet all of the qualifications. We proved that Mr. Bakhit had met the qualifications for a promotion and a raise but never advanced. Finally, when they tried to discredit their own documents and suggest that they were inaccurate and/or incomplete, we discredited them with their own admissions.

Mr. Bakhit's economic damages for their failure to promote him and unequal pay were about $6,000. The jury awarded him $500,000 punitive damages on the promotion/unequal pay claims. Thank you Larry.

5. Jury Selection: The Tipping Point

For various demographic and procedural reasons, jury panels in federal court tend to be predominantly white. Our jury panel was all white, suburban, and did not appear to be particularly progressive in their views.

A jury consultant told me several years ago that plaintiff employment lawyers were too squeamish about "suburban, Republican, or Catholic" jurors. She explained to me that these jurors tended to follow their own moral codes. If the case passed their own threshold of right and wrong, their verdict would be decisive and unequivocal, and their damages would reflect their desire to remedy an injustice.

In hostile environment race cases and discrimination cases, there is a tipping point. In less overt cases there may a broad divergence of opinion between persons of color/progressives and more conservative white jurors about whether conduct reaches the threshold. Words like "political correctness" and oversensitivity" might be used to justify the behavior.

But once one reaches the tipping point, there is a consensus between whites and persons of color condemning racist behavior. Everyone except racists believes that there should not be racism in the workplace; the "n" word should not be used in the workplace; jokes making reference to lynching should be condemned; displaying the confederate flag and other references to slavery and Jim Crow are unacceptable in the workplace.

This was not a subtle case. We were confident that our case went well beyond the tipping point. This made jury selection quite easy, despite the absence of persons of color from the jury panel. We exercised our challenges to get rid of anyone that looked like, sounded like, or acted like the individual defendants. We kept everybody else. We did not need to use all of our peremptory challenges.

6. *Faragher/Ellerth* Affirmative Defense

The *Faragher/Ellerth* defense as to corporate liability for a hostile environment, like *McDonnell Douglas*, is one of those legal formulas that are much easier for attorneys and judges to apply on a summary judgment motion than for a lay jury to apply when instructed by the court.[3]

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[3] If the harassing employee(s) are the victims' coworkers, the employer is liable only if it was negligent in controlling working conditions. *Vance v. Ball State Univ*., 133 S. Ct. 2434, 2439 (2013). The employer is not liable unless it either (1) provided no reasonable avenue for complaint, or (2) employer knew or should have known about the harassment and failed to take corrective action. *Vance*, 133 S. Ct. at 2451; *Richardson v. Department of Correction*, 180 F. 3d 426, 441 (2d Cir. 2000); *Perry*, 115 F.3d at 149.

Error! Main Document Only. When the harasser is a supervisor, and the harassment culminates in tangible employment action against the victim, the employer is absolutely liable and the affirmative defense is unavailable. *Faragher v. City of Boca Raton*, 524 U.S. 775, 118 S. Ct. 2275, 2292-93, 141 L.Ed.2d 662 (1998); *Burlington Indus. v. Ellerth*, 524 U.S. 742, 118 S. Ct. 2257, 2270, 141 L.Ed.2d 633 (1998).

In a hostile environment claim involving harassment by a supervisor where there has been no tangible employment action, an employer may raise an affirmative defense, to respondeat liability for harassment by a supervisor, when the employee was not subjected to any "tangible employment action." The employer must prove: (a) that the employer exercised reasonable care to prevent and correct promptly any sexually harassing behavior, and (b) that the plaintiff employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise." *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998) and *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742 (1998).

Our case involved multiple harassers, a factual dispute over who was a supervisor vs. co-worker, and whether or not Mr. Bakhit or Mr. Miles suffered an adverse employment action. Our response to their summary judgment motion on the *Faragher/Ellerth* issue was quite simple: we would prevail under any standard. The court agreed, and summarily denied summary judgment. Unfortunately left the issues for the jury. The charge to the jury on the various alternative elements was extremely difficult to follow and apply.[4]

Although I have rarely filed cross-motions for summary judgment motions in my cases, I learned in this case that it may make sense to file partial motions for summary judgment on issues such issues as "supervisor v. co-worker" and "adverse action" in my future hostile environment cases. This means doing discovery specifically targeted at the issues. This will hopefully streamline the evidence and simplify the charge for the jury.

7. Take Advantage of the Broad Hearsay Exception in Hostile Environment Cases

First the obvious: Statements that constitute a hostile environment are not hearsay. Statements denigrating someone on the basis of race or gender are not being offered for the truth of the matter asserted.

Second: In cases involving multiple harassers, there is a single hostile environment experienced by the individual plaintiff, comprised of all of the incidents described that were committed by all of the persons identified. *Howley v. Town of Stratford*, 217 F.3d 141, 151 (2d Cir. 2000); *see also Washington v. Davis*, 426 U.S. 229, 242, 96 S. Ct. 2040, 48 L. Ed. 2d 597 (1976); *Kaytor v. Elec. Boat Corp*., 609 F.3d 537, 551-52 (2d Cir. 2010).

The often overlooked exception: Hostile remarks that are not directed against the plaintiff are admissible as part of the hostile environment. Remarks or behavior that are not directly overheard by the plaintiff that they were aware of during the course of their employment, are part of the hostile environment. *Schwapp v. Town of Avon*, 118 F.3d 106 (2d Cir. 1997); *Perry v. Ethan Allen, Inc.*, 115 F.3d 143, 150-51 (2d Cir. 1997). However, the inquiry does not end at that point. 42 USC §1981 and other anti-discrimination statutes do not punish employers for unfounded or uncorroborated rumors. The fact that the inappropriate statement was made or that a certain act actually occurred must be proven by competent, non-hearsay evidence before the plaintiff can testify that he knew about it. *Whidbee v. Garzarelli Food Specialties, Inc.*, 223 F.3d 62, 71 (2d Cir. 2000); *Howley v. Town of Stratford*, 217 F.3d 141, 155, (2d Cir. Conn. 2000).

Mr. Bakhit was aware of a lot of racist behavior that he did not witness firsthand. He became aware of much of it through Mr. Miles, who witnessed or heard many racist acts and shared them with Mr. Bakhit.

Preparation of hostile environment cases must include determining what information the plaintiff(s) experienced firsthand, and what they were told about but did not witness. Often the most outrageous conduct has not been specifically witnessed by the plaintiff but is part of "office legend." Try

[4] In my closing argument, I tried to cut through this morass. My opening line was "They don't get it." In my rebuttal argument, my opening line was "they still don't get it."

to figure out creative ways to prove that those events actually occurred. For example, the actual victim of the lynching reference was unwilling to cooperate in the trial. But Mr. Miles had overheard the driver of the truck who made the lynching comment bragging about it after the fact. He could testify to the fact that the driver bragged about it as a party admission.

At trial, the court utilized a two-step procedure for the admissibility of second-hand evidence of the hostile environment. Mr. Bakhit was permitted to testify initially about the hostile acts that he experienced directly. Then his co-plaintiff, Mr. Miles, and other witnesses testified about other incidents of racial hostility that they witnessed. Once the foundation for the admissibility of this second-hand evidence was provided, Mr. Bakhit was recalled to the stand, and was permitted to testify about the other acts of racism that he was made aware of during the course of his employment.

8. Take Advantage of the Continuing Violation Exception for Hostile Environment Claims

A hostile environment is an ongoing continuing violation that can occur over months or years. *National Railroad Passenger Corp. v. Morgan*, 536 U.S. 101, 114 (2002). "Under the continuing violation doctrine, a plaintiff may bring claims for discriminatory acts that would have been barred by the statute of limitations as long as 'an act contributing to that hostile environment [took] place within the statutory time period.'" *McGullam v. Cedar Graphics, Inc.*, 609 F.3d 70, 75 (2d Cir. 2010) (*quoting Nat'l R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 105 (2002).

In an environment permeated with racism or sexism from multiple sources, it is unlikely that the culture started the day plaintiffs where hired. In our case, plaintiffs told us numerous anecdotal stories of racist behavior that pre-dated their hiring. We investigated and discovered, among other things, a prior discrimination and retaliation complaint by another Sudanese immigrant at Safety Marking that had not been disclosed by the defendants. We heard stories of racist behavior, even violence that occurred years before our clients started working at Safety Marking. Be aggressive about finding evidence that demonstrates a longstanding pattern or culture of tolerance for egregious behavior.

9. Use the Resources Provided by NELA

Throughout the case NELANET and NELA members provided valuable resources. We were able to find experts and get legal references and advice for many issues that arose.

After the verdict, we found ourselves in the rare and very gratifying position of having to defend an extremely favorable verdict. We reached out to Professor Eric Schnapper, who I knew only by reputation and his presentations at prior NELA conferences. Professor Schnapper immediately took my call. He told me to forward him certain relevant documents from the trial. He jumped in without ever raising the issue of fees.

Over that weekend, my first free weekend in about seven weeks, Professor Schnapper called me numerous times to discuss issues relating to the verdict and potential appeal. Over the next several weeks, we spoke several times about defending the punitive damages award, how to position the case for appeal and framing the issues in the post-trial motions.

Ultimately we reached an extremely positive settlement several months after trial. As you all know, employment law is a difficult way to make a living. Professor Schnapper's willingness to help epitomized for me the network and support that NELA provides for us.

10. **Every Good Case Starts With a Good Story**

But this case, like every case, begins and ends with Yosif Bakhit. He was warm, generous, and courageous.

This was a case where a black Muslim immigrant who came to this country for a better life for himself and his family – the American Dream. Yosif stood up for his rights in the face of bullying and severe abuse and his company's refusal to protect him or take him seriously.

The issues that played out in Mr. Bakhit's trial – racism, islamophobia, xenophobia, and treatment of refugees, resonated and continue to resonate beyond that courtroom.

But in that one fabulous moment, the good guys won. Mr. Bakhit had his day in court, and was vindicated. Our civil justice system worked. A Connecticut jury sent a strong message about zero toleration for those dark impulses currently raising their ugly heads in our society. I was privileged to have played a role in Mr. Bakhit's case.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

YOSIF BAKHIT
KIYADA MILES

v. 3:13CV1049(JCH)

SAFETY MARKING, INC.
MARK KELLY
RAY VEZINA
PHIL BRININGER
JAMES CODY
JEFF PERRA
TOM HANRAHAN

JUDGMENT

This matter came on for trial before a jury and the Honorable Janet C. Hall, United States District Judge. On March 24, 2016, after deliberation, the jury returned a verdict in favor of plaintiff Yosif Bakhit and against defendants Safety Marking, Inc., Ray Vezina, Phil Brininger, Jeff Perra, and Tom Hanrahan for compensatory damages. Bakhit is awarded compensatory damages in the amount of $300,000 for his hostile work environment claims, jointly and severally against defendants Safety Marking, Inc. liable for up to $300,000, Ray Vezina, liable for no more than $150,000; Phil Brininger, liable for no more than $60,000; Jeff Perra, liable for no more than $30,000; and Tom Hanrahan, liable for no more than $60,000, for a total award of compensatory damages for Bakhit's hostile work environment claims of $300,000.

Bakhit was also awarded compensatory damages for his race discrimination claims in the amount of $5,909 against defendant Safety Marking, Inc. only.

Additionally, on March 25, 2016 after further deliberation on punitive damages,

the jury returned a verdict in favor of Yosif Bakhit, awarding Bakhit punitive damages on his hostile work environment claims against defendant Ray Vezina in the amount of $40,000; against Phil Brininger in the amount of $30,000, against Tom Hanrahan in the amount of $30,000 and against Safety Marking, Inc. in the amount of $900,000. Bakhit was also awarded punitive damages on his race discrimination claims in the amount of $500,000 against defendant Safety Marking, Inc.

On March 24, 2016, after deliberation, the jury returned a verdict in favor of plaintiff Kiyada Miles and against defendants Safety Marking, Inc., Ray Vezina, Phil Brininger, James Cody, and Tom Hanrahan for compensatory damages. Miles is awarded compensatory damages in the amount of $80,000 for his hostile work environment claims, jointly and severally against defendants Safety Marking, Inc., liable for up to $80,000, Ray Vezina, liable for no more than $24,000; Phil Brininger, liable for no more than $8,000; James Cody, liable for no more than $24,000; and Tom Hanrahan, liable for no more than $24,000, for a total award of compensatory damages for Miles' hostile work environment claims of $80,000.

Miles was also awarded compensatory damages for his race discrimination claims in the amount of $6,165 against defendant Safety Marking, Inc. only.

Additionally, on March 25, 2016, after further deliberation on punitive damages, the jury returned a verdict in favor of Kiyada Miles, awarding Miles punitive damages on his hostile work environment claims against defendant Ray Vezina in the amount of $30,000; against Phil Brininger in the amount of $10,000, against Tom Hanrahan in the amount of $30,000; against James Cody in the amount of $30,000; and against Safety Marking, Inc. in the amount of $900,000. Miles was also awarded punitive damages on

his race discrimination claims in the amount of $500,000 against defendant Safety Marking, Inc.

Therefore it is ORDERED, ADJUDGED and DECREED that judgment is entered in favor of Yosif Bakhit in the total amount of $1,805,909 against defendants Safety Marking, Inc., Ray Vezina, Phil Brininger, Jeff Perra, and Tom Hanrahan; and in favor of Kiyada Miles in the total amount of $1,586,165 against defendants Safety Marking, Inc., Ray Vezina, Phil Brininger, James Cody, and Tom Hanrahan, all in accordance with the jury verdicts and the case is closed.

Dated at New Haven, Connecticut, this 1st day of April, 2016

ROBIN D. TABORA, Clerk

By /s/ Diahann Lewis
Deputy Clerk

Entered on Docket 4/1/2016