



## **Use of ‘Caps’ To Apportion Individual Defendants’ Joint and Several Liability Permitted in Employment Discrimination Action**

Theresa Y. Kananen

---

On April 1, 2016, the United States Court for the District of Connecticut entered judgment on a jury verdict in *Bakhit, et. al. v. Safety Markings, Inc. et. al.*, 3:13-CV-1049, an employment discrimination case, awarding the two plaintiffs a total of \$3.4 million in compensatory and punitive damages on claims for race discrimination and hostile work environment under the Civil Rights Act of 1991. Interestingly, this damages award was imposed using a hybrid of joint and several liability and apportionment. As background, when defendants are held jointly and severally liable for damages, the prevailing party may collect all, or any part, of the entire damage award from either defendant. On the other hand, when a damage award is apportioned, the prevailing party may collect from any given defendant only the specific dollar amount of damage apportioned to that defendant. In *Bakhit*, the award of compensatory damages on the plaintiffs’ respective hostile work environment claims was entered jointly and severally against both the company and certain individual defendants found to have engaged in unlawful conduct. However, the jury imposed “caps” on the individuals’ joint and several liability, finding that of the total damages award, only a certain amount could be collected from any individual defendant.

## Authors and Contributors

---

**Theresa Y. Kananen**

Partner, Atlanta Office

404.873.7010

theresa.kananen@agg.com

not *if*, but *how*.<sup>®</sup>

## About Arnall Golden Gregory LLP

---

Arnall Golden Gregory, a law firm with more than 150 attorneys in Atlanta and Washington, DC, employs a “business sensibility” approach, developing a deep understanding of each client’s industry and situation in order to find a customized, cost-sensitive solution, and then continuing to help them stay one step ahead. Selected for The National Law Journal’s prestigious 2013 Midsize Hot List, the firm offers corporate, litigation and regulatory services for numerous industries, including healthcare, life sciences, global logistics and transportation, real estate, food distribution, financial services, franchising, consumer products and services, information services, energy and manufacturing. AGG subscribes to the belief “not if, but how.” Visit [www.agg.com](http://www.agg.com).

**Atlanta Office**

171 17th Street, NW

Suite 2100

Atlanta, GA 30363

**Washington, DC Office**

1775 Pennsylvania Avenue, NW

Suite 1000

Washington, DC 20006

To subscribe to future alerts, insights and newsletters: <http://www.agg.com/subscribe/>

©2016. Arnall Golden Gregory LLP. This legal insight provides a general summary of recent legal developments. It is not intended to be, and should not be relied upon as, legal advice. Under professional rules, this communication may be considered advertising material.