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Jury Awards Individual Plaintiff \$15.5 Million for Retaliation and Defamation Claims

On October 23, 2006, a Manhattan jury awarded a plaintiff \$12 million (\$4 million from each of three defendants) for her claims of retaliation in the case of *Kimberly Osorio et. al. v. Source Enterprises, Inc. et. al.* The plaintiff, former Editor-in-Chief of *The Source* magazine, a publication that focuses on the hip-hop music industry, alleged that she was terminated because she made a sex discrimination complaint to the company's Human Resources department and then refused to rescind that complaint when asked to do so by the magazine's co-owners, who were named defendants. The retaliation claims against the co-owners of the magazine were based upon New York State and New York City Human Rights laws, while the retaliation claims against the magazine were based upon those laws as well as Title VII. An additional \$3.5 million was awarded against one of the co-owners of the magazine for defamation.

The trial was held before Judge Jed S. Rakoff in the Southern District of New York. There were originally two plaintiffs, but the claims of one were dismissed before trial. The remaining plaintiff also asked the jury to award damages based on her claims of hostile work environment and discriminatory discharge, but the jury found that those claims lacked merit. Despite finding against the plaintiff on the underlying discrimination claims, the jury nevertheless upheld the retaliation and defamation claims, which illustrates the greater risk of exposure in retaliation cases than in discrimination cases. The jury also asked the judge to award punitive damages, but he declined to do so, noting that the size of the verdict itself served to send a strong enough message. The defendants have stated that they intend to appeal the verdict.

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If you have any questions about how this decision might impact you and your company, please contact **Kenneth J. Kelly** in the **New York** office of EBG at 212-351-4606, kkelly@ebglaw.com. **Diana Costantino Gomprecht**, an associate in the National Litigation Department, assisted in the preparation of this alert.

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