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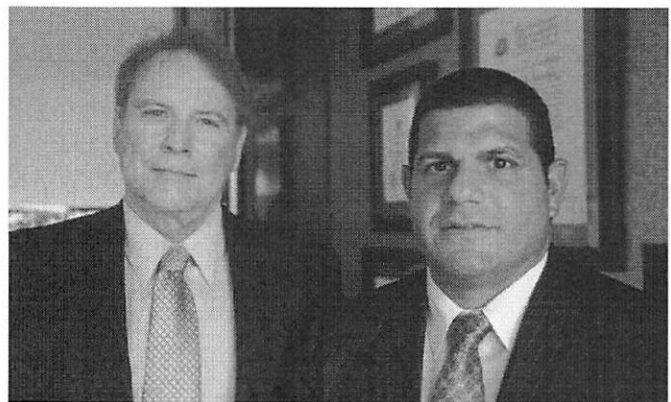
# Hollywood Attorneys Win \$1.8 Million Final Judgment in Bait-and-Switch Case

Ely R. Levy and Richard J. Lee, attorneys at Hollywood law firm Militzok & Levy, argued that a non-English speaker was baited into a contract with a Paul bakery franchise owned by the Apety Group in Miami.

By Raychel Lean | June 25, 2018

Miami-Dade Circuit Judge Bronwyn C. Miller sided with Hollywood attorneys Ely Levy and Richard J. Lee earlier this month, finding a Paul Bakery franchise in Miami liable for fraudulent misrepresentation, conversion and unjust enrichment.

The final judgment issued June 5 stated the Apety Group, Apety Sawgrass and CEO Vladimir Alfa owed French citizen Albert Hanouna more than \$1.78 million in monetary damages.



**Richard J. Lee and Ely R. Levy with Militzok Levy in Hollywood. Photo: Melanie Bell/ALM**

“Hanouna was clearly the victim of a ‘bait and switch,’ wherein Alfa and the Apety entities attempted to divest Hanouna of his investment, as the Apety Sawgrass franchise was the only profitable Apety location,” the ruling states.

Though litigation is still ongoing as Levy and Lee await the defense’s next move, they view Miller’s findings as a wake-up call to individuals who may view businesses as a shield from accountability.

“Hiding behind a corporation, that doesn’t work,” Levy said.

The Apety group had originally filed suit against their client, Hanouna, alleging they were entitled to losses in connection with one of their Paul Bakery franchises. Their claim was that Hanouna violated a noncompete agreement and owed \$100,000.

Hanouna, on the other hand, claimed he’d been duped, which prompted his lawyers to file a counterclaim against Alfa and the Apety Group.

“On the eve of trial, they dismissed their claim in its entirety against Mr. Hanouna,” Levy said.

In 2006, Hanouna, along with his wife and children in France, liquidated their assets and left everything behind to start afresh in the United States. They did so on the basis of an agreement made with the Apety Group.

“This was going to be his investment and his life,” says Levy.

Initially, the group told Hanouna he’d receive a stake in a new Paul Bakery opening at The Falls, an open-air shopping mall in Kendall, according to court pleadings. But when planning permission fell through, Hanouna was offered membership interest in a Sawgrass Mills location instead.

Hanouna was under the impression that he’d receive a 50 percent stake in Apety Sawgrass for an investment of \$850,000, according to Levy and Lee.

“The court found that he got absolutely nothing in the end for that \$850,000,” Lee said.

As the Sawgrass location was under construction at the time, Hanouna was told he could work and train at an Aventura location, along with his wife and children. He managed the store, and in April 2006 received membership certificates in Apety Sawgrass.

But when Hanouna needed help preserving his visa, he turned to the Apety Group for sponsorship, who then presented him with what he thought were immigration documents.

"Within the documents presented for signature was purportedly a document exchanging Hanouna's interest in the Apety Sawgrass for an interest in Apety Aventura," Miller's final judgement states.

Counsel for the defense, Timothy P. O'Neill, an attorney at Cohen, Norris, Wolmer, Ray, Telepman & Cohen, and Gary M. Carmen and Bertila Fernandez of GrayRobinson, argued that a 50 percent stake in Apety Sawgrass would have required a \$2.1 million investment, which Hanouna never made.

Furthermore, they claimed Hanouna had signed a contract for 40.8 percent ownership of Apety Aventura franchise, for which he hadn't met the required deposit amount.

"Albert was supposed to pay about \$870,000-plus, but only paid part of that amount despite multiple demands, and so his shares were diluted to 38.9 percent," they argued.

Hanouna was later fired.

"Our client was presented with investments, and then was baited in, then there was a switch," Levy said. "He got something he wasn't supposed to get, something he didn't bargain for."

For Levy and Lee, the most difficult element of the case was ensuring strong attorney-client communication with a client speaking a foreign language.

"Trying a case with an interpreter and understanding your client when his language is French, that was always the challenge as far as this case," Levy said.

Logistics also became an issue, as Hanouna would fly in from France for the trial, which was delayed at various times for different reasons.

"Preparing for trial is always hard, but when you have to do it two or three times, and, in this case, when your client is on the other side of the ocean, it's very difficult," Levy said.

When seeking a counterclaim, Levy and Lee say they'd typically go with a jury trial. But in this case, they chose to try the case in front of a judge in a bench trial, because the facts rested so heavily on reams of documents.

"We felt that she [Miller] could handle it better than a jury, because what happens in a jury trial is that the jury sorts out the facts and the judge determines the law," Lee said.

In Hanouna's case, law and fact were so intertwined that Levy and Lee felt a jury would struggle to keep up.

"I think the reason we got this end result was because we had a very good judge who worked hard and everything was understood. And when it was over, the facts were clear and the law was clear," Lee said.

Levy and Lee incorporated plenty of testimony from Hanouna, as well as former employees of the Apety Group, in the trial that ran from April 16 to 19.

"We have fun trying cases together, Richard and I, and that's a big part of it. Loving what you do and enjoying actually being in trial is important. And if you can help someone in the process, like Mr. Hanouna, who really needed the help, I think it's a win-win for everyone," Levy said.

Having worked together for almost 10 years, the pair feels its found its groove.

"Ely is very good at prepping the witnesses and getting them ready for trial," said Lee, who handles cross-examination.

"Richard is really great at honing in on detail and bringing out seemingly insignificant details, looking at them and really realizing the significance," Levy said.


Opposing counsel from GrayRobinson and Cohen Norris declined to comment because the case is ongoing.

Meanwhile, Hanouna's team is ready for pushback.

"We're going to take this case all the way through to its final conclusion, wherever it ends up," Levy said. "We'll handle that all the way up to the top."

**Case:** Albert Hanouna v. Apety Group, Apety Sawgrass, Vladimir Alfa **Case No.:** 11-20563-CA-04 **Description:** Fraud, conversion, unjust enrichment **Filing date:** July 1, 2011 **Settlement date:** May 29, 2018 **Judge:** Miami-Dade Circuit Judge Bronwyn C. Miller **Plaintiffs attorneys:** Ely R. Levy and Richard J. Lee, Militzok & Levy, Hollywood **Defense attorney:** Timothy P. O'Neill, Cohen, Norris, Wolmer, Ray, Telepman & Cohen, North Palm Beach **Settlement amount:** \$1.78 million

Read the final judgement:



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IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT, IN AND FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO. 11-20563 CA 04

GENERAL JURISDICTION DIVISION

NO THANKS YES

ALBERT HANOUNA,

Counter-Plaintiff,

v.

APETY AVENTURA, LLC, and

APETY GROUP, INC.,

Counter-Defendants.

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ALBERT HANOUNA,

Counter-Plaintiff,

v.

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VLADMIR ALFA, individually, and

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