Summary of SC100116, *Emanuel Matthews, et al. v. Harley-Davidson, et al.*
Appeal from the Platte County circuit court, Judge W. Ann Hansbrough
Argued and submitted October 11, 2023; opinion issued January 30, 2024, and modified on the Court's own motion April 2, 2024

Attorneys: Matthews and the other appealing employees were represented by Nimrod T. Chapel of The Chapel Law Group LLC in Jefferson City, (573) 303-0405; and Cyrus Dashtaki of Dashtaki Law Firm LLC in St. Louis, (314) 932-7671. Harley-Davidson was represented by Robert J. Rojas and Jennifer A. Buck of Littler Mendelson PC in Kansas City, (816) 627-4400. Syncreon was represented by Jay M. Dade and Timothy R. Ertz of Jackson Lewis PC in Overland Park, Kansas, (913) 981-1018.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: Several employees appeal a circuit court's judgment dismissing their claims against their employers for hostile work environment and aiding and abetting racial discrimination in violation of the state's human rights act. In a 6-0 decision written by Judge W. Brent Powell, the Supreme Court of Missouri vacates the judgment as to the three claims the employees appealed and remands (sends back) the case. The circuit court's judgment was a final, appealable judgment under this Court's rules, and the employees sufficiently pleaded their claims of hostile work environment and aiding and abetting racial discrimination under the act.

Facts: Until May 2019, Harley-Davidson Motor Company Operations Inc. operated a plant in Kansas City that manufactured and assembled Harley equipment, parts, and merchandise. Harley contracted with another company, syncreon.US, which provided some of the plant's workers. The majority of Harley's employees at the plant were white, and approximately 90 percent of Syncreon's employees at the plant were black. In 2019, 18 employees sued Harley and Syncreon alleging multiple violations of the state's human rights act. In their petition, the employees alleged multiple incidents with racial overtones took place at the plant, including Syncreon hiring a white man to supervise its predominantly black employees, even though Harley previously had terminated that same man for discriminating against Harley's black employees; frequent, racially motivated insults; a physical racial division, including a line the predominantly-black Syncreon employees were prohibited from crossing, but the majority-white Harley employees were permitted to cross; and bathrooms that functionally were racially segregated. The employees claimed these racially motivated acts and confrontations created a racially charged climate of fear, intimidation and hostility for black employees in the plant that constituted a continuing pattern of discrimination, harassment and retaliation based on their race that caused them to feel unsafe at the plant. The employees also alleged several specific, racially charged incidents occurred at the plant from 2017 to 2019, including a noose being found in the women's bathroom in 2017; a swastika and a black doll hanging by a noose being found in the women's bathroom in April 2018; a November 2018 assault against a black female Syncreon employee whose complaints were discarded by Syncreon's human resources department; a white female Syncreon employee showing coworkers a family photo bordered by confederate flags and depicting racist signs, which Syncreon told a black employee to ignore; graffiti, including

swastikas and the words "N****** die" and "N****** go back to Africa," being found in a bathroom used by Syncreon employees in January 2019; and, again, in February 2019, racist graffiti and a noose being found in a Syncreon bathroom and Syncreon or Harley managers directing evidence of such incidents to be destroyed. Harley and Syncreon moved to dismiss 18 employees' claims for hostile work environment and aiding and abetting racial discrimination. They argued the employees failed to state a claim because the employees did not allege they personally experienced any of the allegedly harassing conduct or that Harley or Syncreon aided and abetted by providing substantial assistance or encouragement in the commission of acts prohibited under the act. The circuit court sustained the motion and dismissed the 18 employees' claims. The 18 employees appeal.

VACATED AND REMANDED.

Court en banc holds: (1) This Court has jurisdiction to hear the appealbecause the judgment entered by the circuit court and appealed by the parties is a "final judgment." A judgment is eligible for certification under Rule 74.01(b) as a final judgment only if it disposes of a judicial unit of claims – meaning the judgment resolves all claims by or against at least one party or disposes of one or more claims that are sufficiently distinct from the claims that remain pending in the circuit court. While claims made by seven other employees remain pending in the circuit court, the circuit court's judgment resolved all of the claims alleged by the 18 employees appealing to this Court. The dismissed claims, therefore, constituted a judicial unit, which can be certified for appeal under this Court's rules.

(2) The employees sufficiently pleaded the elements of a hostile work environment claim under the state's human rights act. They pleaded Harley and Syncreon subjected them to a continuous pattern of a hostile work environment based on their race, including outrageous instances such as swastikas, nooses, and graffiti using vile racial slurs against black employees. Such allegations constitute unwelcome harassment. While the employees did not specifically allege they witnessed or experienced the racially charged incidents, these incidents, by their very nature, targeted and preyed on all black employees in the plant. Furthermore, the employees pleaded that the cumulative effect of the racially charged incidents directly caused injury to their dignity and civil rights, interfered with their work performance, and adversely affected their physiological well-being.

(3) The employees sufficiently pleaded the elements of aiding and abetting racial discrimination under the state's human rights act. A They specifically pleaded multiple instances in which Syncreon provided substantial encouragement or assistance to allegedly tortious conduct, including urging employees to stay quiet about incidents that allegedly created the hostile work environment at the plant, discarding written employee complaints into a trash can, and misleading an employee as to the status of an investigation. The employees further alleged Syncreon's business operations at the plant were thoroughly entwined with and dependent on Harley. Harley allegedly permitted the plant to be racially segregated and failed to prohibit Syncreon managers or its own employees from engaging in acts that created the alleged hostile work environment. The employees, therefore, sufficiently pleaded that Harley affirmed the ongoing racial conflict conducted by others in the plant and substantially encouraged or assisted in the creation of a hostile work environment.