

# It's Past Time for Censure

*The \$4.3 million judgments against the city of Oakland and Desley Brooks were the last straw.*

**D**esley Brooks has long been an embarrassment in Oakland City Hall. The city councilmember has routinely been rude to, dismissive of, and abusive toward her council colleagues and the public. And now her anger — and violence — threatens to cost the cash-strapped city millions of dollars at a time when it can barely afford to pave streets, fix broken sewer pipes, and keep libraries open.

In short, it's past time for the council to censure Brooks for gross violations of the council's official code of conduct.

The last straw for Brooks was the recent \$4.3 million legal judgments against her and the city of Oakland for her 2015 assault of ex-Black Panther Elaine Brown. An Alameda County jury ruled unanimously that the city must pay \$3.75 million of that total because Brooks was acting in her official capacity as councilmember when she attacked Brown at Everett & Jones BBQ restaurant. Witnesses said that just before the assault, Brooks threatened to use her position as councilmember to block Brown's plan to build affordable housing in West Oakland.

The jury ordered Brooks to personally pay Brown \$550,000. Two jurors told the *East Bay Times* that she has "anger-management issues," and one called her a "bully."

Unfortunately for Oaklanders, the city's insurance policy will only pay \$750,000 of the \$3.75 million, so the city likely will have to slash programs and reduce services to pay the rest — if the judgments are upheld on appeal.

No elected official should ever act so irresponsibly as to lose \$3 million in public funds. And no elected official should ever violently attack another person. Brown had to be hospitalized.

According to the council's official code of conduct, "abusive conduct" is grounds for censure. One could argue that Brooks has repeatedly violated that standard. There's no doubt she did so in the Brown case.

It's also worth noting that the council adopted its censure policy after another case of misconduct by Brooks — for misusing public funds in her district. The council declined to censure Brooks in that case in part because it hadn't yet adopted a censure policy.

It has one now. And Brooks clearly should be censured. It's mostly a symbolic act, but it would send a strong message to her District 6 constituents to elect a new councilmember this November.

—Robert Gammon



## PEOPLE

# Taking on Tesla

*Bryan Schwartz, who owns a law firm in Oakland, has filed a class-action case against Elon Musk's electric car company, alleging widespread racial discrimination.*

By Patrick Hoge

**W**hen Tesla got hit with a recent class action lawsuit alleging racial harassment of black workers at its Fremont plant, the company vehemently denied the charges and called the case an obvious attempt to "extort" money.

That didn't sit well with the plaintiff's attorney, Bryan Schwartz, a rising East Bay legal figure who has won several high-profile and big dollar court cases, including recent settlements that cost Bank of America more than \$55 million. "It's defamatory. It's simply not true. It's a knowingly false statement. What we do is sue wrongdoers to help create social justice, and we usually win," said Schwartz, referring also to his co-counsel, fellow Oakland-based labor and civil rights attorney Lawrence Organ, who, earlier in 2017, filed other individual race harassment suits against Tesla.

In the class suit filed in November, the two attorneys are representing Marcus Vaughn, who

worked at Tesla's plant from April 23 to Oct. 31, 2017, and allege he was fired for "not having a positive attitude" after complaining about co-workers and supervisors using the N-word to address him and others. Vaughn says he complained to Tesla and Elon Musk personally in writing last July, but nothing was done.

Tesla officials deny the allegations, and the company issued three detailed public statements about claims filed by Schwartz and Organ. The company said that with 33,000 employees, including 10,000 in Fremont, unfortunate incidents are impossible to avoid, but the company in no way condoned misbehavior and in fact fired multiple people after doing investigations.

Tesla also pointed out that Vaughn and other plaintiffs were hired through employment agencies, and instead of being terminated, Vaughn was simply let go when his six-month contract expired. A company spokesperson declined to add to those statements.

Tesla and CEO Elon Musk are icons of forward thinking in the progressive Bay Area, known for their advanced technologies and environmental consciousness. So, the notion they would tolerate racial discrimination goes against the grain. Tesla has promised to "fight to the ends of the Earth" against the class-action suit.

Schwartz suggested a quick settlement would make sense for Tesla, but he said he's ready to litigate for years — which he has done to significant effect in other cases — because the suit is legitimate. "If they're even halfway rational, they will want to settle as quickly as possible because of what it says about their company," he said. "It just becomes more expensive and embarrassing the longer it goes on."

Following media coverage, more complainants

Photo by Clayton J. Mitchell

have come forward alleging racist language at Tesla's Fremont plant and the presence of racist graffiti in bathrooms that doesn't get cleaned up.

"It's literally, all day, day in, day out — N-word, this, N-word, go get me that," Schwartz said. "We have dozens of witnesses who have already come forward all across the plant. They call it, 'The Plantation.'"

Schwartz, 45, frames the Tesla suit as a struggle for civil rights in an era when white nationalist groups are widely seen to have become emboldened by the presidency of Donald Trump to be more aggressive and visibly push a racist agenda. "Right now is a time when we need strong civil rights leaders, and that's what I'm trying to be," he said.

As a Jew whose forebears faced discrimination, Schwartz said he has been passionate about civil rights since he was a youth active in B'nai B'rith. "It was ingrained in me as a Jewish person that we need to look out for minorities in every sense of that word, and the disenfranchised people who are less powerful, because we've been in that situation," he said.

Raised in Cupertino, Schwartz recalled how his grandparents faced overt anti-Semitism, particularly his grandfather while seeking employment before World War II, and the couple remembered those slights well into their 90s.

"They couldn't join the country club because there were no Jews or dogs allowed," he said.

Schwartz wrote his undergraduate thesis about multicultural change at his alma mater, Cornell University, and after graduation started working in San Jose as a Spanish-speaking investigator at the U.S. Equal Employment Opportunity Commission, where he was exposed to cases of "terrible" employment discrimination, he said.

But he became frustrated when cases languished in the bureaucracy and began to think about the need for good lawyers to advocate for victims.

Before becoming an attorney, Schwartz went to work for President Bill Clinton's campaign in Texas, where he helped open early voting stations in minority neighborhoods. While at UC Berkeley's Boalt School of Law, Schwartz studied for a semester in Barcelona. There he learned for the first time about isolated Jewish communities, some of them very ancient, in Africa, Asia, Latin America, the former Soviet Union, and the margins of Europe.

That launched him on a 16-year personal mission to photograph and document disparate populations of Jews, some of whose pictures adorn his offices. He has written numerous articles and has had exhibitions of pictures around the country, which have helped raise money to assist impoverished Jews abroad, and last year he published a book on the subject called *Scattered Among the Nations*.

After graduation, Schwartz clerked for a federal appeals court judge in Pennsylvania and then joined an employment law firm in Washington, D.C., where, after two years, he ended up on the front page of the *Washington Post* for winning several hundred thousand dollars and reinstatement for a municipal water quality

manager who was improperly terminated after warning federal authorities about excessive lead in the district's tap water.

The following year, Schwartz was again in the news when he got a federal board to order the Smithsonian Institution to reinstate a whistleblower fired in retaliation for reporting that ranking officials of the National Air and Space Museum had misused the institution's world-class aeronautical restoration facility in Maryland for personal projects, including repairs on the director's private airplane.

While in the nation's capital, Schwartz met his wife, Alicia Cernitz-Schwartz, a schoolteacher, and in 2006, he came home with her to California and got a job managing a law office in San Francisco. In 2009, Schwartz founded his own Oakland law firm, which today has six attorneys. He and his wife moved to Alameda, where they live with their young son and daughter. The couple are active in the Island's school system, particularly of late in trying to combat a recent rise of anti-Semitic acts.

Schwartz's most lucrative victory so far was last year's \$36 million settlement between a Bank of America subsidiary that had misclassified real estate appraisers and not paid them overtime or afforded them mealtime or rest breaks. The deal was one of a series of related settlements that together totaled more than \$55 million.

Similarly, public records show that in December, Schwartz obtained a preliminary agreement from San Francisco-based Shift, a venture capital-backed online marketplace for used cars, which agreed, pending court approval, to pay \$1.5 million to settle a class lawsuit on behalf of 191 workers who claimed they were not paid overtime or given other benefits like meal- and rest-breaks.

The Shift and Bank of America settlements required that those employees be reclassified as eligible for overtime going forward, something Schwartz said he has won in numerous cases.

The judge in the Bank of America case specifically praised the high quality of Schwartz's work, as well as the amount of financial risk his firm assumed, in explaining why it was reasonable to award Schwartz and his co-counsel \$12 million in fees, which is on the higher side of the typical scale.

Schwartz is tenacious, and he has multiple cases that have been going on for years without paying anything, so digging in for a long-term battle with Tesla won't be anything new.

One of Schwartz's cases, which accuses the federal government of discriminating against people with disabilities in the Foreign Service, has been going on since 2006.

In another case, Schwartz won a precedent-setting decision in November from the state's Fourth District Court of Appeal, holding that if corporate officials violate California wage laws, owners, officers, and directors can be personally liable.

Before Tesla, Schwartz had never filed a race-based harassment class-action lawsuit. He hopes to begin deposing officials at the plant soon and promises eventually to grill Elon Musk personally on the stand.

"It could be the biggest case I ever have," he said.



THAT'S SO OAKLAND

## The Town's Baker

*Yahshimabet Sellassie runs a thriving baking company.*

By Shelby Pope

Yahshimabet Sellassie is an Oakland native with a successful baking company. She provides Red Bay Coffee with their shortbread and granola. She does popups, selling her cookies and cupcakes to loyal fans. She's even made a few lofty, labor-intensive wedding cakes. She's also 14 years old.

Sellassie opened her business Yahshi Bakes, which she runs with her mother, in 2015. She grew up baking with her family and learned from her parents, who both cooked in restaurants. But as she grew older, she started broadening her influences, spending hours poring over cookbooks and watching YouTube videos of different baking techniques. Her parents encouraged her to follow her passion, and around the same time she started her business, she auditioned for the Food Network show *Kids Baking Championship*. Her recipe for a lemongrass raspberry cake earned her a place on the show, and she was the first runner-up during the show's 2016 season.

"Ever since I was younger, I've always wanted to be on the Food Network. It was like a dream," she said. "It was a crazy experience. The kitchens were huge; they had all the materials. It was a really great experience."

Sellassie has encountered the occasional naysayer. "My age changes how people perceive me," she said. "I'll get people saying, 'You're too young.'"

But she's focused on running her business, which has garnered praise from people like Ayesha Curry, celebrity chef Marcus Samuelsson, and the fans who tell her on Instagram what an inspiration