

## Litigation Alert - Reputational Recovery

August 26, 2014

### Renowned Architect Wins Retraction From The New York Review of Books

On August 25, 2014, *The New York Review of Books* issued a retraction in response to a defamation suit filed in New York State Court by well-known architect Zaha Hadid. Hadid was selected to design one of the stadiums for the 2022 FIFA World Cup in Alwakrah, Qatar. The book review in question portrayed Hadid as indifferent to the deaths of workers at the stadium construction site. In the retraction, the author of the book review acknowledged that there have been no worker deaths at the stadium site, where construction is not scheduled to begin until 2015. Less than two business days after filing the suit, Hadid obtained a powerful retraction that will become the permanent record of the case.

#### Background

In the June 5, 2014, print edition of *The New York Review of Books*, Martin Filler reviewed the book *Why We Build: Power and Desire in Architecture* by Rowan Moore.<sup>1</sup> The review, titled “The Insolence of Architecture,” channeled the book’s “moral outrage” about working conditions at many high-profile construction sites. In particular, Filler wrote:

[D]espite the numerous horror stories about this coercive exploitation, some big-name practitioners don’t seem moved by the plight of the Emirates’ imported serfs. Andrew Ross, a professor of social and cultural analysis at New York University and a member of Gulf Labor, an advocacy group that is seeking to redress this region wide injustice, earlier this year wrote a chilling *New York Times* Op-Ed piece. In it he quotes the Iraqi-born, London-based architect Zaha Hadid, who designed the Al Wakrah stadium in Qatar, now being built for the 2022 World Cup. She has unashamedly disavowed any responsibility, let alone concern, for the estimated one thousand laborers who have perished while constructing her project thus far. “I have nothing to do with the workers,” Hadid has claimed. “It is not my duty as an architect to look at it.”

Hadid reportedly made the attributed statements at a February 24, 2014 press event for the grand opening of the London Aquatic Center. She was asked to comment on a recent article in *The Guardian* about working conditions on construction projects in Qatar.<sup>2</sup> According to the complaint, “The last two sentences are select segments from Hadid’s February 2014 quote and, juxtaposed with the blatantly false preceding sentence, falsely imply that Hadid’s February 2014 statements were made with regard to deaths of workers constructing the Al Wakrah stadium.” In his retraction, Filler acknowledged:

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<sup>1</sup> The review is available at <http://www.nybooks.com/articles/archives/2014/jun/05/insolence-architecture/?insrc=toc>.

<sup>2</sup> See Owen Gibson, *More Than 500 Indian Workers Have Died in Qatar since 2012, Figures Show*, *The Guardian*, Feb. 18, 2014, <http://www.theguardian.com/world/2014/feb/18/qatar-world-cup-india-migrant-worker-deaths>.

[W]ork did not begin on the site for the Al Wakrah stadium until two months after Ms. Hadid made those comments; and construction is not scheduled to begin until 2015. There have been no worker deaths on the Al Wakrah project and Ms. Hadid's comments about Qatar that I quoted in the review had nothing to do with the Al Wakrah site or any of her projects.

The retraction is published on The New York Review of Books' homepage and at the bottom of the online version of the offending article.

### **Analysis**

Under New York law, defamation requires "a false statement, published without privilege or authorization to a third party, constituting fault as judged by, at a minimum, a negligence standard, and it must either cause special harm or constitute defamation per se."<sup>3</sup> A statement "is libelous per se if the statement tends to expose the plaintiff to public contempt, ridicule, aversion or disgrace, or induce an evil opinion of him in the minds of right-thinking persons, and to deprive him of their friendly intercourse in society."<sup>4</sup>

Although the book review was published more than two months ago, a jury would likely find that the offending statements—which Filler has already acknowledged to be false—constitute libel per se. Filler's retraction, however, will limit the publication's exposure. A jury may consider a retraction as a mitigating circumstance not only to reduce actual damages, but also as evidence that the author did not act with the reckless disregard required for punitive damages.<sup>5</sup>

Regardless of the outcome of the lawsuit, Hadid has already won a retraction that will serve as a powerful tool to protect her commercial and personal reputation. Although the statements are still available in print and online, Filler's published admission that the statements are false is sufficient to recover Hadid's reputation. Whether a libel judgment is obtained through trial, settlement or a retraction, what matters is the record. Now, the retraction of the false story, not the story itself, has become the permanent record.

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<sup>3</sup> *Martino v HV News, LLC*, 114 A.D.3d 913, 913 (N.Y. App. Div. 2d Dep't 2014).

<sup>4</sup> *Id.* at 914.

<sup>5</sup> See N.Y. Civ. Rights Law § 78.

## Contact Information

If you have any questions regarding this alert, please contact:

**Mark J. MacDougall**

[mmacdougall@akingump.com](mailto:mmacdougall@akingump.com)

202.887.4510

Washington, D.C.

**Connor Mullin**

[cmullin@akingump.com](mailto:cmullin@akingump.com)

202.887.4493

Washington, D.C.

**Kristine L. Sendek-Smith**

[ksendeksmith@akingump.com](mailto:ksendeksmith@akingump.com)

202.887.4078

Washington, D.C.