

## What We'll Talk About Today

- How HR's obligations can conflict with one another
- How to stand up to authority if you disagree with their orders
- The risks associated with standing up to upper management and the consequences if you don't
- Ways to protect yourself and your job as an HR professional

# Our Case Study

- Naftal v. Prince George's County Memorial Library System
- Jeffrey Naftal, fellow SHRM member and former HR director of the Prince George's County Memorial Library System
- Jeff filed a lawsuit against his former employer, alleging they unjustly fired him when he followed company policy





### R. Scott Oswald

- SHRM member
- Employment & whistleblower lawyer
- Based in D.C.
- Represents employees (plaintiffs)
- More than 40 trial verdicts

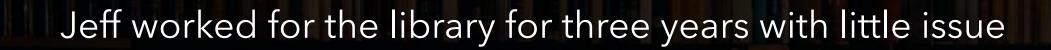


# Jeffrey Naftal

- Hired in 2016 by the Prince George's County Memorial Library System
- Director of Human Resources
- White man, late 50s

# Naftal v. Prince George's County Memorial Library System Court document excerpts from 2022 trial\*

\*An appellate court vacated the jury verdict and remanded the case for a second trial. The matter was resolved to Mr. Naftal's satisfaction before the second trial.



Teaze remarked in her evaluation of Naftal at the

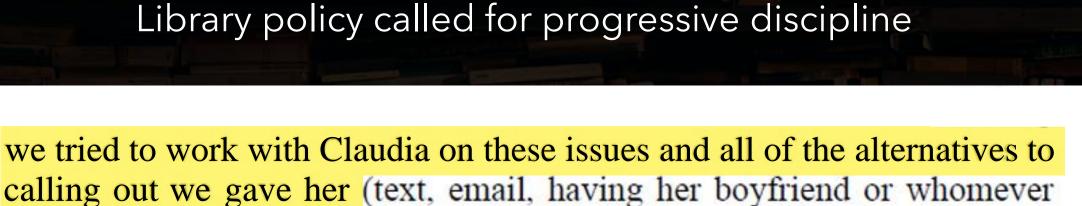
end of his probationary period, "In his first six months, Jeff has made a great difference in the

confidence in procedures and in the ability of the department to get things done. He is an

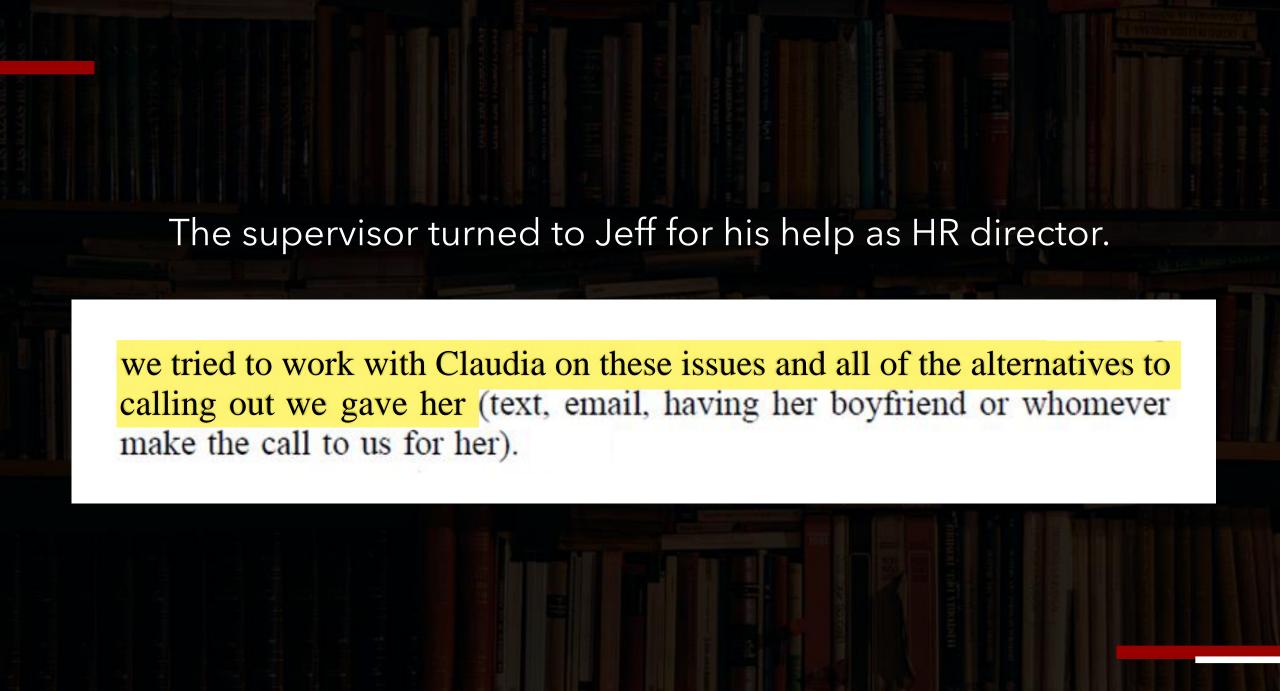
excellent addition to the team." Ex. 1.



Its like clockwork. If she works her Saturday she takes Monday. Same thing happened last pay period. She actually showed up Saturday and then took 8 hours on Monday. The one before that, she took 8 hours Saturday so she actually showed up Monday... she's still playing fast and loose with the call out procedures.



make the call to us for her).





Would you have yet another talk with the employee OR move to the next step in discipline?





Jeff recommended following progressive discipline.
The CEO disagreed.





Follow company policy (and law)

Follow executive direction

# HR's Twin Obligations

Follow company policy (and law)

- Mostly involves rules / defined procedures
- Based on employee responsibilities & rights

Follow executive direction

## HR's Twin Obligations

#### Follow company policy (and law)

- Mostly involves rules / defined procedures
- Based on employee responsibilities & rights

#### Follow executive direction

- Can involve exceptions / ad hoc decisions
- Based on managerial authority



Is the company at risk? Are you?







# Personal Liability

- Some workplace laws allow harmed employees to seek damages from individuals as well as from a corporation, such as:
  - Family and Medical Leave Act
  - Occupational Health and Safety Act
  - Fair Labor Standards Act
- Greater participation in illegal behavior = greater chance of trial
  - Examples

# Stand Up to Authority

- □ Identify a conflict with law and company policy
- □ Document your concern in writing
- Ask for an opinion from your company's legal advisor
- □ Escalate to a higher level
- ☐ Trigger compliance mechanisms, if available
- □ Act under protest
- ☐ Look for a better employer

# What Jeff Did

- ☑ Identify a conflict with law and company policy
- ☑ Document your concern in writing
- ☑ Ask for an opinion from your company's legal advisor
- Escalate to a higher level
- □ Trigger onp and to the pisme if a hilable
- □ Look for a better employer

# Protect Your Legal Claims

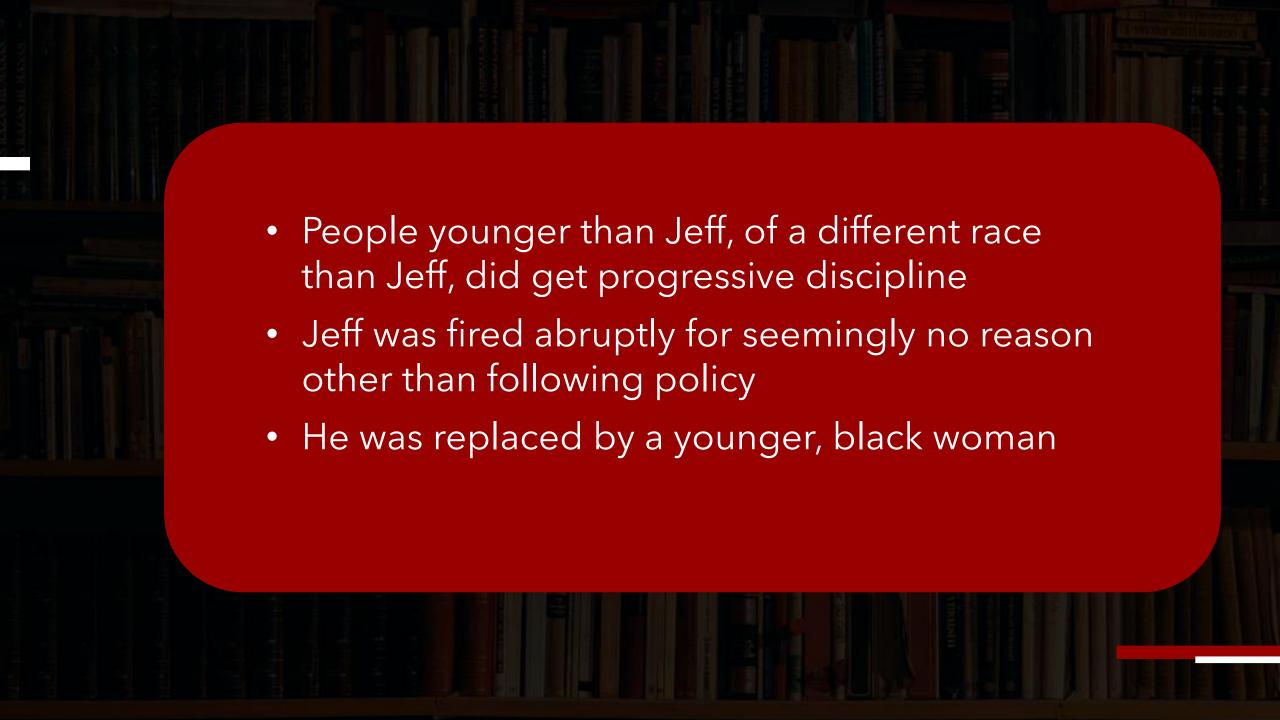
- Familiarize yourself with anti-retaliation laws
- Engage in "protected activity," which may require whistleblowing or outright refusal to violate a law
  - HR professionals may need to go the extra mile because identifying problems is part of their job
- Document, document, document
- Don't wait for things to get worse
  - Shop for a new employer who won't ignore the law
  - Get legal advice before you're fired

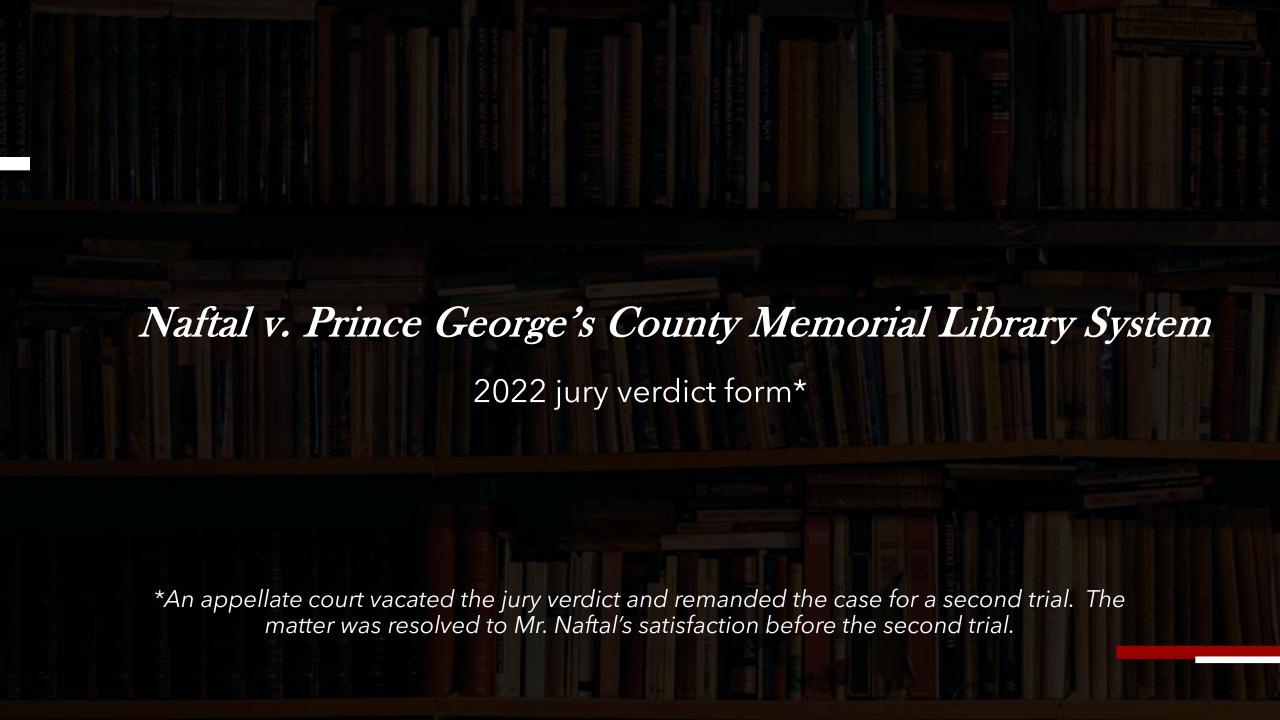


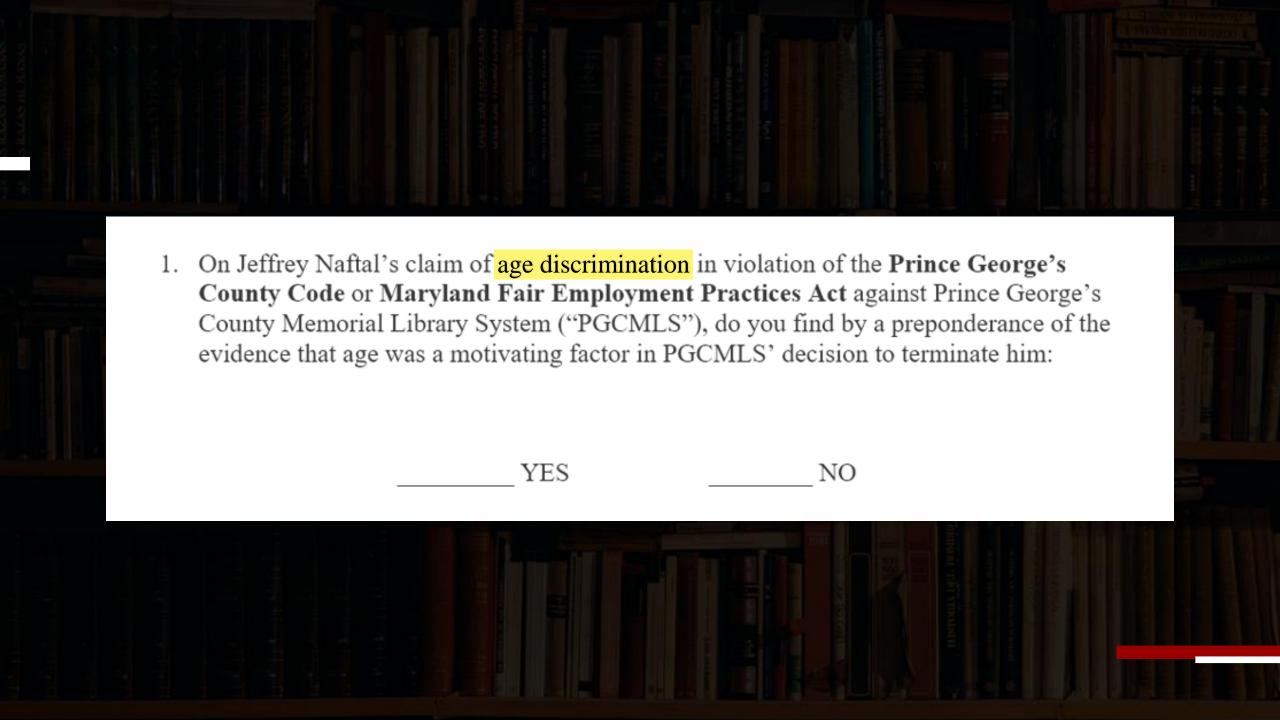
- Talk to a lawyer if you haven't already
- Save documents and communications
- Say as little as possible, but do assert that you're being retaliated against

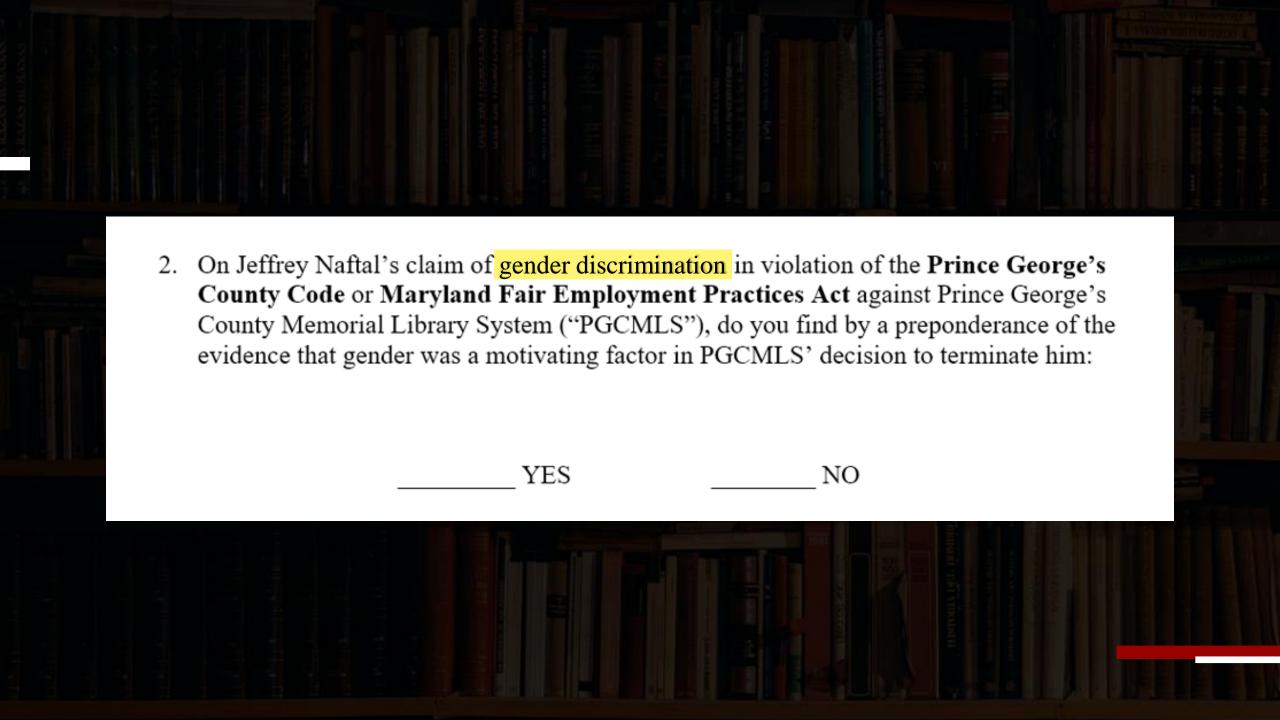


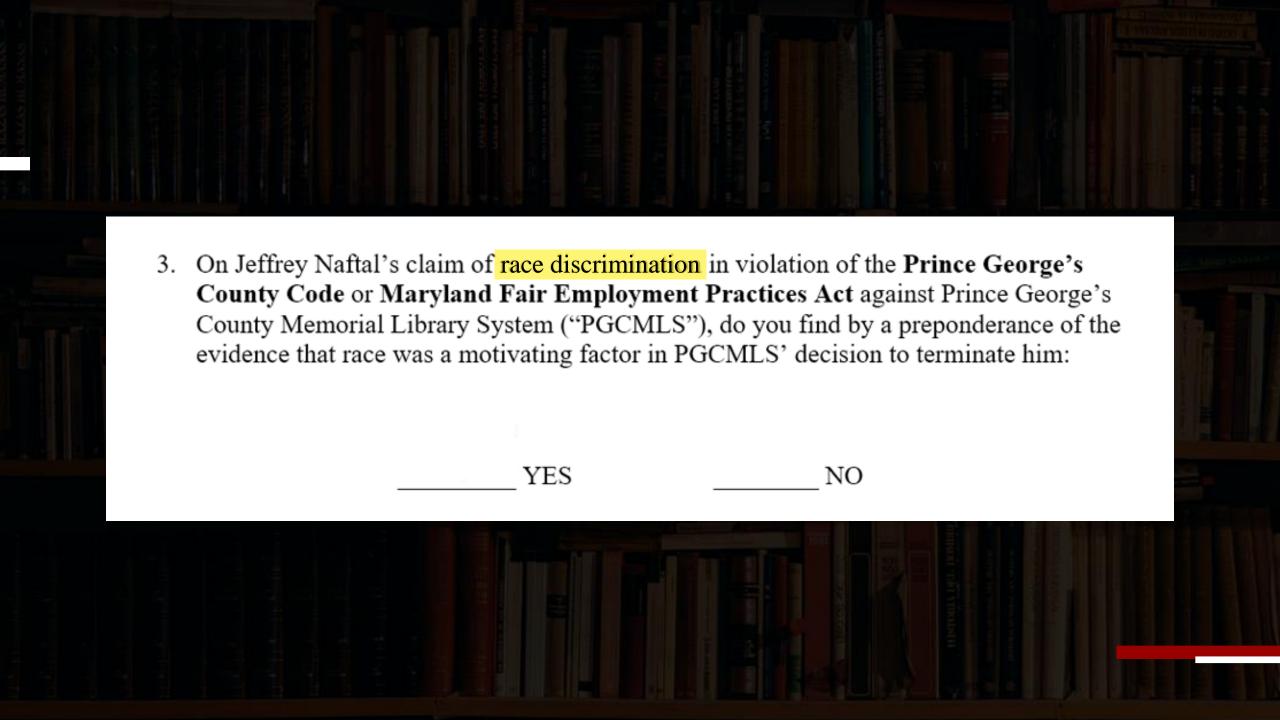
- Bias based on an "old white man" stereotype
  - "Lacked empathy"
  - "Authoritarian"
  - "Disciplinarian"
- Supposed clash with new library culture
- Followed all rules, performed well
- The only person fired and with no progressive discipline













# Anti-discrimination & anti-harassment plan for library Training for executives & board

\*An appellate Court vacated the jury verdict and remanded the case for a second trial. The matter was resolved to Mr. Naftal's satisfaction before the second trial.

# And the CEO lost her job soon after



- Laws protect those who try to do the right thing
- Standing up to authority is tough but possible
- You have options even if you're fired

