

## ATTORNEYS

### LEGAL MALPRACTICE

#### Fiduciary Duty and Fraud

VERDICT: \$29,021,959.

CASE/NUMBER: Billy Blanks, et al. v. Seyfarth Shaw, LLP, et al. / BC308355.

COURT/DATE: Los Angeles Superior Central / April 4, 2005.

JUDGE: Hon. Susan Bryant-Deason.

ATTORNEYS: Plaintiff - James R. Rosen, Adela Carrasco (Law Offices of James R. Rosen, P.C., Beverly Hills).

Defendant - Joseph Connolly, John M. Moscarino, Paula Greenspan (Moscarino & Connolly, LLP, Los Angeles).

TECHNICAL EXPERTS: Plaintiff - George R. Hedges, Esq., entertainment litigation/Talent Agencies Act, Los Angeles; Charles Pereyra-Suarez, Esq., standard of care/breach of fiduciary duty, Los Angeles; Michael J. Wagner, Esq., damage calculation, Palo Alto; Martin D. Singer, Esq., entertainment litigation/talent agencies act, Los Angeles.

Defendant - Edwin F. McPherson, Esq., entertainment litigation/talent agencies act, Los Angeles; Richard Mainland, Esq., standard of care/business and professions code, Los Angeles.

FACTS: The plaintiffs, Billy Blanks, his wife and their business, BG Star Productions, claimed that their legal counsel, Seyfarth Shaw and its principal, William H. Lancaster, committed malpractice and fraud, and breached their fiduciary duty.

Beginning in October 1999, the defendants represented the plaintiffs in connection with the plaintiffs' Talent Agencies Act ("TAA") claim and other theories to recoup the \$11 million in talent agent fees they wrongfully paid to their former accountant, Jeffrey Greenfield, who claimed to be their business partner. Greenfield was unlicensed as a talent agent or athlete agent. The defendants were required to present the TAA claim to the State Labor Commissioner, before trying that claim de novo in Superior Court, however they mistakenly filed with the Superior Court.

The plaintiffs claimed that when the defendants learned of the approaching deadline for filing the administrative TAA claim, the defendants kept delaying to file in order to collect additional attorney's fees.

The Commissioner ultimately ruled that the former accountant violated the TAA, and excused any further payments, but held that Blanks could not recover amounts already paid because the claim was filed after the deadline.

Approximately one year before the Labor Commissioner hearing, the defendants had been replaced as Blank's counsel by Allen, Matkins, Leck, Gamble & Mallory, LLP.

PLAINTIFFS CONTENTIONS: The plaintiffs contended that the defendants concealed from them the Labor Commissioner's original jurisdiction of their TAA claim in order to churn the billing of avoidable discovery on the file. They also contended that the TAA claim was the strongest and only viable cause of action to recover the fees paid to Greenfield.

DEFENDANT CONTENTIONS: The defendants denied liability and contended that their litigation strategy was appropriate, approved by Blanks, and protected by the judgmental immunity rule. The defendants asserted that the other 16 claims against Greenfield had merit (including rescission based on fraudulent inducement, unfair business practices and violations of the California Athlete Agents Act).

The defendants disputed, as a matter of law, that a TAA licensing claim alone could have resulted in a judgment against Greenfield for all amounts collected by him. The defendants contended that the TAA cannot be used to confiscate money other than unlicensed talent agent commissions (which were minimal, according to the plaintiffs' witnesses).

The defendants also claimed that any loss to Blanks was caused by following successor counsel's negligent advice to abandon all non-TAA claims and instead to perfect a legal malpractice case against Seyfarth Shaw.

JURY TRIAL: Length, 32 days; deliberation, nine days.

THE RESULT: The court ruled pretrial that the defendants breached the standard of care. The jury assigned all liability to the defendants and awarded the plaintiffs \$9,310,972 for legal malpractice; \$500,000 for breach of fiduciary duty; \$10 million for fraudulent concealment; and \$3,521,959 in pretrial interest. It also assessed punitive damages of \$15 million against Seyfarth Shaw only. Total verdict was \$38,332,931. On May 17, 2005, the trial court adjusted the jury award to \$29,021,959. The Court awarded the plaintiff \$2,134,363 in attorney's fees and costs. Total award: \$31,156,322.

OTHER INFORMATION: The defendants' motions for a New Trial and for Judgment Notwithstanding the Verdict were denied on July 11, 2005.