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Trial Reports

Tort/Consumer Protection

Plaintiff Induced To Buy Rural Auto Dealership -- Not Allowed To Relocate -- Fraud, Unfair Trade, RICO Claims Alleged -- \$6 Million Settlement

Brief statement of claim: Plaintiff Toyota dealer alleged that he was induced to purchase a small Toyota dealership in a small rural market based on a promise to allow him to move the dealership to a large metropolitan market. Based on that promise, the plaintiff paid \$1,000,000

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for the small dealership. After plaintiff purchased the dealership, he was informed that he would not be allowed to relocate as promised. Plaintiff used his best efforts to make the dealership successful; however, due to high overhead and poor market conditions, the business failed.

The dealership's failure caused plaintiff to become approximately \$250,000 out of trust with its floor plan financing company, defendant World Omni Financial Corp., which was a sister company to Southeast Toyota Distributors, Inc. – the defendant who Plaintiff alleged fraudulently induced Plaintiff to buy the dealership in the first place. Plaintiff brought claims against Southeast Toyota Distributors, World Omni Financial Corp., the parent corporation of these two corporations and other defendants for fraud, unfair and deceptive trade practices, conspiracy and federal civil RICO.

Principal injuries (in order of severity): Loss of business profits and loss of the value of a Toyota dealership

Special damages: \$1,000,000

Tried or settled: Settled

County where tried or settled: The case was transferred to the United States District Court, Southern District of Florida, Fort Lauderdale Division, where it was pending at the time of settlement.

Case name and number: Magic Toyota, Inc. v. J.M. Family Enterprises, Inc. et al (92-8146-CIV-NCR)

Date concluded: August, 1993, but pursuant to a confidentiality agreement, the amount of the settlement could not be disclosed until May 15, 1994.

Name of Judge: n/a

Amount: \$6,000,000, which included a cash payment of \$5,750,000 and the forgiveness of a \$250,000.00 Judgment.

Insurance carrier: n/a

Expert witnesses and areas of expertise: Cliff Thomas, C.P.A., Raleigh, and J. Finley Lee, Ph.D., economist, Chapel Hill

Attorneys for Plaintiff: Donald R. Strickland of Blanchard, Twiggs, Abrams & Strickland, P.A., Raleigh; Bill Clark of Biel, Clark & Johnson, Hilton Head Island, SC; and Dianne Weaver of Weaver, Kuvin & Weaver, Ft. Lauderdale, FL

Other useful info: The case was settled pursuant to a confidentiality agreement in which plaintiffs agreed not to disclose the amount of the settlement until May 15, 1994 to allow the defendants several months to negotiate settlements in similar cases. Defendants were concerned that if the amount of this settlement and the Toyota of Wilson settlement (see above) became public that it would be more difficult to settle the other cases on their merits. Defendants sought complete confidentiality; however, Plaintiffs were only willing to provide confidentiality for a reasonable period of time to allow the defendants to accomplish their stated objective of confidentiality.

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