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Top Verdicts

The largest and most significant verdicts and appellate reversals in California

TOP DEFENSE VERDICTS

First Motor Group of Encino et al. v. Encino Motor Cars LLC et al.



DAVID E. ROSEN



RALPH A. CAMPILLO

After nearly 30 years practicing law, David Rosen isn't used to being surprised, but that's exactly what happened after he won a defense verdict for his client last year.

As Rosen and his team left the courthouse, nine jurors were waiting outside and began cheering and clapping for his client when he emerged.

Some of the jurors even embraced Rosen's client, apologizing for him having been through such an ordeal, Rosen said, adding, "I'd never seen that before."

The lawsuit concerned the sale of a Mercedes Benz dealership in Encino. *First Motor Group of Encino LLP et al. v. Encino Motor Cars LLC et al.*, LC106723 (L.A. Sup. Ct., filed Jan. 12, 2018).

The agreement required the sellers to provide the buyers with three years of financial statements. This was no trouble for Rosen's client, he said, as they were the same financial statements previously submitted to the manufacturer.

"The day before the statute of limitations ran out, the buyers claimed they were defrauded and that my client misrepresented the financial conditions of the dealership," Rosen said.

In an interview, plaintiff attorney Aaron Jacoby of Arent Fox LLP said his team had appealed the

case and would attempt to focus more on the warranty included in the submitted financial statements. "A warranty in an agreement is a warranty, regardless of what else may have happened. I think that's what was missed here," Jacoby said.

The crux of the claim was that the dealership's financial statements were adjusted at year-end for inventory and depreciation, Rosen said.

The plaintiffs, who live in the United Arab Emirates, had never owned an American car dealership and claimed they could not have known about end-of-year adjustments, he said. Rosen described their argument as, "It doesn't matter if we should've known; we didn't actually know. ... The court did come down on the side of it not being enough for us to prove that they should have known; we needed to prove that they actually knew."

Rosen's team did end up proving that, through what he called a battle of the experts.

"I think we effectively used their experts to prove our points," Rosen said. Above each side's facts of the case, "is a whole universe of common ground," Rosen added. All the experts agreed how financial statements are prepared and used, he said "From the jurors' perspective, they're

case INFO

Breach of warranty, fraud
Los Angeles County
Superior Court Judge C. Virginia Keeny

Defense lawyers: Mintz Levin Cohn Ferris Glovsky and Popeo PC, Ralph A. Campillo; Murphy Rosen LLP, David E. Rosen, Mario Horwitz

Plaintiffs' lawyers: Arent Fox LLP, Aaron H. Jacoby, Franjo M. Dolenac, Kirsten A. Hart

listening to the plaintiffs' experts agreeing with a lot of our positions," he explained.

Rosen said he viewed the win as a victory against "this notion that people use litigation as a tool to renegotiate a deal. ... To me, the victory that was obtained in this lawsuit is holding someone to a deal they struck."

The scare tactic of legal action, Rosen said, is often enough to coerce a person into renegotiation, especially with millions of dollars potentially on the line.

"There is leverage to gain by doing it this way, and I'm sure that's why it's become a rising trend," Rosen said.

Rosen called the jury "very astute," adding, "They knew who was wearing the white hat and who was wearing the black one."

— Carter Stoddard