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Litigators of the Week: NJ Jurors Award Founders of Automotive Ecommerce Site $63M in Business Fraud Case

By Ross Todd
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Our Litigators of the week are **Ellison Ward Merkel**, **Nicholas Hoy** and **Evan Hess** of **Quinn Emanuel Urquhart & Sullivan**.

Last week, state New Jersey state court jurors awarded $56 million to their clients, Steven Royzenshteyn and Roman Gerashenko, the founders of automotive ecommerce business CARiD.com, in a fraud case against defendants who convinced them to hand over a majority stake in the business in exchange for a $5 million loan.

After a five-week trial, Monmouth County jurors found that the defendants misled the plaintiffs into believing that Canadian Tire Corp., a major retailer, was part of the deal. Jurors came in with damages of$2 million above the highest number the plaintiffs suggest. This week, after an additional punitive damages phase, jurors tacked on an additional $7 million to the verdict.

Litigation Daily: Who are your clients and what was at stake?

Evan Hess: Our clients, Steven Royzenshteyn and Roman Gerashenko, are two self-made businessmen who had built an incredibly successful online automotive parts and accessories retailer from the ground up. They both immigrated to the United States with their families when they were young and had to learn English here. They did not come from money.


Courtesy photos

(l-r) Ellison Ward Merkel, Nicholas Hoy, and Evan Hess of Quinn Emanuel.

They earned everything themselves through their own hard work. Initially, they met as competitors. But they quickly learned they had complementary skill sets and started their business on a handshake.

Through the defendants' fraud, our clients lost control of the company that they had started, which was valued at multiple hundreds of millions of dollars. The case started as their attempt to get back the company, but as it went on, that became impossible. By trial, the goal was to make sure that they were repaid for the value of the company they had lost to the defendants.

How did this matter come to you and the firm?

Nelly Merkel: Steven and Roman first came to myself and former QE partner **Rollo Baker** looking for help with a subsequent dispute that had developed between these parties concerning a SPAC merger the defendants entered into against our clients' objections, five years after the transaction that was at issue at trial. We agreed to take on that case, but when we realized there was already a hard-fought litigation set for trial between the same parties, we knew we had to get involved to make sure that both cases were operating in harmony and to maximize our chances of success.

What are some considerations you have to keep in mind when you sign on to a case as late in the game as you did here?

Hess: When you work on a case from the very beginning, you have the opportunity to shape the strategy and narrative from day one. That will influence a number of decisions, chief among them what you seek in discovery, what witnesses you depose and what types of experts you'll retain. While there may be ways to re-open discovery in certain circumstances, often when we come into a case in the lead-up to trial, the record is set. Getting up to speed isn't enough. Working together as a team to see what you have—and what you don't—and how you'll deal with both is key. Here, the team did significant work to find what we needed and, when we couldn't, find ways to use what we had to answer the questions we expected the jury would want answered.

What steps have you taken to help change the trajectory of this case since you signed on last fall?

Merkel: When this case was originally filed, it was an equitable case seeking rescission of the deal so that my clients could simply get the controlling stake in their company back.By the time we came in, circumstances had changed drastically—most importantly, defendants filed the company for bankruptcy in late 2023, wiping out the common shares and making rescission impossible. When we first appeared in the case last fall, the case was set to be tried before a judge in New Jersey's Chancery Division, and our damages expert had been excluded. We picked up and argued a motion that our predecessor, a tremendous solo practitioner, **Daniel Ginzburg**, had filed seeking to reinstate the expert report. We argued that the reasons for its exclusion—that the case was nearly set for trial when his report was filed back in 2020—was obviously mooted by the passage of time, and that keeping it out was incredibly prejudicial and contrary to New Jersey law. We also agreed to drop all of our equitable claims—since they had been rendered impossible by the bankruptcy—and promptly filed a motion to transfer the case out of Chancery and to try it in front of a jury. Winning that motion was our single most important achievement before trial.

Who all is on your team and how did you divide the work at trial?

Nick Hoy: Nelly and I would not have been in the position to try and win this case had more senior lawyers not advocated for us to have stand-up court opportunities early in our career. In fact, one of the first times we worked together was a multibillion-dollar trial 10 years ago, when we were both sent up there to cross-examine significant witnesses. So, when it came to assigning roles for this case, it wasn't even a question that the associates on our team would be standing up in court. And Nelly and I couldn't be prouder of how the team performed. Evan and another associate on our team, **Hannah Odenthal**, handled the entire expert case. Another senior associate, **Rafe Andrews**, took the lead at the charge conference. And the three junior associates on our team, **Christine Botvinnik**, **Kavya Dasari** and **Gabriel Rosenblum**, were regularly in court, and when they weren't in court, they were prepping witnesses, writing outlines and cranking out trial motions. All that left Nelly and me to split up the fact witnesses. Plus, Nelly handled the summation, which was—if I can brag from my front-row seat—truly exceptional.

What were your trial themes and how did you drive them home with the jury?

Merkel: In addition to the core theme of credibility that Nick highlights below, a critical theme for us was personal responsibility. The defendants actually started their case in openings by saying our clients never took responsibility for anything that had happened. But in their testimony, our witnesses acknowledged making some mistakes. By contrast, the defendants didn't acknowledge anything they had done wrong and in fact simply tried to pretend unhelpful facts didn't exist. (One notable example was when one of the defendants claimed that a text message one of our clients sent was probably just a typo that meant the exact opposite of what it said.)

In closing, we were able to turn this theme against the defendants entirely. Even though they had been the ones to call us out, our clients admitted some mistakes, while the defendants admitted nothing. Ultimately, they looked like the ones who were shirking responsibility.

What can other plaintiffs bringing fraud claims in business disputes take from how you tried this case?

Hoy: Our relentless focus in this case was on credibility. This case, at its core, like many fraud cases, required the jury to believe our clients and disbelieve the defendants. That meant that when our witnesses testified, we couldn't try to tell "our side" of the story. We had to tell the whole story, warts and all. Our clients had to truthfully admit some things that they would have preferred to avoid. That led to some uncomfortable moments, of course. But it paid dividends. One of the points we made in closing was that our clients, despite being deposed three times apiece, were never impeached—not even once—at trial. But we impeached the defendants again and again, and the jury saw them remembering (or not remembering) one thing at their depositions and then remembering something completely different today. Of course, that's because our clients were telling the consistent truth. Whereas by contrast, one lie begets another.

What did the punitive damages phase that you tried this week look like? Where do things sit now?

Hoy: The jury just returned their second phase punitive damages verdict and awarded an additional $7 million in damages. As far as our presentation in that phase, we had top of mind that the jury had already been hearing evidence for five weeks. And they had already deliberated for two days and then returned a verdict in our favor and awarded all of the compensatory damages we'd asked for. We didn't want to waste even a minute of the jury's time covering topics that had been well-covered already. We did short cross-examinations of the three individual defendants focused on their financial condition, which was something we couldn't explore during the first phase—that's it. And then in an even shorter summation, we reminded the jury of just a few key pieces of evidence that we thought the jury should have front of mind when considering whether defendants' conduct warranted additional punishment.

What will you remember most about this matter?

Merkel: This Monmouth County jury. What a smart, engaged, patient, and dedicated group. Over a nearly six-week trial, we only lost one juror, and we only lost him 5.5 weeks in. Everyone attended, paid attention and took their deliberations incredibly seriously. It was truly a testament to how excellent our jury system can be at resolving civil disputes, even though it required serious personal sacrifices from these jurors as the trial went on for week after week. Nothing beats the vindication of having a jury of your peers agree with you after so many years of struggling to obtain justice.

Hoy: I will remember how quiet this trial was. What I mean by that is that despite the seriousness of the cause and the pressure that attends to that, this team kept eyes steadily on the horizon. There was no shortage of dramatic moments in the courtroom, but we left those at the podium. I am not sure I ever remember a moment of real tension or a sharp word or a raised voice, which says something given the ups and downs of a long trial. Even when we got the verdict, there was pin-drop quiet. At least until we left the courthouse.

Hess: Our clients' trust. They didn't just live through the fraud, they had been fighting the case for seven years, doggedly. There were over 80 motions filed in the case, including repeated motions to dismiss, repeated motions for summary judgment and a slew of discovery motions. When they asked us to step in in the lead-up to trial, it took a significant amount of trust to hand the reins over and to stick to our team's strategy. That trust is ultimately what led to this outcome.