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Dentons Beats Luxury Designer's \$7.5 Million Malpractice Case in NY Appeal

Handbag and jewelry designer V. Bruce Hoeksema has been battling with Salans, now a part of Dentons, since at least 2013.

By Jack Newsham | April 05, 2019

A predecessor to the global megafirm Dentons this week convinced a New York state appeals court to toss a \$7.5 million malpractice claim brought by companies affiliated with handbag and jewelry designer V. Bruce Hoeksema.

The court ruled Thursday that Hoeksema and several companies with his initials "VBH" in their names could not hold



Photo: Diego M. Radzinski/ALM

Dentons predecessor Salans liable for damages that allegedly flowed from a temporary restraining order that forced VBH to shutter its stores for a few months in 2011 and 2012.

Salans, which became part of Dentons in 2013, had argued that under its retainer, it had no authority to contest the TRO request.

"Defendants speculate that had plaintiff appeared at the TRO hearing, injunctive relief may have been denied or the hearing court may have adjourned the case to an earlier date," the Appellate Division, First Department ruled

(<https://www.documentcloud.org/documents/5796487-AD1-Decision-4-4-2019.html>).

"Such speculation is insufficient to sustain a claim for legal malpractice."

According to the decision, which reversed a lower court's ruling, the suit started when Salans sued Hoeksema and his companies for some \$300,000 in unpaid bills in 2013. Hoeksema and his company VBH Luxury countersued, claiming Salans and its lawyers not only bungled the TRO, but gave them shoddy advice for years in their negotiations with the investment fund Sciens and its principal John Rigas.

In Hoeksema and VBH Luxury's telling, their lawyers at Salans had them go along with basically every proposal Sciens threw at them, leading what was initially discussed as an equity investment in the VBH companies to morph into a loan that grew from \$2 million to \$8 million. The designer and his company said they were forced to take even more onerous terms as the relationship progressed.

But Salans argued that it honored its commitments. The firm said it was not initially retained to litigate and had no authority to contest the TRO, and said it ultimately helped Hoeksema and his enterprise negotiate a very favorable settlement with Sciens.

The appellate panel sided with Salans. While Hoeksema and affiliates faulted the firm for not raising certain defenses after the restraining order was entered, the court said that had been a "reasonable strategy" to avoid triggering the "bad boy" provisions of

VBH's deals with Sciens that could have made Hoeksema personally liable for his businesses' shortfalls.

The court also rejected the arguments Hoeksema and VBH Luxury advanced that Salans was conflicted by advising both of them. Because he was the sole owner, there was no conflict, the court said.

A breach-of-contract claim advanced by Hoeksema and VBH Luxury was also thrown out, with the appellate panel saying they hadn't paid Salans the alleged overcharge at the center of the claim and thus suffered no damages.

Howard Elman, a partner at Elman Freiberg who represented Salans, praised the decision in an email to ALM.

"We are grateful to the court for its fair and reasonable reading of the law, and its rejection of this meritless counterclaim," he said.

Reitler Kailas & Rosenblatt partner Brian Caplan, who represents the VBH entities, declined to comment. Hoeksema, reached by email, said he intends to appeal.

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