

\$28 MILLION CLAIM DISMISSED – MAJOR LITIGATION WIN FOR ERVIN COHEN & JESSUP

03.29.2022

A Los Angeles County Superior Court judge granted Ervin Cohen & Jessup LLP's motion for summary judgment Tuesday, finding the plaintiff's claims of a contract breach were barred because the plaintiff itself had breached the contract.

Led by Partner Peter Selvin, the firm represented a leading franchisor of cosmetology schools in litigation brought by a former vendor which sought damages in excess of \$20 million. Suing for breach of contract, the vendor, which was represented by one of the top plaintiffs' firm in the state, claimed that ECJ's client had breached an alleged "lifetime contract" to be the exclusive supplier of cosmetology kits that were supplied to the schools.

In prevailing on summary judgment, the ECJ team demonstrated that plaintiff itself had breached the contract by failing to pay the royalties due to ECJ's client. The ECJ trial team also demonstrated that plaintiff had continued to enjoy the economic benefits of the alleged contract after ECJ's client had told plaintiff that it would be taking the kit supply business in-house.

The ECJ team filed for a motion for summary judgment in December 2021. In a ruling granting the motion last week, Los Angeles Superior Court Judge Teresa A. Beaudet highlighted the plaintiffs' retention of the contract's economic benefits after ECJ's client told them that the arrangement was coming to an end.

"This conduct, treating the contract as binding after full knowledge of the breach, is a waiver of the right to rescind the contract for the material breach," wrote Beaudet. "Since plaintiff elected to treat the contract as still alive and viable and accepted further performance from defendant...the rule is well-established he waived the right to hold defendant...for damages for the breach."

Selvin said his client was pleased to put an end to its involvement after nearly six years of hard-fought litigation.

PROFESSIONALS

Peter S. Selvin

PRACTICE AREAS

Litigation and Alternative
Dispute Resolution

“We are gratified that our client can now put this matter behind them,” said Peter.