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3 Dimes: Plaintiff Nets Only 30 Cents as Defense Beats \$9.5M Claim

To prevail, the defendant had to show the plaintiffs approved the unsigned written contract by their conduct, defense attorney Matt Mus

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Contractual Disputes



Adolfo Pesquera



What You Need to Know

- A couple that sued an interior designer for \$9.5 million on a \$374,000 project resulted in plaintiff legal fees of \$560,000 and a net zero dollar jury award.
- Plaintiffs' claims were based on an alleged oral contract.
- The jury found the unsigned written contract was enforceable.

A boutique law firm in The Woodlands, Texas, secured a defense verdict against Big Law for an interior designer who was sued by a wealthy couple [for \\$9.5 million](#) on allegations of the breach of an oral contract and fraud.

Gladney Darroh, an author, playwright and head of a manpower company for the oil and gas industry, and his wife Deborah Darroh filed suit against Kevin Spearman and Kevin Spearman Design Group Inc.

According to [the plaintiffs' complaint](#), the Darrohs expected that all of the fixtures put in their multimillion-dollar home in Houston's posh West University neighborhood would be new, and they believed they would be provided a full audit with invoices for all items, including art and accessories.

Months passed and Spearman, despite repeated requests, allegedly never produced the requested invoices, the complaint claimed. The Darrohs inspected pieces visually and allegedly found many were not new. Where serial numbers could be located, they contacted the manufacturers, who confirmed certain pieces were years old, the complaint claimed.

Architect?

Represented by Fred Wahrlich of Munsch Hardt Kopf & Harr, the Darrohs filed suit in September 2021 for negligence and violations of the Deceptive Trade Practices Act.

The Darrohs first reported Spearman to the Texas Board of Architectural Examiners on the basis that he provided architectural design services. Spearman was not an architect and did not charge for such services, but because the use of the phrase “architecture services” was in his marketing materials, he removed the term and paid a \$3,000 administrative penalty, Matt Mussalli of The Mussalli Law Firm, his attorney, said.

Plaintiffs and their expert, New York interior designer Johanna Barger, placed great emphasis on the architectural examiners’ action, calling the violation by Spearman “huge,” Mussalli said.

“Yet on cross-examination, it was proven that Barger, used the term ‘Architectural Partners’ on her social media despite the fact that she had no licensed architects employed by her company, ... and that online post of hers from her social media was offered by defendants and admitted as evidence during the trial,” Mussalli said.

“Barger’s testimony was that Spearman and his company breached all standards of care regarding pricing, disclosure to clients, and acted with intent to knowingly harm the plaintiffs,” Mussalli said.

Written or Oral Agreement?

For the defense, the case was complicated by the fact that although the Darrohs were given a written agreement, when a dispute arose, the Darrohs claimed there was only an oral agreement. To Spearman’s surprise, he discovered during a records review that his copy was never signed, Mussalli said.

In order to prevail, Spearman had to show that the Darrohs approved the written contract by their conduct. The evidence before the jury to that effect was the timely payments made during the course of the project and a statement by Gladney Darroh to the architectural examiners that he received the written agreement, “which was inconsistent with this deposition testimony,” Mussalli said.

Spearman’s testimony was that receipts were shown for the purchase of new items.

“At the very end of the project, it’s time to ‘frost the cake,’” Spearman said, according to Mussalli. The company brings in anything from its personal inventory accumulated over decades to finish the look, and clients are free to reject any such items they don’t want to keep.

The jury found Spearman charged a 40% margin and not “costs plus 40% markup” as the Darrohs claimed; that Spearman did not provide architectural design services, and he did not agree to an audit, [according to the verdict](#).

“The plaintiffs spent \$374,000 in total. Of that, about \$70,000 was in arts and accessories from Spearman’s personal inventory,” Mussalli said.

6 Lawyers Versus 2?

In contrast, plaintiffs’ lead counsel, Wahrlich, took the stand to testify as an expert witness on attorney fees, and claimed Munsch Hardt’s billings through the trial phase were about \$560,000, Mussalli said.

“Their attorney fee chart showed as many as six lawyers worked on this file,” Mussalli said. “I worked the case with one associate, Kelsey Ratz.”

The jury also found that while both parties breached the contract, the Darrohs breached it first by refusing to make the final payment of \$5,000. Although the jury awarded the Darrohs slightly more than \$5,000, Spearman’s claim offset that, leaving the Darrohs only 30 cents.

Wahrlich’s co-counsel was Munsch Hardt associate Elizabeth Ioff. Wahrlich did not respond to a request for comment.

- Case: Darroh v. Spearman
- Case No.: [2021-62037](#)
- Description: Deceptive Trade Practices Act
- Filing Date: Sept. 24, 2021
- Verdict Date: June 26, 2024
- Judge: Harris County 165th District Court Judge Ursula Hall
- Plaintiff Attorneys: Fred Wahrlich, Elizabeth Ioff, Munsch Hardt Kopf & Harr, Houston.
- Defense Attorneys: Matt Mussalli, Kelsey Ratz, The Mussalli Law Firm, The Woodlands.

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