

MASSACHUSETTS Lawyers Weekly

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Trio scores \$1.1M judgment for defrauded bride-to-be

■ PAT MURPHY

Three Boston attorneys recently overcame a Heart Balm Act defense in winning a \$1.1 million judgment on behalf of a client who claimed she was induced by promises of marriage to buy a purported marital home and fund a business all for the personal benefit of her now-former fiancé.

Superior Court Judge Keren E. Goldenberg on Feb. 3 entered an amended final judgment in the amount of \$1,128,435 on a jury's verdict last fall in favor of plaintiff Sunfei Ye. The award against defendant Wanjun Qiao included single damages of \$688,614 and \$433,155 in attorneys' fees.

The plaintiff is represented by Davis Malm lawyers Gary S. Matsko, Joshua S. Grossman and Courtney A. Simmons.

Simmons says she and her co-counsel were never overly concerned the Heart Balm Act applied to their client's claims.

"Once we started to dig into [the case law], it became very clear that those types of cases dealt with people who were suing because of

the breakup, because of hurt feelings, and that's not the scenario that we had here," Simmons says.

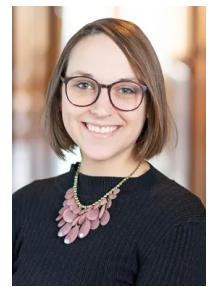
According to Matsko, the plaintiff's team had other concerns heading into trial.

"In a broader sense, in a case like this we always worry a little bit about a jury blaming the client — or at least [concluding] at some point [the client] should have known better," he says. "But our client testified quite credibly about the emotions that [she was experiencing], about the fact that she had just been widowed, and about the charm offensive that Mr. Qiao mounted. She gave an account that was able to overcome [those concerns]."

Ye sued Qiao in 2018, alleging that he had used his position as an esteemed musical conductor in China and in the Chinese-American community to exploit a relationship with the plaintiff "to divert several hundred thousand dollars from her to his benefit through a series of manipulations, half-truths and manipulations."



Gary S. Matsko



Courtney A. Simmons

According to the plaintiff's original complaint, she "vested her trust in Qiao and followed his self-interested guidance, believing she would soon be marrying the man who enjoyed near-icon status in the community of which she was a part."

Central to the defendant's scheming, the plaintiff alleged, was convincing her to put down a large sum of money toward the purchase of a home in Milton.

During a week-and-a-half jury trial last fall, evidence was introduced showing that the plaintiff had made a \$100,000 payment toward the home to secure the defendant's use and occupancy and later paid a \$300,000 non-refundable deposit toward the purchase of the property.

Matsko says the defendant had been living in the house for four years, courtesy of another wealthy woman, who also provided him with a Mercedes. There was further evidence that there may have been a third woman, “so something of a pattern showed up,” he says.

Evidence also showed that the plaintiff paid \$200,000 to fund the defendant’s company, GT Group, USA. According to the plaintiff, she had been misled into believing that the money would be used to bring Chinese musicians to perform in the U.S., when the evidence showed that most of the funds had been used for the defendant’s personal enjoyment and benefit.

On Oct. 24, the jury found the defendant liable for fraud, unjust enrichment, breach of fiduciary duty, and fraudulent inducement by a fiduciary pertaining to the plaintiff’s payments toward the Milton home. It separately found the defendant had violated Chapter 93A with regard to the plaintiff’s funding of GT Group, issuing an advisory award of actual damages in the amount of \$167,794.

According to Simmons, a critical point at trial occurred when the defendant took the stand.

“On direct, he wasn’t able to convincingly articulate good

reasons for the things he did,” Simmons says. “Similarly, on cross-examination, [Matsko] did a great job of pointing to some of the inconsistencies in his statements and actions. Sitting there and watching the cross and observing the jurors’ faces, [it looked like] the jury was getting it, that this guy had a story or excuse for everything. He just didn’t come across as credible.”

According to Matsko, there was another aspect of the defendant’s testimony that didn’t play well with the jury.

“Mr. Qiao really brought up the point that there was a language barrier, playing up that he spoke Mandarin,” Matsko says. “On cross, we were able to show that his command of English was actually quite a bit better than he was pretending. It felt to me that it came across that he was trying to snooker the jury.”

The defendant filed a motion for judgment notwithstanding the verdict, which Goldenberg denied in a Jan. 13 decision.

First, the judge found without merit the defendant’s argument that the Heart Balm Act barred all the plaintiff’s claims to the extent they relied on romantic misrepresentations. Under G.L.c. 207, §47A, “[b]reach of contract to marry shall not constitute an injury or wrong recognized by law,

and no action, suit or proceeding shall be maintained therefor.”

Consistent with her denial of the defendant’s request for a jury instruction on the Heart Balm Act, Goldenberg ruled that the statute did not apply to necessitate granting the defendant’s JNOV motion.

“Here, the Plaintiff did not bring claims based on the breach of a contract to marry or related claims, nor did she seek damages based on a false promise to marry,” Goldenberg wrote. “Instead, Plaintiff’s claims relate to the purchase of the Milton home, which she claims she would not have done absent Defendant’s false representation that the house would become their marital home.”

The judge further found no reason to disturb the jury’s finding of 93A liability.

Goldenberg wrote that the evidence at trial established Qiao’s representation of GT Group as a concert promoter was deceptive to the extent that he used funds donated to the company for his own personal benefit; such deception played a material role in Ye’s choice to fund GT Group; and she suffered financial loss by the misuse of the allocated funds.

The defendant is represented by Connie Dai of Newton’s Lion’s Law. Dai did not respond to a request for comment.