



[CLICK HERE TO RETURN TO PREVIOUS PAGE](#)



FIRM HIT FOR \$35 MILLION IN MALPRACTICE VERDICT Tae Bo Creator Claims Seyfarth Shaw Covered Up Mistakes

BY TERRY CARTER

A week after awarding almost \$20 million in compensatory damages in a legal malpractice claim against Chicago-based Seyfarth Shaw, a Los Angeles jury returned to kick in \$15 million more in punitive damages.

The April 4 punitives award came after a two-month trial in which attorneys for exercise king Billy Blanks charged that Seyfarth Shaw lawyers filed Blanks' suit in the wrong venue and then, despite the client's warnings, did not file in the correct one until after the matter was time-barred. Blanks sought punitives on the ground that the firm intentionally covered up its mistakes.

"They blew the statute of limitations after they'd done heavy research," says James Rosen of Beverly Hills, Calif., who represented Blanks and his wife.

"They knew that in the proper forum, they would have realized only \$30,000 to \$50,000 in legal fees," Rosen contends. "Instead, they billed \$400,000 before my clients stopped paying."

The law firm denies it acted improperly and is planning an appeal.

Blanks, whose Tae Bo exercise program swept the sweat-and-strain segment of the nation in the mid-1990s, hired Seyfarth Shaw to sue an accountant who had acted as Blanks' agent in promoting the martial arts-based system. Blanks said he paid the accountant \$11 million before learning that he was not licensed as a talent agent and had violated provisions of California's Talent Agencies Act. *Blanks v. Greenfield*, No. BC219673 (Super. Ct. Los Angeles Co. filed Nov. 4, 1999).

But the California Court of Appeal ordered dismissal of Blanks' suit against the accountant because the California Labor Commission had exclusive original jurisdiction to resolve disputes arising under the state law. Blanks' lawyers filed a petition with the commission about one week after the one-year statute of limitations had expired—too late to entitle Blanks to relief. Blanks' lawyers had argued the statute should be tolled by the state court filing, but the appeals court disagreed. *Greenfield v. Superior Court*, 106 Cal. App. 4th 743 (2003).

The appeals court in *Greenfield* relied on a California Supreme Court ruling, *Styne v. Stevens*, that had affirmed the commission's exclusive original jurisdiction in determining the legality of an agreement between an entertainer and a personal manager. Another lawyer told Blanks' wife about an appellate decision in *Styne* that reached the same conclusion six months before the statute of limitations expired in Blanks' matter, Rosen says. She faxed a copy of it to Seyfarth Shaw months before time would run out, according to Rosen. *Blanks v. Seyfarth Shaw*, No. BC308355 (Super. Ct. Los Angeles Co.).

Seyfarth Shaw declined comment other than a statement released April 5, the day after the

jury awarded punitive damages:

"We are strongly disappointed in the trial court verdict rendered yesterday in Los Angeles County Superior Court. We emphatically deny any and all allegations that our firm or any of our lawyers engaged in any fraudulent or negligent actions regarding Mr. Blanks and his co-plaintiffs. We will appeal this decision and are confident that we will ultimately prevail."

The firm has more than 600 lawyers and a wide-ranging practice, though noting on its Web site: "True to its roots, Seyfarth Shaw still has one of the largest labor and employment practices in the nation."

The suit named the law firm and the lead lawyer in the case, William H. Lancaster, a partner in the Los Angeles office, as defendants. Lancaster and the firm would be liable for the compensatory damages, but the firm would be solely liable for the \$15 million in punitive damages. The compensatory damages include \$10 million for fraudulent concealment, \$9.3 million for professional negligence and \$500,000 for breach of fiduciary duty.

Should the jury award stand, the law firm's insurer is not likely to cover any part of the amount attributed to intentional conduct that includes fraud, and none of the punitive damages. The insurer is Attorneys' Liability Assurance Society Inc., which insures many major law firms.

"Forget coverage for any intentional fraudulent concealment, and forget punitives," says Sue C. Jacobs, a New York City lawyer who specializes in legal malpractice.

Los Angeles Superior Court Judge Susan Bryant-Deason ruled at the outset of trial that, as a matter of law, Seyfarth Shaw had not met a reasonable standard of care in representing Blanks. "So we went to causation and damages on negligence, and the rest was fully litigated and decided by the jury," Rosen says.

Rosen says he argued Seyfarth Shaw filed in superior court rather than with the labor commission because the firm wanted to bill a lot more in fees. He presented testimony and evidence that the firm, after learning it had missed the deadline for filing the administrative claim, immediately sent Blanks bills for \$46,000 and did not tell him about the problem.

Blanks had paid the firm \$400,000 by that point, but refused to pay more. The law firm filed a cross-claim for the \$46,000, but dropped it the day trial began, Rosen says.

"But I'd already explained it to the jury during voir dire," he adds. "I think the jury was really angered by that."

©2005 ABA Journal

[© The American Bar Association. All rights reserved. ABA Privacy Statement](#)
06/20/2005 03:38 PM