

Law Firms Fight Over \$562,316 in Costs in Stiefel Securities Fraud Case

Julie Kay, Daily Business Review

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Greenspoon Marder lawyers Beth-Ann Krimsky and John Pelzer filed a charging lien in that amount after a Detroit man won a \$1.5 million jury verdict in Miami federal court.

An attorney for Podhurst Orseck, the law firm that won the verdict, was outraged by the request, calling it "outrageous," "egregious" and a violation Bar rules for reasonable litigation costs.

Timothy Finnerty was one of about 200 former Stiefel Laboratories Inc. employees who retained Ruden McClosky for a class action lawsuit against the Coral Gables-based dermatological pharmaceutical company in 2009. The Fort Lauderdale law firm filed for bankruptcy protection, and its assets were bought by Greenspoon Marder. Krimsky and Pelzer were with Ruden when the case began and moved to Greenspoon after the asset sale.

The Stiefel employees alleged they were victims of securities fraud after the company merged with drug giant GlaxoSmithKline plc in 2009. Stiefel stock represented most of the employees' savings, and they alleged Stiefel encouraged them to sell their stock to the company before the merger announcement for \$16,469 per share, promising the company would remain privately held as it had been for 162 years.

After the merger announcement, the share value shot up to \$70,000. By then, most of the shares were owned by the Stiefel family, the suit alleged.

A separate Securities and Exchange Commission case alleging securities fraud is pending before U.S. District Judge William Zloch in Fort Lauderdale.

In 2011, Senior U.S. District Judge James Lawrence King in Miami refused to certify the class. The Ruden McClosky lawyers appealed unsuccessfully to the U.S. Court of Appeals for the Eleventh Circuit. Three weeks later, the lawyers withdrew from the case.



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Greenspoon Seeks \$562K in Costs After Withdrawing From Class

by Julie Kay
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Podhurst attorney Peter Prieto tipped the Greenspoon Marder charging lien for being "outrageously unfair."

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In-House Job Openings Can be Tricky to Fill

by Monika Gonzalez Mesa
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In a legal field where global job satisfaction reaches 80 percent or more in some countries, the competition for lucrative in-house counsel jobs can be stiff.

Corporations paying \$150,000 to \$300,000 can often have their pick of dozens, if not hundreds, of applicants responding to a job posting. But these positions are usually filled using the social network of attorneys who already work at the company, pulling from law firms that have

Judge Approves \$125 Million for Madoff Victims

by Celia Ampt
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A New York federal judge has approved a \$125 million settlement for victims of Bernard Madoff's Ponzi scheme. The settlement was negotiated in part by Fort Lauderdale attorneys from Boies, Schiller & Flanzer.

Thirty percent of the fund will go to attorney fees for the plaintiffs. The victims' legal team, co-led by Boies Schiller partner Stuart Singer, will receive \$4.4 million in costs.

Salvador Juncosella of the South Florida Group of Regional Counsel led a panel discussion on "The War for In-House Legal Talent."

Krimsky and Pelzer did not return calls or emails for comment by deadline.

Podhurst Orseck lawyers Peter Prieto and Matt Weinshall agreed to take over Finnerty's individual case against the company. Several other individual cases are pending around the country.

Finnerty, a 22-year Stiefel salesman who lives in Detroit, lost his life savings when he sold his shares back to the company after he was terminated and before the merger, his lawyers alleged. Jurors set \$1.5 million in damages in 2012 based on the difference between the merger value of his shares and the price paid by his former employer. Stiefel appealed, and Finnerty prevailed in the Eleventh Circuit last year.

'New Injustice'

Greenspoon Marder filed its charging lien notice in 2012, and a motion to enforce it was submitted Oct. 21 and amended Nov. 2. King referred the request to U.S. Magistrate Judge Edwin G. Torres for review.

Lawyers for Podhurst Orseck objected, saying the lien represents the original firm's full costs for the failed class action. Finnerty's portion of the expenses would amount to 4 percent, they stated.

"It's incredibly unfair what they are trying to do to Tim," Prieto said by email. "They're trying to recover from Tim half a million dollars in costs attributable to an entire class of plaintiffs after they withdrew from representing Tim and the others. There's no legal support for that. And it's just not right."

The Podhurst Orseck lawyers have already collected their attorney fees.

In their motion, the Greenspoon Marder lawyers state they are owed half a million dollars.

"Prior to withdrawing as counsel, Ruden McClosky had invested significant expenses to benefit Mr. Finnerty and his lawsuit," the attorneys explained. "That includes ... litigation expenses, including but not limited to, expert witness fees, Westlaw fees, transcript fees."

The firm points out it is only seeking costs, not attorney fees.

"Greenspoon Marder asserts and has explained to counsel for Mr. Finnerty that even though fees may have been waived by withdrawal, Florida law specifically provides for the recovery of expenses incurred up to the point of withdrawal," they state.

Prieto filed the blistering response last week.

"Having prevailed at trial and on appeal, Mr. Finnerty should finally be granted the security of the retirement savings he duly earned through his 22 years of service to Stiefel," he said. "Outrageously, however, Greenspoon seeks to deny its former client this security and to instead visit an entirely new injustice on him by seizing almost 40 percent of his damages to pay for all the contingent costs it incurred unsuccessfully. Nothing in Florida law comes close to condoning this unconscionable result."

Prieto added, "Common sense completely precludes the enforcement of Greenspoon's egregious charging lien."

If the charging lien is granted, other law firms would be "incentivized" to "sit on the sidelines" in class actions

after class certification is denied and wait for alternate counsel to represent the individual plaintiffs without incurring further costs.

"Permitting Greenspoon to recover from Mr. Finnerty the costs of the entire class litigation, when it abandoned him months before trial, would be patently unjust and discourage plaintiffs from proceeding with valid claims when class certification is denied, for fear that a favorable verdict would lead to costs from the entire class action being taxed against them," Prieto's response said.

He asked for a hearing on the charging lien.

Torres gave Greenspoon Marder until Dec. 8 to respond to Prieto's filing.