

VERDICTS & SETTLEMENTS

MONEY COURIER ACCUSED OF THEFT WINS \$8.3 MILLION JUDGMENT AGAINST BRINK'S FOR MALICIOUS PROSECUTION

Case: Mario Martinez v. Brink's Inc., U.S. District Court, Miami

Case No.: 01cv8389

Plaintiff attorneys: Partners Daren and Todd Stabinski and associate Massel Abisor of Stabinski & Funt, Miami; partner Pamela Beckman, of Beckham & Beckham, North Miami Beach.

Defense attorneys: Partner Gregor M. Gaebe and associates Peter G. Walsh and Joel V. Lumer of Gaebe Mullen Antonelli Esco & Dimatteo, Coral Gables; Donald W. Hardeman Jr. of Hardeman & Associates, Miami.

Judge: Ursula Ungaro-Benages, with the trial conducted by U.S. Magistrate Stephen T. Brown.

The details: Martinez, of Pembroke Pines, was a Brink's money courier in December 1996 when a bag containing \$350,000 in cash disappeared while in transit from a Brink's facility in Miami to one in West Palm Beach. Following a two-day internal investigation, the company contacted the West Palm Beach police, and Martinez was arrested for theft. After spending nearly six months in jail, a jury acquitted Martinez in June 1997. In April 2001, Martinez sued Brink's in Palm Beach Circuit Court for mali-



Daren Stabinski, standing, and Todd Stabinski helped represent Brink's courier.

cious prosecution. A month later, the case was removed to federal court at Brink's request on the grounds of diversity.

Plaintiff's case: Martinez's attorneys argued that Brink's, based in Darien,

Conn., failed to provide complete and unbiased evidence against Martinez to police. That's because a company security director wanted to establish that the theft occurred in West Palm Beach instead of Miami, where loss rates were unacceptably high and where the security director was based, the attorneys argued. The security chief had steered the police so that there was no probe of Brink's employees and facilities elsewhere along the route traveled by the missing money, they said. In addition to malicious prosecution, Martinez sought damages for emotional distress and lost earnings.

Defense case: In court documents, the defense argued the company acted in good faith when it reported the theft to police, that it accused no one and that police and prosecutors acted independently and with probable cause. The basis for that assertion was several hours of surveillance tapes of Martinez and other Brink's employees at the West Palm Beach facility at the time of the theft.

Key ruling: A defense motion for



Pamela Beckman

summary judgment was granted by Ungaro-Benages in March 2002. But her ruling was reversed and remanded by the 11th U.S. Circuit Court of Appeals in Atlanta in January. The 11th Circuit cited evidence that the Brink's official sought to spotlight West Palm Beach as the site of the theft "because he wanted to avoid further losses from the

Miami facility and further scrutiny from upper management, in other words, for reasons other than an effort to locate the true thief."

Key evidence: A Brink's branch manager testified that Martinez "got railroaded" because of the security chief's concern about reporting another loss in Miami. In addition, certain surveillance tapes were reported missing.

Verdict: On Oct. 3, after a six-day trial, an eight-person jury awarded Martinez \$4,261,050 in compensatory damages and \$4 million in punitive damages. Post-trial motions seeking to overturn the award were pending at deadline.

— Dan Christensen