

Top #9 Ten

VERDICTS OF 1999

Alaska Jury Awards \$153 Million To Fired State Farm Agent

\$150 Million in Punitive Damages Without Any Physical or Emotional Injuries

By Eric Berkman

When you hear about a \$153 million verdict, you think of workers maimed by defective machinery or children crippled by botched medical procedures—not some guy who lost his job.

That's just one of the problems Anchorage, Alaska, lawyer Richard Friedman faced when he represented Bob Bellott in a breach of contract suit against State Farm Insurance.

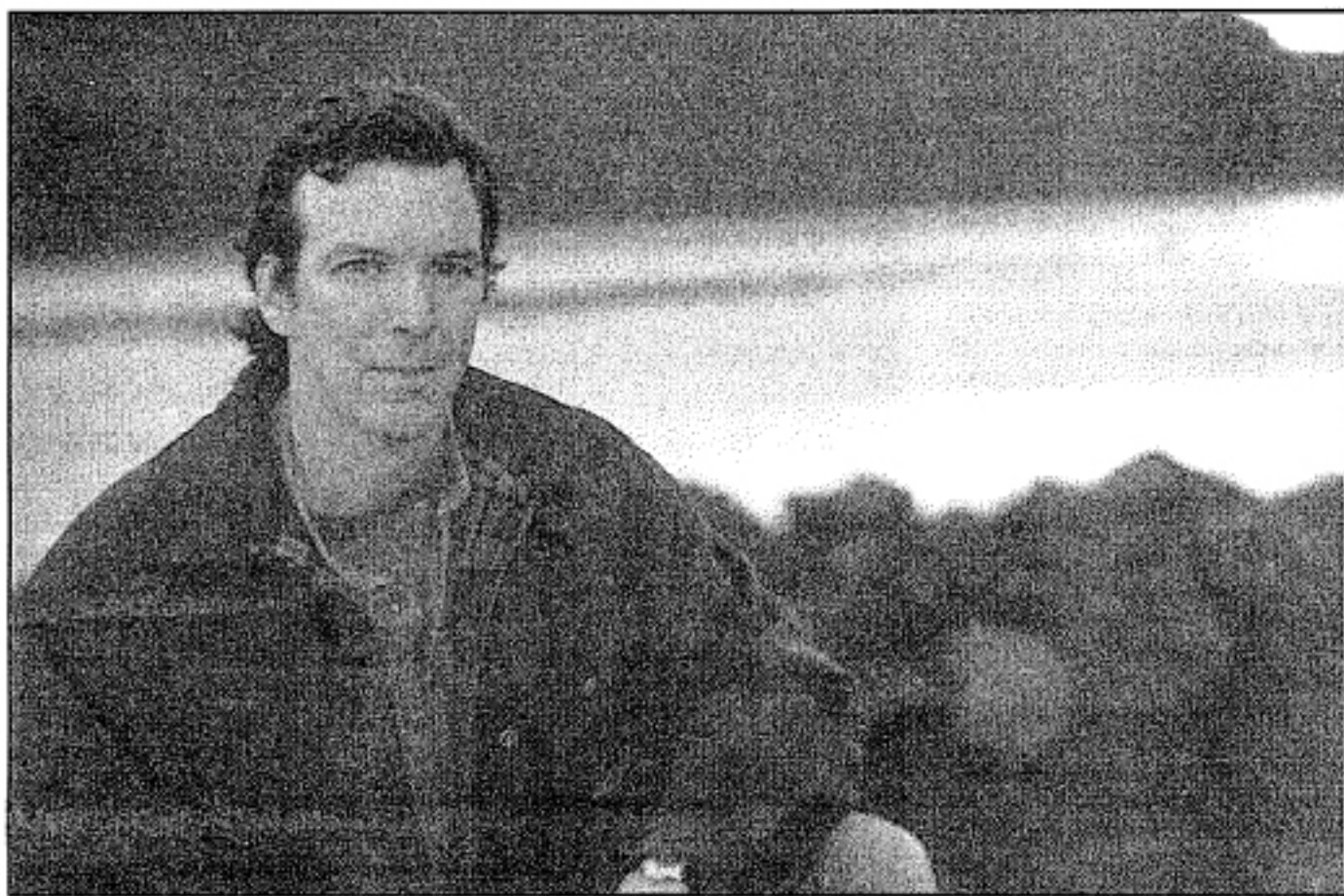
Bellott claimed that State Farm stripped him of his insurance agency because he advised clients against purchasing State Farm life insurance policies as investments. He contended that State Farm pressured its agents to promote insurance policies as investments—even though that violates company and industry policy—and fired him because he stood up to the company's attempts to rip off the public.

State Farm denied marketing insurance as investments. The company argued that it terminated Bellott's "at-will" contract because he was selling securities from a State Farm office, and that this put the company at risk because customers might confuse the two businesses and sue State Farm if their non-insurance investments went sour.

Friedman gathered enough documentary evidence to convince the jury that State Farm fired Bellott for bucking its deceptive sales policies. For example, Friedman contrasted company documents acknowledging that insurance shouldn't be sold as investments with training materials instructing agents how to do just that. He also presented testimony from another agent, who said State Farm pressured him to use these sales policies, and that pressure drove him out of the life insurance arena.

But that was only enough to win \$2.7 million in compensatory damages. His real challenge was convincing the jury to award punitive damages when the only immediate victim was a wealthy businessman who suffered no physical or emotional injuries.

"Let's be honest, this is not dramatic material," he says. "If a Ford Pinto explodes, everyone understands what's important. But explaining to a jury why



To win \$150 million in punitive damages, Richard Friedman had to shift the jury's focus from his wealthy client to how State Farm was preying on the general public.

they should care how life insurance is sold is a little more difficult."

So he shifted his focus from his client to the impact the company's "consumer fraud" would have on the general public.

"Instead of making Bob the victim, we focused on all the nameless, faceless people around the country who were subjected to State Farm's marketing practices," he says. "In essence, what they were doing was like selling someone a Volkswagen Bug and telling them it's a Cadillac."

The jury responded by awarding Bellott \$150 million in punitives.

"The entire trial involved whipsawing State Farm people between what they had to admit—that selling insurance as an investment is wrong—and evidence showing they did that," he says. "And the jury saw State Farm witnesses come in one by one, vacillating, equivocating and weaseling all around the courtroom to avoid the obvious implication that State Farm was doing something very, very wrong."

Friedman's other challenge was proving the difficult underlying legal case. Since Bellott had an at-will contract, Friedman had to show that State Farm fired him for reasons that violate public policy, placing the termination outside the at-will doctrine.

"That's a pretty high burden," he says. Friedman and co-counsel Les Gara and Pete Ehrhardt relied heavily on documents they obtained in discovery, and bolstered this evidence with testimony from State Farm managers and agents.

"We made five separate motions to compel and all five were granted," says Friedman. "So there was really no strategy other than, 'Let's get their documents and see what they're thinking.'"

Several months after the verdict, the parties settled the case for \$7.5 million.

Risk of Confusion

State Farm's lawyer, Michael Lessmeier of Juneau, Alaska, insists this case was a simple contract dispute that nev-

er should have gone to a jury.

"It involved a State Farm agent selling securities out of a State Farm office as a branch manager for another company," he says. "He was asked to stop and refused. If you can't sever an at-will relationship with an independent contractor under these circumstances, when can you?"

Lessmeier also maintains that State Farm never sold insurance as anything

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AT-A-GLANCE

Size of Verdict: \$152.7 million
\$150 million in punitive damages
\$2.7 million in compensatory damages

Status: Settled after trial for \$7.5 million

State: Alaska

Date of Verdict: March 3, 1999

Length of Trial: 3 weeks

Length of Deliberations: 8 hours for liability, 3 hours for punitive damages

Case Name: Robert J. Bellott Insurance Agency Inc. v. State Farm Mutual Automobile Insurance Company

Court: Alaska Superior Court, Third Judicial District

Plaintiffs' Lawyers:

- Richard Friedman and Les Gara of Friedman, Rubin & White in Anchorage, Alaska
7 lawyers
- Pete Ehrhardt of Robinson, Beiswenger & Ehrhardt in Soldotna, Alaska
3 lawyers

Defense Lawyers:

- Michael Lessmeier of Lessmeier & Winters in Juneau, Alaska
4 lawyers

