

Blank Rome Must Face Malpractice Suit From Exec's Ex-Wife

By Emma Cuetto

Law360 (October 18, 2018, 4:24 PM EDT) -- Blank Rome LLP was unable to shake a \$33 million legal malpractice suit brought by the former wife of a senior Morgan Stanley executive, who claims the firm never told her during her divorce that Morgan Stanley was a client and had her waiver potentially valuable claims on her husband's income.

New York state court judge David B. Cohen ruled that there were still questions of fact remaining in the suit brought by Kristina M. Armstrong, who alleges that Blank Rome attorneys had her sign away rights to the enhanced earning capacity that her husband, R. Michael Armstrong, derived from professional licenses he obtained during their marriage.

At the time that Blank Rome represented Kristina Armstrong, it allegedly did not disclose to her that it also represented Morgan Stanley in several unrelated matters, despite the fact that her husband sat on Morgan Stanley's management committee, which was reportedly responsible for assigning outside legal work.

"The court finds that the conflicting affidavits, deposition testimony, and expert opinions raise issues of fact here as to whether the defendants acted under an undisclosed conflict of interest and, as a result, their professional judgment was compromised," the decision said.

Kristina Armstrong's claim for legal malpractice is worth up to \$8.3 million and her claim that Blank Rome violated a law against deceit and collusion, which is eligible for treble damages, is worth \$24.9 million, according to the decision.

Kristina Armstrong filed the suit against Blank Rome in May 2013, three years after reaching a settlement in her divorce case, according to the decision. By the time of settlement, she was represented by different counsel, having fired Blank Rome in 2012 after the firm did not promptly give her copies of the documents she had so far signed in the case, the decision said.

One of those documents waived her rights to increased income her husband earned from licenses he obtained during their marriage, according to the decision. Kristina Armstrong alleges that Blank Rome attorneys pushed her to sign the waiver in the hallway of the courthouse along with a stack of other documents, and that when she asked what the document was, she was told to "just sign it," the decision said.

Blank Rome disputes this and claims that it fully explained to her the waiving of enhanced earning capacity, according to the decision. The firm maintains that pursuing enhanced earning capacity would have been futile since it was difficult to determine what income her husband derived from licenses obtained during the marriage as opposed to before it, and because Kristina Armstrong was focused on receiving maintenance payments, the decision said.

Kristina Armstrong, however, has argued that an independent expert originally contracted with Blank Rome in the case has valued the licenses as worth up to \$16 million, with her rightful share therefore being \$8 million, according to the decision.

"We were very much pleased with the decision as it eliminates one more roadblock that the defendants have attempted to place in the way of our client to get this matter to trial. This was the third ruling denying defendants' attempts to have all or part of the complaint dismissed.... The case is now heading into its sixth year and we hope that we can get to a trial in 2019," Eric Grayson, an attorney for Kristina Armstrong, told Law360.

Jonathan Sack, another attorney for Kristina Armstrong, also praised the decision, saying, "I think the judge got it totally right."

He added that the Blank Rome attorneys had "sold [Kristina Armstrong] down the river" and called their alleged misconduct "outrageous."

Counsel for Blank Rome did not respond Thursday to a request for comment.

Kristina Armstrong is represented by Eric D. Grayson and James M. Kavanagh of Grayson & Associates, and Jonathan S. Sack and Eric Stern of Sack & Sack.

Blank Rome is represented by Philip Toutou and Joseph G. Silver of Hinshaw & Culbertson.

The case is Kristina M. Armstrong v. Blank Rome LLP et al., case number 651881/2013 in the Supreme Court of New York for New York County.

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