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Litigators of the Week: After Judge Orders New Trial In $32M Plaintiffs' Win, an Even Bigger Verdict on Second Go

By Ross Todd

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Our Litigators of the Week are a **Boies Schiller Flexner** trial team led by **Matthew Schwartz** and **John Zach**, whom we've previously recognized for their work on behalf of the City of Almaty, Kazakhstan, and BTA Bank pursuing funds siphoned away as part of a fraudulent loan scheme.

Last year they won a $32 million verdict against defendants accused of participating in a scheme to launder stolen funds into the U.S. The verdict on claims of conversion, unjust enrichment and receipt of monetary funds included a $20 million punitive damages award against Felix Sater, a Russian-American real estate developer who was once a business associate of President Donald Trump.

Early this year, U.S. District Judge John Koeltl ordered a re-trial on the plaintiff's conversion and unjust enrichment claims based on a faulty jury instruction. In the second trial, federal jurors in Manhattan awarded the Boies Schiller clients $52 million, a number likely to balloon with interest given that the underlying actions took place more than a decade ago.

Lit Daily: Who were your clients and what was at stake here?

Courtesy photos

Matthew Schwartz, left, and John Zach, right, of Boies Schiller Flexner.

John Zach: We represent the City of Almaty, Kazakhstan, and BTA Bank, a large financial institution headquartered in Almaty. Many years ago, BTA and Almaty were the victims of separate frauds perpetrated by the chairman of the bank and the mayor of the city, respectively, who are related by the marriage of their children. All together, they looted more than $6 billion from Kazakhstan and laundered that money throughout the world. Since these crimes were discovered, BTA and Almaty have been attempting to locate their stolen assets and hold people accountable for their role in the scheme. This trial was part of that effort and was specifically

focused on the investment of tens of millions of those stolen dollars into U.S. real estate and private equity.

How did this matter come to you and your firm?

Matthew Schwartz: We have been representing these clients for more than a decade now in their asset recovery efforts. Our first case centered on other real estate investments in the United States, and ended with a trial victory in 2022 against an alter ego of one of the primary money launderers: the son of the former mayor of Almaty and son-in-law of the bank's former chairman. During the course of discovery in that case, we learned about the investments and assets that were at issue in the most recent trial. Complex money laundering schemes require tremendous work to unravel, and having the tools of litigation—including subpoenas and depositions—allowed us to develop additional evidence not only of the claim we were first litigating, but of other tendrils of the scheme that led to additional recovery efforts.

Who all was on the team and how did you divide the work? How did the makeup of this trial team compare with the groups that handled your prior trials for BTA Bank and the City of Almaty?

Schwartz: John Zach and I led each of the trial teams we've had so far. That continuity is very important, and we've certainly learned quite a bit about how to present this kind of evidence over the course of those trials. The pretrial litigation was led by myself and **Craig Wenner**, who has complete mastery of the facts and was also an important member of the trial team. The rest of the trial team included partner **Peter Skinner**; associates **Lindsey Ruff**, **Sophie Roytblat** and **Conner Coupe**; and paralegals **Olivia Hill** and **Sarah Lissey**. Sophie actually started working on this case when she was a paralegal—she's since gone to law school and returned to us as an associate and has been a key part of the last two trials.

Matt, you said in your opening that the money laundering scheme in this case was intentionally "convoluted and confusing." What are your main concerns when you're trying to prove a case like this to a jury by a preponderance of the evidence?

Schwartz: I've spent most of my career, first as a prosecutor and now on behalf of clients, dealing with complex fraud and money laundering matters. This was as sophisticated as they come. There are at least two big risks when presenting evidence of complex money laundering schemes to a jury. First, it's important not to get lost in the details. Our team has now spent literally a decade untangling this scheme to be in a position to prove definitively that the money invested in the United States originated from a massive fraud on the other side of the world. Had we presented all of that detail to the jury, it would have been mind-boggling and would have distracted from the core of what happened, which was that these defendants hid behind that complexity.

Second, and relatedly, it's important to keep the big picture in mind and not, for example, adopt the terminology of the criminals. In this case, much of the money laundering was achieved through transactions that were denominated as loans—and the conspirators entered into false loan agreements, made false repayments of debt, issued false forgiveness of debt and the like. But it was all fake, and using their words can legitimize it to a lay jury. That's one of the reasons I asked John to try this case with me originally. He had not been involved in the investigation and discovery process, so he helped us present the big picture without getting lost in the weeds.

What were the advantages of having had an earlier trial where you won a $32 million verdict against these defendants? What did you alter about your trial presentation this time around?

Zach: There were certainly pluses and minuses to retrying this case. They knew all of our evidence, and they had the benefit of having cross-examined our witnesses once before, so they were able to calibrate their arguments accordingly. On the other hand, we had effectively done a trial run, so we knew what worked and what could be presented better. In this trial, we presented a much more tight, focused case and

filled in some of the material around damages, which resulted in a substantially higher verdict.

This case springs out of a former Soviet republic with a recent history of political corruption. Were you concerned that New York jurors might be biased against your clients because of that?

Schwartz: That was something that we knew could be a concern, and that the defendants were likely to try to exploit. We successfully moved in limine to preclude certain arguments along these lines, which was one way we dealt with it. But the other was to personalize our clients. We had representatives of the bank and city sitting alongside us throughout the trial and participating fully in the case, and we put on evidence that the real victims here were not a faceless corporation or governmental body, but rather the everyday depositors of the bank and the people of Almaty. For example, we presented evidence that the former mayor of Almaty engaged in a corrupt insider sale of state-owned property to his wife. That property was in a residential neighborhood of the city, and it had been neglected for years. Part of the sale—had it been legitimate—was intended to ensure outside investment to revitalize the property for the benefit of the nearby residents. Instead, the mayor and his family profited from a rigged auction and never put any money into the land. That sort of thing resonates regardless of what part of the world it's in.

John, one of your opposing counsel really poured on the flattery in closing statements, calling Boies Schiller "perhaps the greatest law firm in the world" and you "one of the finest trial lawyers in America." What did you make of that? Was that at all disarming?

Zach: That was something I hadn't ever experienced in over 20 years of trying cases. We could have joked that 'it's one of the rare times we agreed with opposing counsel on the merits," but it was obvious that argument wasn't meant to disarm, it was meant to distract. By closings, we had put on a strong case and discredited both defendants who we adversely called to the stand in our case-in-chief. He was trying, unsuccessfully, to flip that on its head by going on about Boies Schiller as if to say, "You can't blame my client for having the worse of the evidence, he's up against the greatest law firm in America." Juries are too smart for that, and they followed the judge's instructions to look at the facts proven at trial and the law as explained to them, which resulted in the verdict in our clients' favor.

The defense relied heavily on a statute of limitations defense. How did you make the case that your clients hadn't waited too long to sue, especially given how long ago these funds flowed in the U.S.?

Zach: That was certainly their principal defense. We focused on the incredible lengths to which they had gone to conceal their conduct, which included multiple shell companies, secret agreements, hidden kickbacks and the use of nominees and fronts to obscure their role in transactions. Our star witnesses in the case were actually the defendants themselves, who we cross-examined in our case and exposed their shenanigans in concealing their misconduct. Under the doctrine of equitable estoppel, a defendant cannot enjoy the benefit of the statute of limitations if their wrongful conduct caused the claim to be filed late, and that's what we proved happened here.

What will you remember most about this matter?

Schwartz: Having the privilege to be trusted to handle important matters for our clients is key to what we do at Boies Schiller. This case, in particular, is rewarding because it grew directly out of our existing work with these clients. Our investigative work in the course of preparing one of the earlier cases for trial led to the discovery of the defendants' conduct here, and our clients trusted us to run with that discovery until we were able to document definitively these defendants' role in the scheme.