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Crane Heyman Denied Win In Bankruptcy Trustee's Suit

By **Kevin Penton**

Law360 (June 17, 2020, 9:45 PM EDT) -- An Illinois federal judge has rejected Crane Heyman Simon Welch & Clar's bid to duck a World Marketing LLC bankruptcy trustee's malpractice suit accusing the firm of failing to properly advise the company before it instituted mass layoffs.

U.S. District Judge Thomas M. Durkin determined that Crane Heyman failed to establish that summary judgment should be entered in its favor because bankruptcy trustee Norman Newman purportedly suffered no damages, or because its alleged failure to tell World Marketing about how to comply with the Worker Adjustment and Retraining Notification Act would have made a difference in whether or not the company went defunct.

Judge Durkin held that Crane Heyman's argument amounts to law firms not having to worry about malpractice suits should their client be insolvent, a notion that he considers "unsound as both a matter of law and policy," according to Tuesday's order.

"There is no question that World Marketing would have suffered damages if it were still solvent," the order reads. "The court does not believe that the calculus changes simply because World Marketing is now insolvent."

Newman's September 2017 lawsuit claims Crane Heyman, which is no longer involved in the bankruptcy case, owed a duty to advise Milwaukee-based World Marketing that as a company with over 100 employees, it needed to follow the WARN Act's requirement that it provide 60 calendar days' advance notice of plant closings and mass layoffs.

World Marketing had secured the firm's services shortly after its lender, Associated Bank NA, allegedly swept millions from the company's accounts "without warning" in late summer 2015. World Marketing had contacted Crane Heyman about potentially filing for bankruptcy should the company's refinancing efforts fail, and it cut 300 workers from its payroll and filed for Chapter 11 bankruptcy soon afterward.

Those workers filed a class action over the layoffs just a few weeks later. Newman's suit alleges that Crane Heyman is at fault for that suit, claiming the firm's records show that the first time it considered the WARN Act or its implications for World Marketing was not until almost 30 days after the layoffs.

The court in **September 2018** rejected Crane Heyman's motion to dismiss, determining that the malpractice claim is not barred either by legal doctrine or by the company's bankruptcy proceedings, according to court documents.

"Crane Heyman has lost every substantive motion in this case," Brandon V. Lewis, an

attorney representing Newman, told Law360 on Wednesday. "We are pleased that the court has issued yet another thoughtful and thorough opinion rejecting the defendant's arguments, and we look forward to trial."

Counsel for Crane Heyman could not be reached for comment on Wednesday.

Newman is represented by Eric D. Madden, Brandon V. Lewis and D. Benjamin Thomas of Reid Collins & Tsai LLP and Matthew B. Schiff and Michael Brandess of Sugar Felsenthal Grais & Helsing LLP.

Crane Heyman is represented by Joseph R. Marconi, Ramses Jalalpour and LeighAnn M. Thomas of Johnson & Bell Ltd.

The case is Newman v. Crane Heyman Simon Welch & Clar, case number 1:17-cv-06978, in the U.S. District Court for the Northern District of Illinois.

--Additional reporting by Lauraann Wood. Editing by Peter Rozovsky.

Update: This article has been updated to include a comment from an attorney representing Newman.