

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
INDIANA, HAMMOND DIVISION

Barry Chatz, U.S. Trustee v. O’Rourke & Moody LLP, et al.

Chatz · No. 2:20-CV-377-PPS · Decided May 8, 2026

SUMMARY

The United States District Court for the Northern District of Indiana grants summary judgment to attorney Michael Moody, O’Rourke & Moody LLP, and Amy Lokken in a bankruptcy trustee’s claims arising from advice and payments connected to the attempted purchase of a Nissan dealership. The court holds that the trustee lacked sufficient expert testimony to establish legal malpractice and failed to establish causation. It also concludes that the evidence did not support unjust enrichment or civil crime relief claims against Lokken.

CASE DETAILS

COURT	United States District Court for the Northern District of Indiana, Hammond Division
WRITING FOR THE COURT	Philip P. Simon
JURISDICTION	United States District Court for the Northern District of Indiana, Hammond Division
DECIDED	May 8, 2026
DOCKET	2:20-CV-377-PPS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, the liquidating bankruptcy trustee, brought negligence/legal-malpractice, unjust-enrichment, and Indiana Crime Victim’s Relief Act claims. The Moody Defendants and Amy Lokken moved for summary judgment under Federal Rule of Civil Procedure 56.
STANDARD OF REVIEW	Summary judgment is appropriate when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. A genuine dispute exists when the evidence would permit a reasonable jury to return a verdict for the nonmoving party.
PRECEDENTIAL VALUE	unknown

TOPICS

- summary judgment
- professional negligence
- bankruptcy
- commercial litigation
- remedies

PRACTICE AREAS

civil procedure

bankruptcy

professional negligence

commercial litigation

remedies

QUESTIONS PRESENTED

1. Whether the trustee could establish the standard of care and breach in the legal-malpractice claim against Michael Moody and O'Rourke & Moody without adequate expert testimony.
2. Whether the trustee presented sufficient evidence of proximate causation to support the legal-malpractice claim against the Moody Defendants.
3. Whether the trustee presented evidence that Amy Lokken was unjustly enriched by retaining approximately \$20,000 paid for services.
4. Whether the trustee presented evidence that Lokken knowingly or intentionally exerted unauthorized control over New City's property, supporting relief under the Indiana Crime Victim's Relief Act.

HOLDINGS

1. Expert testimony was essential to establish the applicable standard of care and breach because the claims involved complex issues concerning bankruptcy timing, the automatic stay, the scope of the Moody Defendants' retention, floor-plan financing, and advice to sophisticated business clients.
2. The plaintiff's expert disclosures and Joseph Frank's affidavit were insufficient because they offered conclusory opinions without adequately addressing the actual role, duties, and conduct of the Moody Defendants.
3. The trustee failed to present sufficient evidence that the Moody Defendants' conduct proximately caused New City's claimed loss of approximately \$3.9 million in capitalization.
4. Summary judgment was warranted on the unjust-enrichment claim because the trustee presented no evidence that Lokken's retention of the \$20,000 payment was wrongful or inequitable.
5. The trustee's claim for civil-crime relief failed because there was no evidence that Lokken knowingly or intentionally exerted unauthorized control over New City's property.

KEY QUOTATIONS

"Summary judgment must be granted when "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law."" (at 7)

"All of these complicated relationships and issues show that this plainly is not a common knowledge exception case, and that expert testimony is essential to present to the fact-finder." (at 8)

"An expert who supplies nothing but a bottom line supplies nothing of value to the judicial process." (at 10)

"Absent a wrong, intervention by equity is inappropriate." (at 15)

FACTUAL BACKGROUND

New City Auto Group formed to purchase and operate a Nissan dealership in Northwest Indiana. It entered a franchise agreement and closed the transaction without formal floor-plan financing, later receiving notices from Nissan purporting to terminate the agreement. New City filed a Chapter 11 petition on July 16, 2018, after retaining a different law firm, Fox Rothschild, and alleged that attorney Michael Moody and O'Rourke & Moody negligently failed to advise it regarding the timing and consequences of bankruptcy and floor-plan financing. Amy Lokken received two \$10,000 checks from New City funds for work she testified she performed within the consulting structure operated by Terry Gaouette, but the trustee contended that the payments constituted unjust enrichment and criminal conversion.

PROCEDURAL HISTORY

New City initially brought the claims as an adversary proceeding in its Chapter 11 bankruptcy case. After withdrawal of the bankruptcy reference in 2020, the case remained inactive for more than three years. The district court denied the Moody Defendants' motion to dismiss and permitted substitution of the liquidating trustee as the proper plaintiff. The court granted summary judgment to the Moody Defendants on the negligence claim and to Lokken on the unjust-enrichment and civil-crime-relief claims, while leaving claims against other defendants pending.

DISPOSITION

other

CASES CITED

- Cracco v. Vitran Express, Inc., 559 F.3d 625, 632 (7th Cir. 2009)
- Flatow v. Ingalls, 932 N.E.2d 726, 729 (Ind. Ct. App. 2010)
- Thayer v. Vaughan, 798 N.E.2d 249, 255 (Ind. Ct. App. 2003)
- Oxley v. Lenn, 819 N.E.2d 851, 857 (Ind. Ct. App. 2004)
- Storey v. Leonas, 904 N.E.2d 229, 238 (Ind. Ct. App. 2009)
- Hacker v. Holland, 570 N.E.2d 951, 953 n.2 (Ind. Ct. App. 1991)
- Barkal v. Gouveia & Assoc., 65 N.E.3d 1114, 1122 (Ind. Ct. App. 2016)
- Ball v. Kotter, 723 F.3d 813, 823-25 (7th Cir. 2013)
- Wendler & Ezra, P.C. v. American International Group, Inc., 521 F.3d 790, 791 (7th Cir. 2008)
- Vollmert v. Wisconsin Department of Transportation, 197 F.3d 293, 298 (7th Cir. 1999)
- Bourke v. Conger, 639 F.3d 344, 347-48 (7th Cir. 2011)
- Shorewood Forest Utilities, Inc. v. Welsh, 237 N.E.3d 1142, 1147 (Ind. Ct. App. 2024)
- Andrew Nemeth Properties, LLC v. Panzica, 271 N.E.3d 1100 (Ind. 2025)
- Reed v. Reid, 980 N.E.2d 277, 296 (Ind. 2012)
- Bayh v. Sonnenburg, 573 N.E.2d 398, 408 (Ind. 1991)
- Savoree v. Industrial Contracting & Erecting, Inc., 789 N.E.2d 1013, 1020 (Ind. Ct. App. 2003)
- Indianapolis Raceway Park, Inc. v. Curtiss, 386 N.E.2d 724, 726 (Ind. Ct. App. 1979)

- Inlow v. Inlow, 797 N.E.2d 810, 818-19 (Ind. Ct. App. 2003)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)

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