

Florida Judge Faults Defendant's 'Incredible' Testimony in \$17M Bench Ruling

"It is accurate to say Defendant was caught on more than one occasion making comments that were demonstrably not credible while testifying," Judge Michael F. Andrews wrote in the 22-page opinion.

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(l-r) Zachary Hyman and Anthony Bruno II, of [Millennial Law](#), and Andrew Wit of [Jennis Morse](#). Courtesy photos

A Tampa Bay area state court ruled that a South Florida businessman—whose “lack of credibility” was, according to a judge, “incredible”—and his company must pay roughly \$17 million for breaching a personal identification processing deal.

Pinellas Circuit Judge Michael F. Andrews entered an opinion Friday, finding that Davie resident Randy Nolte and his company, EFT Services LLC, consistently underpaid Indian River Merchant Services LLC.

Zachary Hyman and Anthony Bruno II of [Millennial Law](#) in Fort Lauderdale and Andrew Wit and David Jennis of [Jennis Morris](#) represented Indian River. They made an appearance relatively late in the case, after the judge made comments during earlier stages of the proceeding that questioned the validity of Indian River's position.

"After that, we cohesively worked as a team across state lines to prepare a cohesive, streamlined presentation," Hyman said. "We stayed focused on the main issues in the case and trusted each other to collaborate to help the finder of fact understand our version of a complicated factual history."

"The more concise your presentation, the better the result," he added.

An attorney for the defendants at [Trenam Law](#) did not respond to a request for comment.

Both Indian River and EFT worked in the cash-distribution business. Indian River operated as a sponsored independent sales organization, providing independent sales representatives with access to the financial networks required to facilitate consumers' cash withdrawals. EFT acted as a subcontractor of Indian River and was required to meet certain conditions to maintain that access.

And the ruling marked at least the third time the two parties have litigated against each other. In this case and from reviewing previous litigation, Andrews found Nolte not to be a “credible witness” and “in chronic breach of the agreement,” according to the opinion.

"It is accurate to say Defendant was caught on more than one occasion making comments that were demonstrably not credible while testifying," Andrews wrote. "The cross-examination of Defendant demonstrated his lack of credibility in this and a previous suit, where he was just as incredible."

Andrews found EFT consistently underpaid Indian River between \$1.03 and \$1.10 per transaction. Indian River discovered the breaches in early 2021, after EFT sold a part of its business. Indian River alleged nearly \$13.7 million in underpayments, more than \$2.6 million in sale-related damages and the improper retention of roughly \$650,000 in interchange fees.

When consumers withdraw cash from an ATM operated by or through EFT, they pay a surcharge fee that is split between the parties. The agreement required EFT to provide Indian River with transaction and fee data, but Andrews found that the company failed to provide complete and accurate information and used software and other methods to conceal its failure to pay the appropriate amounts.

In addition, Andrews wrote in the opinion that Indian River had no obligation to account for money it never received because the contract clearly outlined each party's reporting obligations.

Nolte also allegedly violated the agreement by selling his business for \$3.7 million, which forced Indian River to terminate the contract because of the mounting daily losses it was suffering. The company sought to recover more than \$2 million from the sale proceeds. Andrews found that Indian River's accountant provided a reasonable estimate of what the company was owed.

Now, Andrews has rejected several defense arguments, including claims that Indian River modified the contract by failing to object to the underpayment and waived its right to recover those funds, or lacked standing to challenge EFT's sale of its business. He also ruled that EFT breached the agreement by diverting interchange fees, and that Indian River was entitled to recover those funds.

Still, it was not all bad news for the defendants. Andrews denied Indian River's request for certain damages after it suspected a breach, writing that "the Court does not recall the provision of the contract" that would have allowed the company to cease performance yet still collect payment for services it chose not to render.

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