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# Franchisee awarded \$2M in suit against Swanson's

**Sacramento Business Journal by Kathy Robertson, Staff Writer**

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A family-owned Sacramento dry-cleaning chain was hit with a \$2.24 million jury verdict this week in a case where a local franchisee accused it of breach of contract and fraud.

The plaintiff, franchise operator Mike Schubert, was awarded \$1.6 million in punitive damages against Swanson's Cleaners and co-owners Roger and Steve Swanson. The jury also awarded Schubert \$635,000 in compensatory damages.

"The evidence did not support the verdict at all," said Sacramento attorney Greg Dyer, who represented the defendants. The company will appeal, Dyer said.

Schubert, who continues to operate two Swanson's laundry and dry-cleaning stores in Sacramento, alleged that the company repeatedly changed the rules after he signed a franchise agreement for a store on 29th Street in 1989 and another on Watt Avenue in 1991.

Swanson's altered the wholesale price schedule and advertising agreement, imposed improper rent increases and concealed the actual prices he was charged, Schubert said in a lawsuit filed almost three years ago.

The two owners also double-charged him for some work, entered his stores without permission in order to reprogram the price tables in the computers, and threatened to take away his stores if he challenged them, Schubert alleged in court documents.

The jury, following an eight-week trial, agreed with Schubert on Monday. In addition to compensatory damages, jurors awarded him \$1 million in punitive damages against CEO Roger Swanson, \$300,000 against president Steve Swanson and \$300,000 against the company.

"That's pretty unusual," said **Kathleen Finnerty**, an attorney in the Sacramento office of **Greenberg Traurig** who represented Schubert. She described the case as a "David and Goliath disaster" that had her client wondering if he had any rights.

The jury found in favor of Schubert on counts of breach of contract, concealment, negligent misrepresentation and trespass. It also found against the defendants on a count of unfair competition, but the judge will review that part of the verdict.

"We are dismayed," Steve Swanson said in a prepared statement. "Given the highly questionable merits of this case, we remain confident that we will prevail during the appeals process.

"For more than 60 years as a locally-owned company, we at Swanson's have earned a reputation ... for our quality, generosity, integrity and fairness. These values have remained central to the way we do business and treat our employees, customers and franchisees. It speaks volumes that in our six decades as a company we have never been sued until now."

"I'm tickled to death," Schubert said. "The jury sent a very strong message. I hope they listen and take it to heart."

Schubert said he never intended to sue, but was finally driven to do so because too many questionable things were going on.

He spent more than \$400,000 on legal expenses.

### **Changing the rules**

The franchise agreements allow Schubert to operate two retail dry-cleaning and laundry businesses under the Swanson's name. The contracts specify that he retains exclusive control over store operations, the suit said.

Schubert was required to pay rent for the space, a percentage of his gross retail sales toward advertising, and use Swanson's Cleaners exclusively for all dry cleaning, leather cleaning, laundry and shoe-repair work.

The contracts also specify that Swanson's must bear the cost of handling and protecting items and no price changes for cleaning costs can be made from the original price schedule without agreement of both sides, court documents show.

The company increased rent in violation of the agreement, stopped performing all shoe-repair work and repeatedly charged Schubert for the costs of handling and protecting his customers' dry cleaning, leather cleaning and laundry. The owners double-charged him for work done at their facilities by "re-ticketing" the goods and charging for both.

"Swanson's just raises prices," Finnerty said. "In franchise law, no terms can be changed without filing an amendment."

Swanson's has 24 local stores. Finnerty contacted franchisees to see if they had encountered similar problems, but none joined the lawsuit. Two testified at trial.

"Mike Schubert tried to clean up the cleaners. He mortgaged his house and borrowed from his family," Finnerty said. "He did what others didn't have the courage to do. He could have been bankrupt or vindicated.

"So seldom do we get what we feel is justice, and this little guy put it all on the line against wealthier franchisors at a pre-eminent Sacramento company."