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Making a 'Pointe'

Rodger Young (left) and Jaye Quadrozzi, of Young and Associates in Farmington Hills, represented NorthPointe Capital in the prolonged legal battle with Nationwide.

Photos by Robert Chase

Local investment firm prevails over insurance giant in 5-year court fight

By Tom Kirvan

Legal News

On paper, it looked like a legal mismatch.

Troy-based NorthPointe Capital, LLC, a boutique investment firm, pitted against Nationwide Mutual Insurance Co., a Fortune 100 company based in Columbus, Ohio, that bills itself as one of the “largest and strongest diversified insurance and financial services organizations in the U.S.”

NorthPointe and Nationwide have been at loggerheads since 2009 over a breach of contract suit that the Michigan-based money manager filed against the insurance giant. The suit stemmed from a June 2007 purchase agreement in which Nationwide sold its interest in NorthPointe — “along with the right to receive the income generated by the continued management of seven Nationwide mutual funds,” according to attorney Rodger Young, founder of Young & Associates, a commercial litigation firm in Farmington Hills that represented NorthPointe. The suit alleged that Nationwide breached the contract and misrepresented the transaction, never intending to uphold its terms.

In late July, a Delaware judge agreed, awarding NorthPointe $15.2 million in damages and termination fees. The ruling is being appealed by Nationwide.

“Incredibly, Nationwide’s stated reasoning for merging the funds was that NorthPointe had lost a substantial portion of the assets. This was disingenuous at best and completely failed to acknowledge Nationwide’s own role when it raided NorthPointe’s NVIT to fund the Nationwide Multi-Managed NVIT,” Judge Andrea L. Rocanelli of the Superior Court of the State of Delaware said in her ruling.

Judge Rocanelli further took the defendant to task by declaring that “the court finds that high turn-over in key positions at Nationwide resulted in institutional incompetence,” noting that the company took “great pains and went to great lengths to establish that it is a “vast and complex corporate entity” which is geographically widespread.

“Moreover, during the time period at issue in the dispute . . . there were several very significant management changes that were accompanied by tectonic shifts in investment strategies, philosophy, and approach to Nationwide’s relationship to NorthPointe,” Rocanelli wrote.

According to the ruling, NorthPointe Capital was created in 1999 to “invest in publicly traded stocks and act as a mutual fund advisor to a variety of mutual funds.” Nationwide owned the majority interest (65 percent) in NorthPointe, while the remaining 35 percent was owned by four managing partners of the investment firm. In 2006, Nationwide proposed a management buy-out, transferring management of seven funds to NorthPointe in a September 2007 agreement. Two years later, NorthPointe filed suit against Nationwide.

In the suit, NorthPointe attorneys Rodger Young and Jaye Quadrozzi demonstrated during the two-week trial that Nationwide “had not only never intended to allow NorthPointe to manage the funds, but had actively planned and carried out the creation of a new multi-manager NVIT mid cap growth fund” to compete directly with the NVIT fund NorthPointe was managing, according to the plaintiff.

The court also found that “NorthPointe consistently outperformed industry benchmarks from 1998 through 2011” in its investment management performance, contrary to later claims by Nationwide during the legal battle.

“The court also finds that Nationwide’s litigation claims that NorthPointe violated the performance standards was a theory developed to avoid paying termination fees for its business decisions and damages for its breach of contract,” Judge Rocanelli wrote in her ruling, which was based in large part upon the testimony of 19 witnesses called to the stand.

“In December 2007, Nationwide made a presentation to its shareholders and lauded the performance and stature of NorthPointe as a high quality investment advisor that was unaffiliated with Nationwide,” Rocanelli noted. “This presentation contrasts remarkably with Nationwide's later claims that NorthPointe was underperforming during this exact same time period."

The findings were heartening to attorney Young.

"We could not be more gratified with Judge Rocanelli's ruling," Young said. "Her recognition of Nationwide's culpability brings to a close what had been a true David and Goliath conflict. Our attorneys have put years of vigorous work into proving allegations of breach of contract, including the breach of the covenant of good faith and fair dealing. When you consider that NorthPointe is a very small, employee-owned firm, and that Nationwide is one of the most massive and recognized corporations in the nation, it brings a certain poignancy to our success."

Under terms of the July 16 ruling, Rocanelli said that NorthPointe was entitled to nearly $15.2 million in damages and termination fees, minus approximately $4.8 million for what the firm owes Nationwide under the original 2007 purchase agreement.

The appeal will be considered by the five-member Delaware Supreme Court, the lone appellate court in the state.

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