Mike Gorman wins $1.2 million Summary Judgment for Floor Plan Lender in New York Federal Court “Out of Trust” case

Lender floor planned an auto dealer in New York. Dealer sold cars out of trust and diverted $1.2 million of vehicle proceeds to personal use. Floor Plan Lender, represented by Gorman, sued Dealer in New York Federal Court for Replevin and Breach of Contract, and sued Dealer’s Guarantors for Breach of Contract.

Dealer filed bankruptcy, and the Federal Court lawsuit continued against the Guarantors. Before taking any discovery, Floor Plan Lender filed a Summary Judgment Motion against the Guarantors, based only on Lender’s own records and affidavit. Guarantors resisted, challenging the accuracy of Lender’s evidence.

The Federal Court granted Floor Plan Lender’s Summary Judgment Motion, and entered a $1.2 million judgment against Guarantors. In so doing, the Court found that Guarantors’ challenge to the accuracy of Floor Plan Lender’s evidence failed to create a genuine issue of material fact so as to preclude Summary Judgment.