

# Sour Note for Pair

## Key ruling flattens piano lawsuit

By Paul Horwitz

STAFF WRITER

To the accompaniment of jingling cash registers, Joseph Rosen and Sandra McNeil built a Patchogue music store into a successful retail chain, then hit the big time in the 1980s by distributing a line of Korean-made pianos across the nation.

But the couple claims that in 1990, the companies that sold them the pianos took their share of the market and forced them out of business. Now they're a step back from where they started, with one department of one store left. And yesterday in Hauppauge, the only sound the couple heard was the voice of a judge ruling against them.

Federal District Court Judge Leonard Wexler, sitting in Hauppauge, rejected most of Rosen and McNeil's suit seeking more than \$50 million from the piano maker, Korea's Samick Corp., and distributor, the automaker Hyundai.

Wexler ruled in favor of the companies' motion for summary judgment, allowing a single breach of warranty claim against Hyundai to go to trial. Jury selection is set for early August. Rosen and McNeil want \$1.6 million award plus unspecified punitive damages for that claim.

"I can't believe it," said McNeil, who lives in Bayport, after the decision. "There is no more American dream."

"I'm back where I was 15 years ago," said Rosen, who now runs the musical instruments section of Family Melody Center, the Patchogue store his father established in 1956. "We're just about making ends meet." McNeil no longer works in the business.

Wexler complained that Rosen and McNeil's lawyer, Victor Yannacone of Pat-

chogue, backed few of his claims with law or evidence. "[Your claims are] mixed up, so we don't know whether you're talking forwards, backwards, or in-between," he scolded. Noting that it took the judge an hour to remove Samick from two years of litigation, lawyer Paul Batista complained, "My client spent hundreds of thousands of dollars defending this case."

Rosen and McNeil, former music teachers who were once married, built Family Melody into a five-store chain on Long Island, and in 1979 began wholesaling pianos, which were made by Samick and shipped to the United States by Hyundai, under the Schumann brand name. Family Melody earned \$25 million in sales of the piano over a decade.

But in 1990, Samick and Hyundai stopped dealing with the couple. Since then, "the business just totally dwindled," said an attorney for Rosen and McNeil, Thomas Dana of Manhattan. Dana said the couple couldn't find a replacement brand of comparable size and cost.

Rosen and McNeil charge that Hyundai and Samick waited until the Schumann name created a market for Korean pianos, then took over the market. Both companies also sell the instruments in the U.S. under their own names. In the breach of warranty claim, the couple allege that they were sent several shipments of defective pianos.

Lawyers for Samick and Hyundai say their companies dealt fairly with Rosen and McNeil. "None of the defendants did anything wrong to Mr. Rosen or his wife or his business," Batista said.

Batista said Rosen and McNeil knew Samick might quit dealing with them, and could have found other pianos to sell. "He had a very nice, long, lucrative ride," he said.

*'I can't believe it. There is no more American dream.'*

— Sandra McNeil