

## 'You're Going to Have to Fire Me': South Florida

### Lawyers Beat Back Discrimination Suit

Shapiro, Blasi, Wasserman & Hermann partners Adam Chotiner and James Ferrara served as defense counsel to Jinny Beauty Supply Co. Inc. in a civil rights lawsuit filed by an ex-employee.

By **Zach Schlein** | October 09, 2019 at 09:16 AM



Adam Chotiner, left, and James Ferrara, right, with Shapiro, Blasi, Wasserman & Hermann in Boca Raton. Courtesy photos

Partners at a Boca Raton law firm successfully defended their corporate client from allegations of age and race discrimination, brought by a former employee in federal court.

Adam Chotiner and James Ferrara served as defense attorneys for Jinny Beauty Supply Co. Inc. in its litigation with Miami-Dade resident and ex-employee Zulma Cruz. The beauty product company, which operates nationally and touts itself on its website as offering “the largest multi-cultural and ethnic beauty supply distributing network in the world,” was accused by Cruz of violating state and federal civil rights protections, as well as unlawfully firing her in retaliation for speaking out about her treatment.

A jury in the Southern District of Florida found in the company’s favor on Oct. 1, and determined Cruz’s age, national origin and race were not motivating factors for her firing from Jinny. It declined to award damages to the plaintiff for her termination.

Cruz’s legal counsel — Daniel J. Poterek, Richard J. Burton, and Marc A. Burton with the Aventura-based Burton Firm — did not return requests for comment by press time.

The dispute began in 2015 after Cruz filed an Equal Employment Opportunity Commission charge against Jinny. In the subsequent August 2017 complaint filed in Miami-Dade Circuit Court, Cruz alleged she was discriminated against by Eddie Jhin, the owner and operator of the company.

The plaintiff, a Hispanic woman who had worked at Jinny as a wholesale distributor for more than a decade, claimed she was excluded from company meetings conducted solely in Korean, and did not receive the same training opportunities as co-workers who were younger or of Asian descent.

“Leading up to Zulma Cruz’s termination, she was negatively singled out and treated unfavorably for not meeting sales goals,” the complaint said,

contending the plaintiff was the only employee that Jhin “singled out in a negative light.”

The lawsuit charged Jinny Beauty Supply Co. with violating federal law prohibiting workplace discrimination and the Florida Civil Rights Act.

Jinny denied the charges and retained Chotiner and Ferrara in the wake of the EEOC complaint.

Chotiner told the Daily Business Review the federal charges in Cruz’s complaint allowed the defense to successfully remove the case to the Southern District of Florida. U.S. Magistrate Judge Jacqueline Becerra partially granted Jinny’s motion for summary judgment, and tossed the plaintiff’s retaliation charges prior to the trial.

Chotiner said he and co-counsel argued Cruz was fired solely for her poor performance and contended she never raised concerns about unfair treatment during her decade-plus employment with Jinny.

“From my client’s standpoint this was someone who was refusing to quit,” Chotiner said. “She was telling the company, ‘You’re going to have to fire me to get rid of me.’”

The attorney characterized Cruz’s removal from Jinny as amicable and said Jhin authorized a \$2,000 severance “as a farewell and thank you for years of service” just before her departure. Chotiner said the plaintiff admitted she never entered internal complaints about discrimination.

The five-day trial concluded with the jury returning a verdict after 70 minutes—a short deliberation time that Chotiner interpreted as a signal the jury “completely agreed with the defense’s position.”

Repeating a line he used in his closing arguments: “Jinny acted like an innocent employer because it is an innocent employer.”

“The jury was convinced that Jinny had not discriminated against Ms. Cruz, had not done anything unlawful, and that her supervisor had tried to motivate her to try and work with her to get her to improve her performance,” Chotiner said. “It’s safe to say that my client is gratified and very pleased that the jury recognized the position my client has taken over the last almost-four years: They did not discriminate against Ms. Cruz or anybody else.”