

Genesco v. Finish Line and UBS

Speed can be accomplished without sacrificing substance.

A Massive Case

In several respects, the Genesco case was massive. It was an indication of the impending economic downturn with a merger price of \$1.5 Billion. The case involved a 34-page complaint for specific performance with complex merger contract provisions, counterclaims for fraud, concealment, securities fraud, and an issue of first impression in Tennessee law—Material Adverse Effect. It also included, attorneys from New York City and Washington D.C.; UBS as a party; Goldman Sachs as witnesses and there were continuous calls made to the Clerk & Master's office from Wall Street. Not only was there an overflow, second courtroom video of the trial, but *Courtroom View Network* also broadcasted a live feed of the trial.

Case Prepared, Tried and Decided in 3 Months

Yet, despite the massiveness of the case, all discovery, the trial and a ruling on whether the buyer and its lender had wrongfully refused to close and whether specific performance to merge the corporations was to be ordered, had to be drastically compressed into 3 months before the December 31, 2007 “drop dead” date the merger would terminate if no closing occurred. This was accomplished, and, the attorneys involved agree, without diminishing substance.

The trial included 7 expert witnesses and as many fact witnesses; 15 or more attorneys in the courtroom well during trial; and the trial was followed with a comprehensive 42-page Memorandum and Order of findings of fact and conclusions of law, issued within a week of the conclusion of the trial.

The Valuable Truth

Counter to intuition, the lawyers and the Court learned from their experiences in the Genesco case that speed can be accomplished without sacrificing substance.
