

Avis Franchisee Awarded \$16 Million in Damages

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This is a post by guest blogger Janet Sparks. It is cross-posted on [Blue MauMan](#).



After seven years of legal wrangling with conglomerate Cendant Corporation, a jury has awarded Robert C. Halcro, a franchisee of Avis Rent A Car System, \$16 million in damages.

A judge had previously ruled that the Avis franchisor had “unequivocally” breached its agency settlement agreement with Halcro’s company Alaska Rent A Car, when it acquired and continued to operate competitor Budget Rent A Car. He stated that the only issue to be determined was whether Alaska Rent A Car had been damaged, and if so in what amount.

On October 1, 2009, after two hours of deliberation, the jury awarded damages to the 50-year veteran franchisee declaring:

We, the jury, based upon the preponderance of the evidence, unanimously find the following verdict on the damages suffered by Alaska Rent-A-Car Inc., as the proximate result of the breach by Avis Budget Group, Inc. and Avis Budget Car Rental, LLC in the following amount: \$16 million.

In hearing the verdict, Halcro said, “We won big. This goes to the core of the American franchise system. Big franchisors shouldn’t be able to get away with what they are trying to do in going against the small franchise operator.” He said he felt fortunate that he had the money to battle in court, that most small business people don’t have the resources. “I spent almost \$7 million fighting this franchisor, but I don’t care. I came into the world with nothing, my family is okay financially, so to hell with them. I’ll march on.”

Halcro signed his first Avis franchise agreement in 1956 in Valdez, making the commitment to invest time and money into growing his Alaska Rent-A-Car company. Although he did not realize a profit for the first ten years, he signed a second agreement in 1965, which allowed him an exclusive license to use the Avis brand in various territories. But in 1973 he encountered his first legal feud with Cendant, when Avis opened a competing agency in his territory. That prompted him to file a lawsuit to protect his rights, which concluded in a settlement in 1976. Avis then executed an amendment to Halcro’s 1965 license agreement allowing him specific locations in Alaska.

When the Avis system acquired Agency Rent A Car in 1995, Avis licensees from 10 states sued on the grounds that the acquisition violated their exclusive license agreements. In 1997, after the consolidation of lawsuits and transfer of the case to New York, a settlement was reached and Halcro was invited to join the Agency Settlement Agreement. But after entering that settlement, Halcro's biggest legal battle erupted in November 2002, out of another Cendant purchase.

In 2002, Cendant acquired the assets of Budget Rent A Car, and in 2003 Halcro filed a federal lawsuit in Alaska alleging Avis' acquisition and continued operation of Budget in competition with his company had violated all three of his license agreements. In his complaint, he asserted 12 causes of action including fraud, breach of various contracts, violation of Alaska Uniform Trade Secret Act, and anti-trust violations under federal and Alaska law.

Last July, Judge Timothy M. Burgess issued his decision on seven motions of summary judgment filed by both parties, granting in part and denying in part on certain motions. He resolved most claims in Cendant's favor, with the exception of count two. The judge stated that Cendant Rent A Car Group was unequivocally in breach of the agency settlement agreement, and ordered, "Alaska Rent-A-Car is entitled to whatever damages it actually incurred as a result of the breach of the Agency Settlement—no more, no less."

In hearing the jury verdict, Jeffrey M. Feldman, Feldman Orlansky & Sanders, representing Halcro's company said, "That was a gratifying result to the case." He explained that the parties' presentations, plaintiffs and defendants, consisted of a combination of fact witnesses. He said the expert testimony was what was most critical and it is apparent from the verdict that the jury accepted the testimony of their expert and rejected the testimony of the defendant's expert. "I think the lawyers in a case always recognize that the outcome is likely to be determined by how the jury assessed and evaluated the testimony of the experts. And in the end, we know what they did."

John Dienelt, DLA Piper, representing the Cendant and Avis defendants, replied, "I disagree with Mr. Feldman's analysis, but I respect his right to be wrong."

With the jury verdict now in, the parties are waiting for Judge Burgess to sign the file judgment, the next step in the case. Dienelt said they will be filing the motion for judgment notwithstanding the verdict for a new trial. "Pending resolution of that motion, defendants will in due course determine their next steps including any appeal if the motions are denied. I would say that it is likely that there will be an appeal but at this point we are focused on the post trial motions and haven't really made any decisions beyond that."

Halcro said that after going through this long and expensive litigation process with Avis, he sees a real need for new legislation to protect the rights of franchisees. He hopes there will be a strong effort in the franchise community to see it happen.

*Janet Sparks is a reporter and blogger for [Blue MauMau](#), a daily business news site for franchise buyers and owner-operators, and a columnist/reporter for [Franchise Times](#) magazine. Previously, she was the owner/publisher of the *Continental Franchise Review*, an industry trade journal first published in 1967.*