

Daily Journal

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TOP VERDICTS OF 2016

The largest and most significant verdicts and appellate reversals handed down in California in 2016

TOP APPELLATE REVERSALS

Rostack Investments Inc. v. Sabella

Can a trial court judge overrule another? That's one of the issues Gibson, Dunn & Crutcher LLP attorneys faced in convincing the court of appeal to unanimously reverse summary judgment and awards worth nearly \$70 million granted by a trial court judge.

Gibson Dunn represented on appeal Angela Chen Sabella, the daughter of Chen Din-Hwa, a deceased Hong Kong billionaire businessman.

The dispute centers on whether a more than \$30 million loan Chen Din-Hwa provided to his elder daughter through Rostack Investments Inc., one of his business entities, was forgiven and gifted before his death.

Los Angeles County Superior Court Judge Barbara A. Meiers ruled against the defendant on summary judgment and ordered her to pay \$51.9 million and over \$6.6 million in attorney's fees and costs to Rostack at the end of 2014. Fees increased since then because of post-judgment interest. *Rostack Investments Inc. v. Sabella*, BC428298 (L.A. Super. Ct., filed Dec. 19, 2009).

"What this case comes down to is it's about one of many gifts that a father made to his two daughters whom he loved equally and about the attempts that the younger daughter has made to take more than her fair share at the expense of our client, Ms. Angela Chen," said Julian W. Poon, one of the lead Gibson Dunn attorneys on the case.

2nd District Associate Justice Luis A. Lavin, then a superior court judge, was the first to preside over the case. He denied a Rostack summary judgment which Meiers later granted after the case was reassigned to her.

"Judge Meiers effectively overruled Judge Lavin after she took over the case and she did

CASE INFO

Breach of contract

2nd District Court of Appeal

Associate Justice Laurence D. Rubin

Plaintiff lawyers: Mayer Brown LLP, Neil M. Soltman, John Nadolenco, Christopher P. Murphy

Defense lawyers: Gibson, Dunn & Crutcher LLP, Theodore B. Olson, Julian W. Poon, Timothy W. Loose, Andrew G. Pappas, Michael Holecek, Lauren M. Blas, Theodore M. Kider, Stephanie J. Thorpe, Samuel Eckman



JULIAN W. POON

that through invoking the indispensable party statute," Poon said. "We had to explain why Judge Meiers could not use the indispensable party statute to effectively overrule Judge Lavin.

"We had to find a way to boil everything down so that it could make sense to the three justices that were hearing the case."

A large record of the trial case, containing more than 40 volumes and multiple trips to China were some of the other challenges attorneys faced. The law of promissory estoppel and the law of gifts were some of the legal issues attorneys tackled in presenting the case to the appellate court.

Gibson Dunn attorneys ultimately overcame these issues as the justices in the 2nd District Court of Appeal, Division Eight reversed the lower court's judgment and attorney's fee award and ordered Rostack to pay the defendant's costs on appeal.

"We were successful because of good

lawyering, staying on top of the record and mastering the case law," Poon said.

The case will now go back to the trial court for a jury to decide whether the funds Sabella received were gifted and whether Rostack is barred from collecting on it. The court of appeal has also ordered that the case be reassigned to a different judicial officer — not Meiers.

"Though we were disappointed by the court of appeal's decision, we note that the court struggled with the opinion and granted our petition for rehearing and modified its opinion in a manner favorable to our position," said Neil M. Soltman, a Mayer Brown LLP partner advising Rostack on appeal. "We also recognize that the court did not rule on the merits but simply said that there are triable issues of fact to present to a jury. We now look forward to successfully presenting all of these issues to a jury."

— Melanie Brisbon