

ERVIN COHEN & JESSUP TRIAL TEAM PREVAILS IN LONGSTANDING MULHOLLAND DRIVE REAL ESTATE WAR

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Real Estate Judgement Highlights the Strength of a Litigation Strategy.

When a Mulholland Drive residential property owner failed to get the two consecutive owners of a neighboring property to relocate improvements that encroached on his property, he turned to Ervin Cohen & Jessup's Real Estate Litigation and Land Use groups for resolution. After a six-day bench trial before Superior Court Judge Monica Bachner, Ervin Cohen & Jessup prevailed on behalf of its client in *Silverlake v. Ganezer* (LASC Case No. BC628422).

“When various, amiable attempts to work out the matter failed, we effectuated our plan B,” said Randy S. Leff, who led the firm's trial team alongside Partner Ellia Thompson and litigator Patrick Emerson McCormick. “By recording a *lis pendens*, we were able to protect our client's legal rights even after a third party purchased the neighboring property at a foreclosure sale. This procedure eliminated the new purchaser's ability to prevail.”

A *lis pendens* is a written notice that a lawsuit has been filed concerning real property. Ervin Cohen & Jessup filed one against the offending property's first owner, Phil Ganezer who, according to testimony at trial, illegally stabilized his house on a steep Los Angeles hillside by installing 11 concrete pilons, called soldier piles, and also constructing three sewage seepage pits on two adjacent properties owned by Ervin Cohen & Jessup's client.

After a bank foreclosed on Ganezer's house and sold it at auction for \$1.1 million to Justin Monempour, as the trustee of The Mulholland Trust dated September 1, 2016, Ervin Cohen & Jessup amended the complaint to include Monempour as a defendant. As the lawsuit progressed, Ervin Cohen & Jessup's Land Use Group diligently uncovered all of Ganezer's grading and building permits and approvals, documentation that showed Ganezer had not complied with the City's stated regulations and had violated numerous conditions of the project's original approvals.

PROFESSIONALS

Randall S. Leff

PRACTICE AREAS

Litigation and Alternative
Dispute Resolution

Real Estate

At trial, it was established that Monempour was aware of the *lis pendens* and Ervin Cohen & Jessup's client's claims before he purchased the property and is therefore required to remediate the situation. Judge Bachner's preliminary order requires Monempour to bear all of the expenses associated with removing or abandoning all of the illegal improvements. According to the testimony of Monempour's expert witnesses, the cost of abandoning the illegal improvements, re-stabilizing the slope and reconstructing the seepage pits on the Trust-owned property will be approximately \$1 million.

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