

ERVIN COHEN & JESSUP PREVAILS ON APPEAL OF \$93M REAL ESTATE WIN

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The award, which has been paid, including \$1.85M in attorney's fees, against sellers of Chino Hills strip mall, is among the largest recent verdicts.

The state Court of Appeal has upheld a massive \$93 million verdict (Los Angeles Superior Court Case BC478341) scored by law firm Ervin Cohen & Jessup against a developer who withheld from the buyer of a Chino Hills strip mall that some tenants were struggling and might leave.

The 22-page ruling, out of Division Two of the Second Appellate District, was filed September 25, 2019, and became official on November 25. The appellate judges wrote that the seller “failed to establish any error by the referee.” The seller was Amin S. Lakha of Lakha Properties of Bellevue, Washington, which owns several major commercial properties across the West, and the buyer was CRCH LLC.

“Although it was not a surprise that the defendant would appeal one of the largest awards of its type in Los Angeles County in recent years, the Firm was confident that its legal arguments would withstand the test,” said Barry MacNaughton, a Partner in the ECJ's Litigation practice.

“Developers who withhold vital information can expect the deal to be overturned,” continued Barry. “The appellate court agreed that the seller failed to disclose information that would have torpedoed the deal, namely that major tenants at the Crossroads shopping center, including Sport Chalet, might not hang in much longer. It’s one of the most egregious cases of fraud that I’ve ever seen.”

The deal dates back to August 2008 – a delicate economic time for retailers and developers. When CRCH learned that retailer Broadway Shoes was leaving the strip mall, it was so concerned that it rejected the deal until the parties renegotiated a lower price. This put Lakha on notice that the CRCH was worried about tenants leaving. Despite this, Lakha fraudulently concealed that several other retailers were financially struggling and might also leave, Barry said.

PROFESSIONALS

Barry J. MacNaughton

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The court ordered that Lakha repay CRCH's down payment (about \$30 million including interest) and that Lakha owed approximately \$63 million to the lender, which foreclosed.