

Daily Journal

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VERDICTS AND SETTLEMENTS

Contracts

Breach of Fiduciary Duty

Breach of Joint Venture Agreement

Windsor Capital Group Inc. v. John Moller; Dansk Investment Group Inc.; Moller Investment Group Inc.; Palisades Gas and Wash Inc.; Citrus North Venture LLC; Huntsville Hotel Partners LLC; Hunstville Condo Partners LLC; O&S Holdings LLC, and Does 1-100, inclusive

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Published: Dec. 9, 2022 | Result Date: Oct. 12, 2022 | Filing Date: Nov. 17, 2016 |

Case number: 19CV05198

Verdict – Defense

Judge

Donna D. Geck

Court

Santa Barbara County Superior Court

Attorneys

Plaintiff

A. Barry Cappello
(Cappello & Noel LLP)

Defendant

Ryan T. Waggoner
(Allen, Matkins, Leck, Gamble, Mallory
& Natsis LLP)

Peter A. Griffin

(Allen, Matkins, Leck, Gamble, Mallory
& Natsis LLP)

Facts

Patrick Nesbitt is a resident of Santa Barbara, and he is the founder and principal of Windsor Capital Group, Inc., which is a Colorado corporation headquartered in California. John Moller is also a resident of Santa Barbara. In roughly September 2013, Nesbitt became aware of an opportunity to purchase the Westin Huntsville Hotel and Residences in Huntsville, Alabama. The hotel had been open since 2008, was 11 stories, and part of a multi-use development. Nesbitt made a non-refundable deposit of \$550,000 to place the hotel under contract, and he began due diligence to explore its development potential. Nonetheless, the deal ultimately fell through.

In late 2014 or early 2015, Nesbitt found out the hotel was for sale again. This time, he reached out to Moller about the possibility of a joint venture, and Moller confirmed his interest. In 2015, the two traveled to and visited the hotel site together, and they discussed purchasing the hotel with the seller and its agents. Despite the discussion of a joint venture, a few months after the two visited the site, Moller purchased the hotel without Nesbitt through one of his business entities. Nesbitt subsequently filed suit against Moller and several business entities for which Moller was the principal.

Contentions

PLAINTIFF'S CONTENTIONS: Plaintiff contended that he and the defendants had intended to enter into a joint venture; that they had through their actions, oral agreements, and written words evidenced their intent to enter into a joint venture; that the plaintiff performed as required under the agreement; and that the defendants breached the joint venture agreement by concealing unilateral negotiations to purchase the hotel, usurping the joint venture opportunity, taking title to the hotel, and utilizing the joint venture to negotiate and operate the hotel after the purchase close. Plaintiff also contended that the defendants had breached a fiduciary duty owed to him as a co-joint venturer. The plaintiff further contended that the defendants intended to defraud and deceive him by concealing facts and that he would have behaved differently had omitted information been disclosed. Plaintiff contended that the defendants had intentionally interfered with his contractual relations and his prospective economic relations, and that all of the defendants' actions and omissions were the cause of substantial economic harm suffered by the plaintiff.

DEFENDANTS' CONTENTIONS: Defendants denied any wrongdoing or liability and all of the plaintiff's substantive allegations.

Result

The jury returned a complete defense verdict.