

# Daily Journal

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## TOP VERDICTS OF 2011

### TOP DEFENSE VERDICTS

#### *CFRI-NCA Palladium Venture LLC v NCA Argyle LP*



Robert Levins / Daily Journal

Wayne Gross, left, and Alan A. Greenberg of Greenberg Traurig LLP

Some attorneys try to convince a jury that a major corporation isn't always the bad guy. In this case, the defense counsel had to demonstrate that nonprofits aren't always in the right.

"Typically, juries view nonprofits as being different from the stereotypical greedy corporations," said Wayne R. Gross, who represented Newport Capital Advisors LLC in a dispute with nonprofit investment manager Commonfund Realty Investors LLC. *CFRI-NCA Palladium Venture LLC v. NCA Argyle LP*, BC412918 (Los Angeles Super. Ct.).

At issue, CFRI entities allegedly owned four properties in Hollywood and entered into negotiations with Newport Capital Advisors and its affiliates for redevelopment of the properties, as well as to admit an NCA affiliate as a member of the LLC that held titles to the properties.

But the plaintiffs said that they had no binding contractual obligation to enter into any ventures with the defendants, and that they could

#### **Breach of Joint Venture Agreement**

Los Angeles County Superior court

Los Angeles

Judge Mary H. Strobel

**Defendant's attorneys:** Greenberg Traurig LLP,

Alan A. Greenberg, Wayne R. Gross

**Plaintiff's attorneys:** Ballard Spahr LLP

terminate their relationship without liability. They sought declaratory relief, contending that they were the sole owners of the four properties, and that the defendants had no interest in them.

Newport Capital then filed a cross-complaint against Commonfund, and several others, for breach of fiduciary duties, and also filed a cross-claim against plaintiffs for dissolution of joint ventures and for recovery of the reasonable value of services.

Prior to trial, the plaintiffs dropped their entire complaint and Newport Capital dropped its causes of action for dissolution. The trial proceeded on Newport Capital's cross-complaint for breach of fiduciary duties and reasonable value of services.

Gross and his co-counsel, Alan A. Greenberg, mined thousands and thousands of pages of emails.

"We were able to discover key internal emails reflecting a secret plan to kick NCA out," Gross said.

Greenberg added, "We used their own words against them repeatedly. In the internal emails, they believe there was a joint venture. But in open court, video deposition clips of their executives were testifying that there never was any joint venture."

Ultimately, the jury returned a defense verdict of \$50.3 million.

"We had to educate the jury on the fact that an organization, whether nonprofit or anything else, is nothing more than the executives who run it," Gross said.

— Pat Broderick