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REPORTING FORM FOR VERDICTS & AWARDS

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*Fields marked with asterisks are required

The Case

Case Name:* McGinty and Haworth versus Bouzaglou, Stern and Ness Adam Inc.

Court and Case Number:* Los Angeles Superior Court, BC 495095

Date of Verdict or Award:* March 24, 2014

Date Action was Filed: November 4, 2012

Type of Action *Elder abuse, Real estate, fraud, attorney malpractice

Judge or Arbitrator(s):* Stephen Czuleger, Department 3

Plaintiffs: (Name, age, sex, occupation) *Jeannie Haworth, trustee of the McGinty Family trust; Kathleen McGinty, dependent adult, individually

Defendants: *Noam Bouzaglou, individually; Andrew J. Stern, Esq., individually, and Ness Adam Inc, a Corporation.

Type of Result: Jury Verdict

The Result

Gross Verdict/Award * \$23,500,776.47

Net Verdict/Award * \$23,500,776.47

Award as to each Defendant

Bouzaglou \$8,853,080

Ness Adam \$14,647,696.47

Andrew Stern \$0 but findings of negligence, malice, oppression, fraud and harm

Contributory/Comparative Negligence:

<i>This Verdict/Award Includes:</i>	<i>Bouzaglou</i>	<i>Ness Adam, Inc</i>
Economic Damages	\$ 803,280	
Non-Economic Damages	\$17,000	\$1,331,608.77
General Damages	\$17,000	
Punitive Damages	\$ 8,032,800.00	\$13,316,087.70

Other details of verdict/award:

Trial Time (Days): 9 days

Jury Deliberation Time: 1 ½ day

Jury Polls: 61 questions on special verdicts

Post Trial Motions & Post-Verdict Settlements: varied, not yet set; hearing on equitable issues (recession, cancelation of deed, attorney fees) set for April 28, 2014

Related Settlements

Which Defendant:

Cash Settlement: \$n/a

Structured Settlement: \$ n/a

When was this settlement reached? n/a

(Copy and paste above lines for each additional settling defendant)

The Attorneys

Attorney(s) for Plaintiff:

Joseph C. Girard, Marina del Rey, aka LAElderLaw.com, for both plaintiffs

Attorney(s) for Defendant:

Andrew J. Stern, Los Angeles, for both defendants AND in pro per

The Experts

Plaintiff's Medical Experts:

Dr. Franklin Milgrim M.D. (psychiatrist)

Defendant's Medical Experts:

None

Plaintiff's Technical Experts:

Richard Wood (real estate); Michael Polls (construction); Ed Lear (attorney)

Defendant's Technical Experts:

Dan Rosen construction (stiffed by defendants when he gave testimony unfavorable to them at deposition and called by Plaintiff under subpoena)

Facts and Background

Dolores McGinty died in 2009 leaving her son Tim McGinty trustee of the family trust which included a special needs trust for daughter Kathleen McGinty age 55 and a functioning autistic. Kathleen had been protected by her mother, who was in denial, and had not obtained any government benefits for lifelong disability by the time her mother had died. Now penniless and on government benefits.

Tim McGinty struggled with substance abuse and depression for all of his 49 years. He quit his job as a special needs teacher to seek disability for depression with psychosis and attempted to take care of his sister. The city of Santa Monica "red tagged" their garage in August 2010 and Tim hired a contractor for \$200 down payment to solve the problem. Tim took out a \$75,000 loan to refurbish the garage and house which had previously been free and clear. That contractor/ salesman quit his job at a good construction company and went out with a co-employee, Noam Bouzaglou, and obtained a \$327,000 contract to refurbish/rebuild the entire property to sell it for a maximum profit for the homeowner trust. They got Tim a \$400,000 construction loan which Tim could not afford and funneled the \$294,000 net proceeds through the attorney's client trust account. They then added 4 extra work orders/change orders taking the total contract price for a single story cosmetic remodel to \$857,000 and, with the help of attorney Andrew J. Stern, got Tim McGinty to deed the property over to the contractor five days after Tim was discharged from a two week psychiatric hold/5150.

The contractor completed the cosmetic remodel for less than \$109,000 max (they chose not to produce any evidence of their cost or expenditures).

On October 16, 2012 Tim McGinty died unexpectedly of natural causes.

On October 18, 2012 defendant Bouzaglou entered into a sales contract to sell the property to independent purchasers for \$1,530,000. Tim's cousin, Jeanne Haworth, found out that her cousin Kathleen had been removed from the home in Santa Monica to Encino, and that a for sale sign was on the remodeled house and the house was in the name of Noam Bouzaglou instead of the McGinty family trust.

By November 6, 2012, Plaintiff's attorney had a Lis Pendens recorded which put the sale on hold.

Defendant's attorney started an 18 month course of abusive discovery/trial prep/ "litigation" including motions to dissolve the Lis Pendens (denied), Demurrers (all denied), motions for summary judgment (all denied), and stone-walled two mediations and the MSJ judge, and had a \$1,000,000 liability policy on the corp voided by non-reporting and failure to tender the defense!

Date and place of incident (Injury cases):

Facts: *Same as above

Plaintiff's Contentions:* Defendants were conspirational abusers of two dependant adults, frauds and thieves and the home should be returned to the trust.

Defendant's Contentions:* the defendants said the contracts, property transfer agreement, and deed were all good, clear, and should be enforced, and that they were owed money.

Physical Injuries claimed by Plaintiff:* Kathleen McGinty lost sleep, had headaches and stomach distress, anger and sadness.

Other Injuries and Damages:* Loss of use of the Santa Monica property (rental value) was totaled at \$38,000.

Additional Notes: The jury found by special verdict that Andrew J. Stern was the attorney for Timothy McGinty, did provide legal services to Tim McGinty, performed those services negligently, caused the McGinty family trust harm, and was reckless, malicious, oppressive, and had conscious disregard of health and safety, but was not a fiduciary (confusing finding) and caused \$0 damages. Because of the zero damages, the judge did not let the case against attorney Stern go to the jury on punitive damages, finding that "no tort" had been established. Plaintiff argued Fullington v. Equilon (2012), 210 CA 4th 667; 148 Cal Reprtr 3rd 434 and Judge went with Esparza vs. Spect (1976) 55 Cal App 3rd 1, 127 Cal Rptr 493.

Defendant's cross complained on their contract and lost, generating claim of attorney's fees in addition to damages.

Special Damages Claimed:*

Past Medical: \$0
Future Medical: \$0

Past Loss of Use of rental value: \$ 38,280

Future Lost Earnings: \$ 0

Property Damage: \$

Other: \$

Demands and Offers

Plaintiff's Demands

§998 Demand:

Final Demand before Trial: *Give us the house back and we will walk away.

Demand during Trial:

Defendant's Offers

§998 Offer:

Final Offer before Trial: * Give us \$500,000 out of the sale proceeds.

Offer during Trial:

The Rest of the Story

The final change order and a promissory note were both dated while Tim was in the psychiatric lock up. The Property Transfer Agreement, dated 5 days after the release from the 5150, was legalese and contradictory. Defendants were impeached repeatedly.

A Reasonably Complete and Accurate Report

By submitting this report as a member of the California State Bar and a sworn officer of the court, you represent that it is reasonably complete and accurate. Upon receipt, we attempt to verify the report with opposing counsel. We may edit it as necessary. We may distribute the report both electronically and in print, and may maintain copies of it in digital databases.

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Providing this information will help us to more promptly verify this report.

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