

CALIFORNIA

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FEATURED VERDICT

Legal Profession

Misrepresentation during real estate transactions: plaintiffs

Verdict \$34,496,780

Sabadia v. Holland & Knight LLP

Los Angeles County Superior Court, Los Angeles

Plaintiff Counsel David Z. Ribakoff (lead), Enestein & Ribakoff, APC, Santa Monica, Calif.; Michelle J. Correll, The Law Offices of Michelle J. Correll, Los Angeles

Defense Counsel John D. Klinedinst (lead) and Carey L. Cooper, Klinedinst PC, San Diego, Calif.

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SOUTHERN

LOS ANGELES COUNTY

FEATURED VERDICT

LEGAL PROFESSION

Malpractice — Breach of Fiduciary Duty — Constructive Fraud

Plaintiffs: Misrepresentation during real estate transactions

VERDICT \$34,496,780

CASE Rahim Sabadia, an individual; Rahim Sabadia and Nafees El Batool, as Trustees of the Sabadia Family Trust dated May 20, 1993, as amended and restated December 31, 1996, and as amended on November 11, 2004; and Ishitaq Khan, as Trustee of the Sabadia Family Irrevocable Trust v. Holland & Knight LLP, No. BC438701

COURT Superior Court of Los Angeles County, Los Angeles

JUDGE Susan Bryant-Deason
DATE 4/19/2012

PLAINTIFF ATTORNEY(S) David Z. Ribakoff (lead), Eneinstein & Ribakoff, APC, Santa Monica, CA
Michelle J. Correll, The Law Offices of Michelle J. Correll, Los Angeles, CA

DEFENSE ATTORNEY(S) John D. Klinedinst (lead), Klinedinst PC, San Diego, CA
Carey L. Cooper, Klinedinst PC, San Diego, CA

FACTS & ALLEGATIONS In 2002, plaintiffs Rahim Sabadia and Nafees El Batool, who are married, and plaintiff Ishitaq Khan, El Batool's brother, began investing in multiple commercial real estate transactions in Florida and Georgia through Shi Shailendra, a real estate developer. Khan had been investing with Shailendra since 1995, and had recommended that Sabadia and El Batool invest with Shailendra. They alleged that Shailendra retained the law firm of Holland & Knight LLP to represent them on the transactions.

Sabadia, El Batool and Khan claimed that between 2004 and 2008, Shailendra had defrauded them on multiple commercial real estate transactions by depositing their money into his accounts. They claimed they incurred millions of dollars in losses from their net cash investment, as well as loan guarantees.

Sabadia (acting individually and as trustee of the Sabadia family trust), El Batool (acting as trustee of the Sabadia family trust), and Khan (acting as trustee of the Sabadia family irrevocable trust) sued Holland & Knight for legal malpractice, breach of fiduciary duty, constructive fraud, fraud and fraudulent concealment.

Holland & Knight subsequently filed a cross-complaint against Khan for breach of his fiduciary duties as trustee, but the complaint was dismissed prior to trial.

The plaintiffs contended that W. Reeder Glass, an attorney for Holland & Knight, misrepresented himself as their attorney on the real estate transactions. They claimed that Glass, on behalf of the firm, had an obligation to tell them that he was not their lawyer, since they were led to believe they were being represented by Holland & Knight.

The plaintiffs further contended that the real estate transactions that Shailendra brought to them were not favorable, and that Holland & Knight should have advised them to restructure the deals or to not get involved in them at all. Thus, the plaintiffs claimed that Holland & Knight provided a false sense of security on the transactions, which resulted in millions of dollars in damages.

Holland & Knight contended that it was not the plaintiffs' attorney on the subject real estate transactions, and that it had no duty to protect the individual investors and/or provide advice on the validity of the transactions. Instead, Holland & Knight contended that it represented the acquisition entities in the transaction.

The defense's legal experts opined that the firm's work did not fall below the standard of care with regard to the work done for the acquisition entities, and that the legal services provided by Holland & Knight were exemplary. Defense counsel argued that the loss to the plaintiffs in their real estate investments was a result of the downturn in the economy and that it had nothing to do with any legal services provided by Holland & Knight.

INJURIES/DAMAGES Sabadia, El Batool and Khan sought recovery of \$15 million in damages for their net cash investment on the real estate transactions. They also sought recovery of \$19 million in damages for loan guarantee liabilities as a result of the multiple foreclosures involving the commercial properties. The plaintiffs further sought recovery of mitigation expenses, as well as punitive damages for the defendant's alleged fraud, malice and oppression.

Defense counsel contended that the plaintiffs did not prove that any of their investment losses were caused by any alleged acts or omissions of Holland & Knight's employees. In fact, counsel contended that the plaintiffs consistently made money on their investments with Shailendra until the economy went into a deep recession. Defense counsel further contended that the damages claimed for guarantees were speculative and the result of the plaintiffs own investment decision-making process.

RESULT The jury ruled in favor of the plaintiffs and awarded \$34,496,779.92 in total damages. The breakdown of the award was \$28,632,327.60 to Sabadia (individually); \$3,104,710.04 to Sabadia and El Batool (as trustees of the family trust); and \$2,759,742.28 to Khan (as trustee of the family irrevocable trust). The jury also made a finding for fraud.

**ISHITAQ KHAN,
AS TRUSTEE OF
THE SABADIA
FAMILY
IRREVOCABLE
TRUST**

\$1,103,897 legal malpractice
\$1,103,897 breach of fiduciary duty
\$275,974 constructive fraud
\$275,974 fraudulent concealment
\$2,759,742

RAHIM SABADIA \$11,452,931 legal malpractice
\$11,452,931 breach of fiduciary duty
\$2,863,233 constructive fraud
\$2,863,233 fraudulent concealment
\$28,632,328

**RAHIM SABADIA
AND NAFEES
EL BATOOL, AS
TRUSTEES OF
THE SABADIA
FAMILY TRUST**

\$1,241,884 legal malpractice
\$1,241,884 breach of fiduciary duty
\$310,471 constructive fraud
\$310,471 fraudulent concealment
\$3,104,710

TRIAL DETAILS Trial Length: 8 weeks
Trial Deliberations: 6 days
Jury Vote: 9-3
Jury Composition: 5 male, 7 female

**PLAINTIFF
EXPERT(S)**

Clark D. Cunningham, attorney
responsibility, Atlanta, GA
Alisa J. Freundlich, law (real estate),
Brentwood, CA
Lawrence H. Jacobson, attorney ethics,
Beverly Hills, CA
Carlenc Kikugawa, CPA, accounting
(forensic), Irvine, CA
Stefano Vranca, CPA, accounting (forensic),
Beverly Hills, CA

**DEFENSE
EXPERT(S)**

James Elliott, attorney ethics, Atlanta, GA
Robert Holt, law (real estate), Atlanta, GA
Quentin Mimms, accounting (forensic),
Dallas, TX
Peter R. Thompson, attorney ethics,
San Diego, CA

POST-TRIAL After the jury's finding of fraud committed by and/or ratified by an officer (director of managing agent of Holland & Knight LLP), the parties reached a confidential resolution as to the punitive damages phase.

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' and defense counsel.

—Dan Israeli

MOTOR VEHICLE

Rear-ender — Multiple Vehicle

**Defense: Minor rear-ender did
not cause plaintiff's injuries**

VERDICT Defense

CASE Andrew Brown v. Lawson Raymond Cole,
No. VC058086

COURT Superior Court of Los Angeles County,
Norwalk

JUDGE Raul Anthony Sahagun

DATE 3/28/2012

PLAINTIFF

ATTORNEY(S) Timothy J. Swift, Law Offices of Timothy J.
Swift, Santa Ana, CA

DEFENSE

ATTORNEY(S) Cynthia M. Martinez, Mark R. Weiner &
Associates, Glendale, CA

FACTS & ALLEGATIONS On the afternoon of July 24, 2010, plaintiff Andrew Brown, 23, a student, was in stop-and-go traffic on the northbound 605 Freeway in Downey, when he was rear-ended by a vehicle operated by Lawson Cole. Brown primarily claimed injuries to his neck and lower back.

Brown sued Cole. He alleged the defendant was negligent in the operation of his vehicle. Specifically, he claimed that Cole was driving inattentively and failed to stop his vehicle in time to prevent the collision.

Cole admitted liability for the accident, and the matter proceeded to a trial on causation and damages.

INJURIES/DAMAGES *aggravation of preexisting condition; back and neck; bulging disc, lumbar; chiropractic; headaches; jaw; radicular pain; spasm, lumbar; stenosis*

Brown treated at an urgent care facility two days after the accident, presenting with neck and lower back pain, dizziness, headaches and jaw pain. He underwent X-rays and was prescribed pain medication for strains and sprains. However, Brown claimed he developed continuing pain and stiffness in his lower back, as well as spasms radiating down to both legs.