



A Disruptive Force in Business Litigation

by Dan Glassman, Greenberg Gross LLP

How did a new firm formed by two big-firm trial lawyers immediately become a disruptive force in Orange County business litigation? The seeds of the disruption were planted in 2011, when Alan Greenberg and Wayne Gross grabbed national headlines for winning a \$50 million jury verdict in a partnership dispute regarding iconic Hollywood properties, including the world-famous Palladium. The victory not only ensured that a local real estate developer who had been victimized would be made whole, but also served as a transformative moment for his trial team.

What made the real estate developer's \$50 million victory unique, aside from its size, was that he started out in the case as the defendant, not the plaintiff. How did this happen? In 2005, the developer's company, named Newport Capital Advisors LLC or "NCA," entered into a joint venture with Commonfund, the largest nonprofit investment manager in the country, to develop four Hollywood properties, including the iconic Palladium. However, in 2007, after the properties gained \$35 million in market value, Commonfund tried to jettison NCA, confident that the absence of a finalized partnership agreement skewed NCA's contract claims. When NCA refused to walk away from its partnership interest, Commonfund initiated legal action, suing for a declaration by the court that there was no enforceable joint venture. That's where NCA's trial lawyers changed the game.

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- Alan Greenberg and Wayne Gross

Instead of simply defending the lawsuit filed against their client, Greenberg and Gross filed a countersuit against Commonfund. Specifically, they sued Commonfund, as a joint venture partner, for breaching its fiduciary duties to NCA. Moreover, the duo alleged that Commonfund's breach was done in a malicious, oppressive and fraudulent manner, entitling NCA to punitive damages. Nonetheless, Commonfund stubbornly refused to acknowledge any wrongdoing, requiring Greenberg and Gross to take on Commonfund in a four-week trial. Not a smart move for Commonfund, as the jury awarded NCA \$16 million in compensatory damages and \$34 million in punitive damages. Commonfund appealed, but ultimately entered into a confidential settlement and dismissed the appeal.

While both Greenberg and Gross have had a long history of successful trial outcomes for their big-firm clients, the NCA verdict changed their perspective on their role in the justice system. Gross explained, "Due to conflicts, big-firm lawyers are often limited to defending large clients who have been sued and thus can only play defense, not offense. But the NCA case was a rare instance in which big firm lawyers were able to play offense by pursuing a large entity,

ultimately obtaining one of the largest trial verdicts in California that year." And it was that experience that led the duo to leave the big firm and to form their own litigation firm, focused on high-stakes commercial cases for plaintiffs and defendants. The founders decided, from the beginning, that the goal for every case would be to provide their clients with the best-possible result in the courtroom at the lowest possible cost. "Big firms traditionally use a leverage-billing model that does not reward efficiency. If a case calls for a contingent fee, a fixed fee, or a hybrid fee, Greenberg Gross will provide such an alternative billing option to the client," the attorneys said. "We offer the world-class talent and passion of big firm partners with the flexibility and access clients need – and should demand."

Alan Greenberg

Alan Greenberg specializes in high-stakes and complex cases with an emphasis on finance, real estate, mergers and acquisitions and other business matters. He has been trying cases for 23 years since moving to Orange County from New York, where he started his legal career as a transactional lawyer on Wall Street. He can be contacted at AGreenberg@GGTrialLaw.com or 949.383.2800.



Wayne Gross

Wayne Gross has been selected to serve as lead trial counsel by companies and executives in their most important business litigation matters. He is a former federal prosecutor, previously serving as Chief of the Orange County U.S. Attorney's Office. He currently serves as the President of the Orange County Bar Association, the second largest bar association in the State of California, with more than 7000 members. He can be contacted at WGross@GGTrialLaw.com or 949.383.2800.



Dan Glassman

Dan Glassman has more than 17 years of experience as a trial attorney in private practice litigating complex matters in healthcare, real estate, manufacturing, securities and entertainment. Before joining Greenberg Gross LLP, Dan served as Vice President and Associate General Counsel for a 23,000-employee health system. Dan can be contacted at DGlassman@GGTrialLaw.com or 949.383.2800.



About Greenberg Gross LLP

In April 2013, two shareholders of an international law firm announced that they were opening a new firm, named Greenberg Gross LLP, after making national headlines for winning a \$50 million jury verdict in a partnership dispute regarding the world-famous Palladium and other iconic Hollywood properties. The founding partners, Alan A. Greenberg and Wayne R. Gross, announced that the new firm would be headquartered on the 17th floor of the Center Tower, the tallest office building in Orange

County, and would specialize in high-stakes commercial cases for both plaintiffs and defendants. Since opening its doors, the firm has taken on significant matters representing public companies, prominent law firms, nonprofit organizations, and high-level executives. The founders were recently selected by their peers for inclusion in The Best Lawyers in America® 2014 (Copyright 2013 by Woodward/White, Inc., of Aiken, SC).

Alan
GREENBERG



Wayne
GROSS



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WINNING YOUR HIGH-STAKES TRIAL IN THE MOST COST-EFFECTIVE MANNER



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