Jogani v. Jogani
2026 DJDAR 1461

The Trial Court erred in allowing Plaintiff's forensic accounting expert to present opinion that had not previously been disclosed.

FACTS/PROCEDURE

This case in the Second District Court of Appeals arises out of a partnership dispute between the Jorgani brothers: Shashi, Shailesh, Haresh, Rajesh and Chetan. The long history of this case has produced a voluminous record and multiple prior writs and appeals. Here, we focus on the facts and procedural history relevant to the issue sustained on appeal. Shashi Jorgani, his siblings, and related partnership entities sued their brother, Haresh Jorani, and his related entities over alleged mismanagement of real estate partnership assets. Haresh denied the existence of the partnership outright. After a five-month long trial, the jury found in favor of Plaintiffs. Judgment was entered against Haresh totaling approximately $6.85 billion, including punitive damages and pre-judgment interest.

The main issue on appeal relates to the admission of testimony from Shashi's forensic accounting expert, William Ackerman. At his deposition, Ackerman testified that Haresh's sale of investments in 2008 caused a $445 million realized loss. However, at trial, Ackerman went further and opined that had Haresh not sold those investments and had they tracked the S&P 500, they would have appreciated to $1.98 billion, entitling Shashi to $990 million of his 50 percent share. The jury adopted this larger damages figure, resulting in a multi-billion-dollar award. Defendants objecting this "lost investment gain" opinion had not been disclosed in Ackerman's expert declaration or depositions. The trial court denied relief and Defendants appealed.

HOLDING/DISCUSSION

The Court of Appeals found that the Trial Court erred in not excluding Ackerman's $1.98 Billion lost investment gain opinion. Under Code of Civil Procedure section 2034.260, expert declarations must disclose the general substance of the testimony that the expert intends to offer. Moreover, experts may not offer trial opinions exceeding the scope of disclosed opinions where the opposing party was not provided notice and a fair opportunity to respond. (*Easterby v. Clark* (2009) 171 Cal.App.4th 772.)

The Court first points to Ackerman's expert witness declaration and report which included a calculation of the $445 million loss, but gave no indication that he also intended to opine that Haresh should not have sold and that the assets sold at a loss would now be worth $1.98 billion. Furthermore, Ackerman's answers at deposition did not fairly disclose his $1.98 billion investment loss opinion. Despite this $1.98 billion amount being greater than any other component of alleged real estate partnership damages, Ackerman mention this opinion in a pretrial deposition only as a one-time aside that he immediately cut off by stating he would not

testify about prudent investment strategies in 2008 and beyond, which was a necessary predicate to any opinion about post-2008 gains as an alternative measure of loss. Ackerman also expressly restricted his opinion to the $45 million loss and said it was the only theory he intended to offer "as to how that investment loss could translate into damages." He further never disclosed that he would use the S&P 500 as a proxy for the investments' performance had they not been sold. The Court held that having not timely disclosed Ackerman's intention to use the S&P 500 index as a proxy, Defendants were not given a fair opportunity to respond.

As such, the Court vacated the jury's award of economic damages to Shashi, Rajesh, and Chetan relating to the real estate partnership and remanded for a new trial on such damages unless Shashi, Rajesh, and/or Chetan accepted a reduction of such damages to $808,846,000, $161,769,200, and $105,149,980 respectively.