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FINALIST

Critical jurisdictional victory results in \$30 million award

It took almost two years to get a decision allowing a breach of contract claim filed by **Leoncio de la Pena** against one of the wealthiest Salvadoran families to be heard in the United States.

The hard worked paid off.

Just three months after de la Pena



De la Pena

cleared a key jurisdictional hurdle, a Miami-Dade Circuit Court judge awarded \$30 million in September to his client, an international investment company.

Northern Ireland-based Valat International Holdings sued the Safie family and its telecommunications and textile businesses in September 2004 for failing to repay nearly \$30 million in loans and interest owed to the

now-defunct Hamilton Bank in Miami.

Valat picked up the loans when the Federal Deposit Insurance Corp. auctioned off the assets of the seized bank. The suit claimed the Safies personally guaranteed payment but didn't make any after Valat assumed the loans.

The Safies claimed the case belonged in their homeland of El Salvador because that's where they lived when they received the loan from Hamilton.

But de la Pena of de la Pena Group in Miami said the loan documents specified Florida law would be applied to any disputes.

Judge Mindy Glazer denied the defendant's motion to dismiss in June. She followed by granting summary judgment in favor of Valat and ordered the defendants to repay their loans.

Valat International Holdings sued the Safie family and its telecommunications and textile businesses for failing to repay nearly \$30 million in loans and interest owed to the now-defunct Hamilton Bank in Miami.

"These guys knew that once we prevailed on jurisdiction, it would be a rolling locomotive going downhill against them," de la Pena said. "That's why they put the bulk of their fight" on jurisdiction.

The breach of contract case was filed against Oscar Antonio Safie, his son, wife and daughter-in-law. Other named defen-

dants included their telecom company El Salvador Networks and two textile firms, Rayones de El Salvador and Hilanderias de Exportacion.

The defendants filed a notice to appeal in October.

De la Pena said the fight over attorney fees is about to begin. He said he and his team are seeking fees in excess of \$8 million.

He also has initiated litigation in El Salvador to domesticate the judgment. He said other upcoming litigation includes a fraud suit against the defendants alleging they have transferred assets to other entities under their control.

As of now, Valat has identified and intends to seize \$1.5 million in U.S. assets, de la Pena said.

— Jordana Mishory

GOODMAN

From Page AA20

ear infections to emphysema. The drug is not yet on the market.

Lezdey wound up at AlphaMed and Wachter at Arriva. Both men continued their race toward clinical trials and FDA approval, with great animosity between them. The two sides traded allegations of private investigators sifting through trash, gunfire directed at doctors' offices, pepper spray attacks and death threats against clients.

In 2003, AlphaMed sued Arriva in Miami, alleging misappropriation of trade secrets, tortious interference with a business relationship and unfair competition. Arriva was represented by Goodman and Akerman lawyers Carolina Maharbiz, Sam Heywood and Julie Nevins.

Goodman knew he would have a hard time going into trial, since his client acknowledged sifting through AlphaMed's trash and contacting the FBI. A retired FBI investigator, George Spinelli, became a co-defendant in the case, accused of pulling trade secrets from the trash.

"We were dealing with a very provocative set of facts that we knew could make a jury

upset, even though we knew we were justified," Goodman said.

Goodman drafted much of the 40-page motion for judgment and conducted the two-and-a-half hour oral argument. When Goodman presented the motion pretrial, as is typical, Judge Altonaga denied it, but left the door open for a post-trial motion. When Goodman presented the same motion post-trial, she agreed with many of Goodman's arguments and ruled in his favor.

In her lengthy ruling, she cited Florida's "new business rule" statute, which states that while existing, profitable companies can sue for damages when their operations are interrupted, start-up companies with no track record of profits have a higher burden to overcome. She also wrote that "only a minuscule percentage of drugs in development ever reaches the commercial market."

It's unusual for a judge to override a jury verdict, and AlphaMed has appealed Altonaga's ruling. The two sides are scheduled for mandatory mediation on the matter this month.

— Julie Kay

DIMOND

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developer in 1998 in Miami-Dade Circuit Court, alleging that under the agreement with the county the developer was obligated to build a number of facilities to improve the island's transportation system. The residents were represented by David Freedman of Burlington Schwiep Kaplan & Blonsky in Miami.

"This is what you call complex civil litigation — a cliché that's overused," Dimond said. "It was complicated in a sense that it involved a lot of participants, lengthy documents and expert opinion."

Both sides had to present their interpretation of contract language and present experts to testify about the necessity of the improvements to the transportation system.

The facilities the residents argued the developer was obligated to build included off-island parking facilities for Fisher Island employees, permanent barge facilities and

permanent backup facilities for moving vessels to and from the island. The facilities would have cost the developer more than \$30 million.

A trial was held in June before Senior Judge Herbert Stettin. Under an agreement between the parties, the trial was held at the Miami offices of Greenberg Traurig. Because this was a trial and not an arbitration, the parties were able to appeal Herbert's decision.

After listening to experts from both sides on the technical necessities of transportation systems during a weeklong trial, Judge Stettin ruled in the developer's favor. That means Dimond's client won't have to provide the transportation and parking enhancements. An appeal is pending.

— Daniel Ostrovsky



DAILY BUSINESS REVIEW — MIAMI

1 SOUTHEAST THIRD AVE., SUITE 900, MIAMI, FL 33131
(305) 377-3721

DAILY BUSINESS REVIEW — BROWARD

633 S. ANDREWS AVE., FORT LAUDERDALE, FL 33301
(954) 468-2600

DAILY BUSINESS REVIEW — PALM BEACH

324 DATURA STREET, SUITE 140, WEST PALM BEACH, FL 33401
(561) 820-2060

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