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# TOP VERDICTS

OF 2010

A SPECIAL REPORT

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*The National Law Journal's* VerdictSearch affiliate compiled the list of the Top 100 Verdicts of 2010...The list includes outcomes reported by attorneys to VerdictSearch, found on court dockets or reported by other ALM Media LLC publications.

## SIMPSON THACHER

## METHODOLOGY

VerdictSearch strives to report as many jury verdicts, decisions and settlements as possible. Although a great many cases are submitted by attorneys, we also rely on a diligent team of assignment editors who scour the courts, cultivate relationships with law firms, and search the Internet and news sources, including ALM's large family of legal publications. Our exhaustive efforts allow us to present what we believe is a comprehensive list of the top 100 jury awards of 2010. Nevertheless, we apologize if we missed anyone.

Verdicts are ranked by gross award calculated by the jury. They do not reflect reductions for comparative negligence or assignment of fault to settling defendants or nonparties; additurs; remittiturs or reversals; or attorney fees and costs, unless awarded by the jury. In situations in which awards are automatically trebled or doubled by statute, the trebled amount determines rank. We do not consider cases in which the jury only determined per-plaintiff or per-year damages that a judge later used to calculate the gross award. The editors retain sole discretion to make adjustments in rank when necessary to reflect statutes that provide for election of remedies or other types of overlapping awards.

## #16 Neighbor delayed property development, plaintiff alleged

**Case Type:** BREACH OF CONTRACT — TORTS — BREACH OF FIDUCIARY DUTY — BUSINESS LAW — BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING

**Case:** Epicenter Partners LLC v. Northeast Phoenix Partners, Maricopa Co., Ariz., Super. Ct., LC2007-000011-001DT, 7/27/2010

**Plaintiffs' Attorney:** Michael Kibler, Simpson Thacher & Bartlett LLP, Los Angeles; Barry Ostrager, Simpson Thacher & Bartlett LLP, New York

**Defense Attorney:** Ed Aro, Hogan Lovells US LLP, Denver

**Jury verdict:** \$110,658,800

**FACTS & ALLEGATIONS** In 2004, plaintiff Gray Development Group acquired a 41-acre parcel of land located in a master planned community called Desert Ridge at a state auction for \$32 million. The land was located in the heart of the community, directly across the street from a high-end shopping mall and the master developer's planned \$1.8 billion CityNorth mixed-use development project. Northeast Phoenix Partners, an entity controlled by The Thomas J. Klutznick Company of Chicago, was the master developer of the Desert Ridge community and the developer of the neighboring CityNorth project. Epicenter Partners LLC and Gray Meyer Fannin LLC,

which were affiliates of Gray Development, sued Northeast Phoenix Partners, Desert Ridge Community Association and NPP CityNorth LLC, alleging breach of contract, breach of fiduciary duty, breach of the implied covenant of good faith and fair dealing, and tortious bad faith breach arising out of the master developer's efforts to delay and ultimately scuttle Gray's development project.

Northeast Phoenix Partners was the only defendant at trial. Plaintiff's counsel contended that Northeast Phoenix Partners abused its powers as master developer to block Gray's development efforts between 2004 and 2007 in order to protect its neighboring CityNorth development. Plaintiff's counsel presented documents and testimony that showed that the Klutznick organization leveraged its close relationship with a prominent Phoenix City Counselwoman, who was a vocal supporter of the controversial \$97.4 million tax rebate for the CityNorth project, to block Gray's zoning case.

Plaintiff's counsel also presented documents that showed that the Klutznick organization orchestrated a behind-the-scenes campaign to manufacture community opposition to Gray's apartment project. In addition, they presented evidence that the Klutznick organization abused its complete control over the Desert Ridge Community Association to benefit their CityNorth project at the expense of Gray.

Defense counsel argued that the actions of Northeast Phoenix Partners were consistent with its obligations under the terms of the contract, and that Gray's damages model was inappropriate in light of the recent collapse of the Phoenix real estate market.

**INJURIES/DAMAGES** Gray Development sought recovery of \$110,658,800 for the damages incurred by the defendant's actions.

**RESULT** Northeast Phoenix Partners was found 100 percent at fault for 3 of the 4 breaches, including breach of contract, breach of fiduciary duty, and breach of the implied covenant of good faith and fair dealing. However, it was found 95 percent at fault for the tortious bad faith breach.

The jury awarded damages in the amount of \$110,658,800. According to plaintiff's counsel, each one of the counts was sufficient to make the defendant liable for the full \$110,658,800 verdict award. As such, the 5 percent fault with respect to the bad faith breach is irrelevant and does not reduce the verdict amount. On Oct. 19, 2010, a Final Judgment was entered against the defendant for the full \$110,658,800.