

MAY 25 2012

By: Shellee Matsumoto, Deputy

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION

DEBRA A. ROTH, an individual,

Plaintiff,

TALMADGE EAST, LLC, a California
limited liability company; JAMES M. ROTH,
an individual; ANICE M. PLIKAYTIS, an
individual; and DOES 1 through 100,
inclusive,

Defendants.

Case No. 37-2010-00083847-CU-BC-CTL
SPECIAL VERDICT FORM
ORIGINAL

AND ALL RELATED CROSS-ACTIONS

Dept: 46
Judge: Hon. Lisa C. Schall

We, the jury in the above entitled action, find the following special verdict on the questions submitted to us:

1. Did DEBRA A. ROTH and TALMADGE EAST, LLC enter into a contract whereby DEBRA A. ROTH loaned \$250,000.00 to TALMADGE EAST, LLC?

Yes No

If your answer to question 1 is yes, then answer question 2.
If you answered no, answer questions 11 and 12.

2. Did DEBRA A. ROTH do all, or substantially all, of the significant things that the contract required her to do?

Yes No

[or]

Was DEBRA A. ROTH excused from having to do all, or substantially all, of the significant things that the contract required her to do?

Yes No

1 If your answer to either option for question 2 is yes, then answer question 3.

2 If you answered no to both options, answer questions 11 and 12.

3

4 3. Did all the conditions that were required for TALMADGE EAST, LLC'S
5 performance occur or were they excused?

6 _____ Yes _____ No

7 If your answer to question 3 is yes, then answer question 4.

8 If you answered no, answer question 11 and 12.

9

10 4. Did TALMADGE EAST, LLC., fail to pay Mrs. Roth the \$250,000.00?

11 _____ Yes _____ No

12 If your answer is yes, then answer question 5.

13 If you answered no, answer questions 11 and 12.

14 5. Was DEBRA A. ROTH harmed by that failure?

15 _____ Yes _____ No

16 If your answer to question 5 is yes, then answer question 6.

17 If you answered no, answer questions 11 and 12.

18 6. Did DEBRA A. ROTH enter into the contract with TALMADGE EAST, LLC in
19 reliance upon a writing signed by ANICE M. PLIKAYTIS that provided that ANICE M.
20 PLIKAYTIS would guarantee a debt of TALMADGE EAST, LLC, in the amount of
21 \$250,000.00?

22 _____ Yes _____ No

23 If your answer to question 6 is yes, then answer question 7.

24 If you answered no, answer questions 11 and 12.

25 7. Did DEBRA A. ROTH, through any act without the consent of ANICE M.
26 PLIKAYTIS, impair or suspend DEBRA A. ROTH'S rights or remedies against TALMADGE
27 EAST, LLC with respect to the promissory note?

28

1 _____ Yes _____ No

2 If your answer to question 7 is no, then answer question 8.

3 If you answered yes, answer questions 11 and 12.

4

5 8. Did DEBRA A. ROTH, through any act without the consent of ANICE
6 PLIKAYTIS, materially alter, in any respect, the terms of the contract between DEBRA A.
7 ROTH and TALMADGE EAST, LLC?

8 _____ Yes _____ No

9 If your answer to question 8 is no, then answer question 9.

10 If you answered yes, answer questions 11 and 12.

11 9. Was the execution and delivery of the June 13, 2006, promissory note for
12 \$250,000.00, by DEBRA A. ROTH to ANICE M. PLIKAYTIS a modification of the
13 November 15, 2005 promissory note for \$250,000.00 that did not require any additional
14 consideration?

15 _____ Yes _____ No

16 If your answer to question 9 is yes, then answer question 10.

17 If answer to question 9 is no, then answer questions 11 and 12.

18 10. Did DEBRA A. ROTH engage unclean hands in relation to the contract for a
19 loan in the amount of \$250,000.00 to an extent that you find her remedies should not be
20 enforced?

21 _____ Yes _____ No

22 If your answer to question 10 was yes answer questions 11 and 12. But do not answer
23 questions 13 and 14.

24 11. Has DEBRA A. ROTH received payment or something of value in any amount
25 that should be credited toward money guaranteed to be paid by ANICE M. PLIKAYTIS?

26 Yes _____ No

27 Go to question 12.

28

1 12. Has DEBRA A. ROTH received payment or something of value on account of
2 the \$250,000.00 promissory note to TALMADGE EAST, LLC?

3 _____ Yes ✓ No

4 If your answer to question 9 is yes and your answer to question 10 is no, then answer
5 questions 13 and 14. If your answer to question 11 is yes answer question 15. If your answer to
6 question 12 is yes then answer question 16.

7
8 13. What are DEBRA A. ROTH'S damages against ANICE M. PLIKAYTIS?
9 Principal amount due under the contract: \$ _____
10 Interest due on the principal amount due under the contract
11 (Calculated beginning May 31, 2007 at 10% per year): \$ _____
12 **Total: (Principal + interest – payment received)** \$ _____

13
14 14. What are DEBRA A. ROTH'S damages against TALMADGE EAST, LLC?
15 Principal amount due under the contract: \$ _____
16 Interest due on the principal amount due under the contract
17 (Calculated beginning May 31, 2007 at 10% per year): \$ _____
18 **Total: (Principal + interest – payment received)** \$ _____

19
20 15. What was the value of the payment received as to ANICE M. PLIKAYTIS?
21 \$ 662,559.55

22 16. What was the value of the payment received as to TALMADGE EAST, LLC?
23 \$ Ø

24 Dated: 5/25/2012

T. Francis
Presiding Juror

26 After this verdict form has been signed, please notify the bailiff that you are ready to
27 present your verdict in the courtroom.