



BARTKO PAVIA CLIENTS WIN \$680 MILLION FRANCESCA NAIFY CASE

Press Release

07, February 2023

The San Francisco Superior Court entered its Statement of Decision and Judgment in favor of Bartko Pavia clients, the Co-Trustees of the Robert A. Naify Trust, and against Petitioner Christina Cortese. Cortese had sought as much as \$680 million in community property damages on behalf of her deceased mother. The Court's Statement of Decision rejected all of Ms. Cortese's claims and damages, and Judgment has been entered for the Co-Trustees.

Since 2016, [Ben Riley](#), [Rob Bunzel](#) and [Sony Barari](#) of Bartko have defended the Co-Trustees of the Robert A. Naify Trust against two Petitions filed by Christina Cortese and her lawyers from Holland & Knight in San Francisco, pending in the San Francisco Superior Court, Probate Division: (1) *In Re Robert A. Naify Living Trust Dated February 8, 1991*, San Francisco Superior Court Case No. PTR-16-299823 (the "*Robert Matter*"); and (2) *In Re The Francesca P. Naify Living Trust Dated November 30, 1990*, San Francisco Superior Court No. PTR-16-300479 (the "*Francesca Matter*").

The *Robert Matter* was tried to the Court in 2021, with Christina seeking approximately \$300 million, including a golf course Robert Naify owned in Spain. The 2021 trial resulted in Judgment for the Co-Trustees (no recovery for Christina) and an award of legal costs against Christina.

The second *Francesca Matter* — involving completely different claims — was tried to the Court in May and August 2022, with final argument and submissions in the fall of 2022. In this case, Christina Cortese, represented by the same attorneys at Holland & Knight, sued on behalf of her mother Francesca Naify, the second wife of Robert Naify, alleging that when Francesca died in 1997, Robert failed to provide her with her full share of community property. Christina alleged that Robert was worth at least \$2 billion at the time of Francesca's death, but that Francesca only received about \$12 million of community property. At trial, Christina sought actual damages of about \$375 million. The Co-Trustees responded that over 90% of Robert's wealth derived from the family business, United Artists Theatre Corporation, which constituted pre-marriage, separate

property. They further alleged that Francesca received her full share of community property, and that Christina's claims were barred by the statute of limitations, laches, and a release.

A 20-day court trial was conducted before the Honorable Anne-Christine Massullo in May and August 2022, spanning five weeks. Twelve witnesses were called live, comprising 87 hours of testimony, plus 16 witnesses by video deposition. In her post-trial arguments and submissions, Christina's counsel sought as much as \$680 million in damages, including exemplary damages and attorneys' fees.

Judge Massullo issued her final 65-page Statement of Decision on February 7, 2023, with Judgment entered at the same time. The Court found that all of Christina's claims were barred by the Co-Trustees' three affirmative defenses of statute of limitations, laches and release. The Court also held that factually-based damages defenses, including that the family expenses exceeded the community income and were subsidized by Robert's separate property, also disproved Christina's claims. Finally, the Court observed that even if the Co-Trustees did not prevail on all their defenses, the most that Christina proved in damages was \$167,555.

Accordingly, after six years of intense litigation and a five-week trial where the Petitioner sought as much as \$680 million, Judgment was entered for the Co-Trustees with no recovery for Petitioner. A pdf copy of the Court's Judgment with the Statement of Decision attached, may be accessed [here](#).

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