

THE 2016 CLAY AWARDS

The 20th Annual California Lawyer Attorneys of the Year



Litigation

Dignity for a wronged woman



Photo by Alex Drecun | Special to the Daily Journal

Caroline S. Heindel, Stephen S. Smith, and Pierce O'Donnell

It was a lawsuit ripped from tabloid headlines. First came L.A. Clippers owner Donald Sterling's racist rant, caught on tape in a call to his female companion. That led Pierce O'Donnell of Greenberg Glusker LLP to engineer the forced sale of the NBA team for \$2 billion on behalf of Sterling's wife Rochelle H. (Shelly) Sterling.

That was in 2014. O'Donnell followed that coup with an audacious 2015 suit, again for Shelly Sterling, against the companion, V. Stiviano, who was living large on millions of dollars in gifts Donald Sterling showered on her while still married to Shelly.

O'Donnell said he used a

family law statute never before invoked to recover community assets Donald had given Stiviano. Typically, such suits employ breach of fiduciary duty claims by one spouse against another. O'Donnell took a different approach, invoking California Family Code section 1100(b), which provides that one spouse may not give away community property without the written consent of the other.

Former Greenberg Glusker attorneys Caroline S. Heindel and Stephen S. Smith worked with O'Donnell on the case. Both are now at Stephen S. Smith Law Offices.

"Shelly was mad as hell about

Sterling v. Stiviano

Pierce O'Donnell, Of-Counsel, Greenberg Glusker LLP, Los Angeles

Caroline S. Heindel, formerly of Greenberg Glusker, now at Stephen S. Smith Law Offices, Los Angeles

Stephen S. Smith, formerly of Greenberg Glusker, now at Stephen S. Smith Law Offices, Los Angeles

those gifts and wasn't willing to let them stand," O'Donnell said. "As we looked at the case we saw that this family code section could work. In a divorce, there's usually an interspousal accounting to look for misappropriation of community funds. But while people are still married, as Donald and Shelly were, it's different."

O'Donnell said he knew the case would be difficult. "Suing a third party in such a situation was unheard of," he noted. "We had to use our subpoena power. We found 16 bank accounts for V. Stiviano, checks from the family business, Donald's credit card bills. We went to dealerships and our investigator found a 2007 Bentley, a 2012 Ferrari and a 2013 Range Rover he'd given her. I followed the money."

Then there were the optics. "We had a wealthy octogenarian suing a 30-year-old African-American Latina who is broke," O'Donnell said. "Everybody knew I had just gotten \$2 billion for my client. After four decades in this business I didn't need a jury consultant to tell me that a jury might look at this case with a jaundiced eye."

So O'Donnell asked Los Angeles County Superior Court Judge

Richard L. Fruin Jr. to hear the equitable issues in a bench trial. Stiviano's legal team opposed the move, but the judge agreed. *Sterling v. Stiviano*, BC538659 (filed March 7, 2014).

Stiviano testified her relationship with Donald Sterling was "a relationship of love," not money. At one point she termed Shelly Sterling "The wicked witch of the west," O'Donnell said. The judge didn't credit much of Stiviano's testimony after O'Donnell's strong cross-examination. Regarding her claim that more than a million dollars in cash came to her as gifts from friends and family members, Fruin wrote, "Stiviano's testimony on this point is not believable."

Fruin ruled that Stiviano must return a \$1.8 million Spanish-style duplex and \$830,000 in cash. "Shelly told me her win in the mistress case meant more to her than the \$2 billion Clippers matter," O'Donnell said. "It was a question of her dignity. Proving that Donald had disposed of family money without Shelly's consent was huge for Shelly. 'This happens to women a lot,' she told me. 'This was for them.'"

— John Roemer