

Missouri Lawyers 2019 AWARDS

V&S AWARD HONOREE

TOP DEFENSE WINS IN 2018

Rank	Demand Range	Offer	Claimed Damages	V/S Date	Venue	Type of Action	Caption	Defense Attorneys
1			\$7,000,000	8/8/2018	U.S., Western District of Missouri	Business/Commercial	<i>Nostrum Laboratories v. Balboa Capital Corp.*</i>	Michael J. Abrams and Kate O'Hara Gasper, Lathrop Gage, Kansas City

■ \$7 MILLION PLAINTIFFS' VERDICT

Jury denies \$7M counterclaim in lab's lease dispute

BREACH OF CONTRACT

- Venue: U.S. District Court for the Western District of Missouri
- Case number/Date: 4:16-cv-01040/Aug. 8, 2018
- Judge: Ortrie Smith
- Last pretrial demand: \$7 million, plus return of equipment
- Last pretrial offer: None
- Caption: Nostrum Laboratories and Nostrum Pharmaceuticals LLC v. Balboa Capital Corporation
- Plaintiffs' attorneys: Michael J. Abrams and Kate O'Hara Gasper, Lathrop Gage, Kansas City
- Defendant's attorney: Jason A. Dunn, Phillips Murrah, Oklahoma City, Oklahoma

BY SCOTT LAUCK
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A pharmaceutical company will get to keep its equipment in Kansas City following a federal jury's verdict in its favor.

Nostrum Laboratories, based in Somerset, New Jersey, has a manufacturing operation in Kansas City for specialty pharmaceuticals. The plant's equipment was acquired through seven capital leases from Irvine, California-based Balboa Capital Corporation.

Nostrum alleged

that, upon expiration of the lease, it would obtain ownership of the equipment for a nominal fee. Balboa, however, maintained that the pharmaceutical company had to continue to make rental payments.

In a declaratory judgement suit filed in 2016 in U.S. District Court for the Western District of Missouri, Nostrum sought to enforce its understanding of the agreement. Balboa filed a counterclaim, alleging it was owed \$7 million plus return of the equipment.

After deliberating for 48 minutes on Aug. 8, the federal jury sided with Nostrum and denied Balboa's counterclaim. Michael Abrams of Lathrop Gage in Kansas City, an attorney for the pharmaceutical company, said his client didn't seek an award of damages. The contract entitles the winning party to attorneys' fees and costs, however, which Abrams said will be awarded at a later date.

Jason Dunn of Phillips Murrah in Oklahoma City, an attorney for Balboa, didn't return a call seeking comment.