



VERDICT SEARCH CALIFORNIA

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ALM

VERDICT *of the* WEEK

Breach of Contract

**Golf course claimed
defective golf carts
ruined reputation**

\$1,670,932

*Ridgetop Ranch Properties Inc.
v. Jacobsen E-Z-GO*

Los Angeles Co., Calif., Super. Ct.

Plaintiff Counsel Stephen A. Jamieson
and Ryan Kroll, Solomon Saltsman &
Jamieson, Playa del Ray

Defense Counsel Michael S. Sutton,
Sutton & Murphy, Mission Viejo

Full report on page 8

CASES *of* NOTE



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Motor Vehicle – Tractor-Trailer Los Angeles County Repairman in pickup injured when sideswiped by big rig	6
Assault and Battery – Premises Liability Los Angeles County Plaintiff claimed men burst into hotel room and beat him	10
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Medical Malpractice – Delayed Diagnosis San Diego County Delayed diagnosis to blame for husband's death of cancer: plaintiff	16
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Premises Liability – Slips, Trips & Falls Sonoma County Woman tripped in shopping center lot, broke her shoulder	26
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HotSHEET
TRAINS & RAILROADS
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Tactics *in* Practice

*Legal experience can help
deliver a knockout in any field*

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CIVIL RIGHTS**42 USC 1983 — Prisoners****Prison blamed for prisoner's fatal stabbing attack on guard****SETTLEMENT \$1,200,000**

CASE Estate of Manuel A. Gonzalez Jr., By and Through the Executor, Manuel A. Gonzalez Sr.; Gustavo Gonzalez, A Minor, By and Through His Guardian Ad Litem Tonia Cuadra; Manuel A. Gonzalez III, A Minor, By and Through His Guardian Ad Litem Tonia Cuadra; Mark Gonzalez; Steven Gonzalez; Jessica Gonzalez, a Minor, By and Through Her Guardian Ad Litem Sylvia Gonzalez; and Roxana Gonzalez, a Minor, By and Through Her Guardian Ad Litem Sylvia Gonzalez; and Sylvia Gonzalez v. Lori DiCarlo; Greg Mellot; Roderick Q. Hickman; Jeanne S. Woodford; Suzan Hubbard; John Dovey; Wendy Still; Carol Roddy; and Does 1 Through 200 Inclusive, No. 5:05-cv-00660-MMM-RC

COURT United States District Court, Central District, Riverside, CA

JUDGE Margaret M. Morrow
DATE 7/6/2007

PLAINTIFF ATTORNEY(S) Mark J. Peacock (lead), Law Offices of Mark J. Peacock, Newport Beach, CA
Sharon J. Arkin, Arkin & Glovsky, Pasadena, CA
Scott C. Glovsky, Arkin & Glovsky, Pasadena, CA

DEFENSE ATTORNEY(S) Michael A. Bell, LaFollette, Johnson, DeHaas, Fesler & Ames PC, Riverside, CA (Carol Roddy, Greg Mellot, Lori DiCarlo)
Paul C. Epstein, Office of Attorney General, State of California, Los Angeles, CA (Jeanne S. Woodford, John Dovey, Roderick Q. Hickman, Suzan Hubbard, Wendy Still)

FACTS & ALLEGATIONS On Jan. 10, 2005, plaintiffs' decedent Manuel A. Gonzalez, 43, was working as a correctional officer in the California Institute for Men at Chino. There was a series of fights among inmates, and Gonzalez decided to let inmate John Christopher Blaylock out of his cell to calm down a faction of prisoners who were loyal to him. After Blaylock got out

of the cell, he stabbed Gonzalez various times with a knife, killing him.

The plaintiffs—Gonzalez' two minor children with girlfriend Tonia Cuadra: Gustavo Gonzalez and Manuel A. Gonzalez III; and Gonzalez' four children with wife Sylvia Gonzalez: Jessica Gonzalez, a minor; Roxana Gonzalez, a minor; Steven Gonzalez, 20s; and Mark Gonzalez, 20s, a police officer; wife Sylvia Gonzalez; and his estate—sued prison warden Lori DiCarlo and deputy prison warden Greg Mellot for civil rights violations as per 42 USC 1983. (Sylvia Gonzalez filed a separate case against DiCarlo and Mellot that was settled as part of this case.)

The highest-ranking employees of the California Department of Corrections—Roderick Q. Hickman; Jeanne S. Woodford; Suzan Hubbard; John Dovey; and Wendy Still—were originally included as defendants, but they were granted summary judgment. Another prison defendant, Carol Roddy, was granted summary judgment because she was on maternity leave at the time of the murder.

The plaintiffs claimed that DiCarlo and Mellot showed deliberate indifference to Gonzalez by exposing him to extreme danger. They noted that Blaylock had a history of violence against inmates, correctional officers and police officers, and that he should have been in administrative segregation, not a cell.

The plaintiffs argued that, if Blaylock had been in administrative segregation, he wouldn't have attacked and killed Gonzalez.

The plaintiffs claimed that Blaylock was misclassified and mis-housed due to DiCarlo and Mellot's indifference.

The defense disputed the allegations, contending that DiCarlo and Mellot were not liable due to qualified immunity.

DiCarlo and Mellot said that they didn't know that Blaylock presented a serious risk to Gonzalez.

The defense also claimed that Gonzalez was responsible for his own death by breaking written policy and letting Blaylock out of his cell, and then walking with his back to him. He also didn't heed a warning from a colleague.

INJURIES/DAMAGES *death; loss of consortium; loss of parental guidance; loss of society*

Gonzalez died. His children and wife made an unspecified demand for loss of familial association.

Gonzalez' estate made an unspecified demand for loss of earnings capacity.

RESULT Less than a week before trial was set to begin, the case settled for \$1.2 million. The minor children have the option to receive their recovery via a structured settlement.

PLAINTIFF EXPERT(S) Tamara Hunt, Ph.D., economics, Los Angeles, CA
Donald Stockman, prison standards, Unknown, CA
David Tristan, prison standards, Henderson, NV

FEDERAL

Michael Yarborough, prison standards,
Unknown, CA

DEFENSE

EXPERT(S)

Michael T. Pickett, prison standards,
Sacramento, CA

Larry Small, prison standards,
Unknown, CA

EDITOR'S NOTE The plaintiffs did not pursue a wrongful death claim because Gonzalez' death occurred in the scope of his employment, and thus the only remedy for most of the damages was through workers' compensation.

This report is based on information that was provided by plaintiffs' counsel and defense counsel for Roddy, Mellot and DiCarlo

—Rob MacKay

CIVIL RIGHTS

Title VII — Employment — Retaliation

Whistleblower claimed she was fired for EEOC complaint

SETTLEMENT **\$67,500**

CASE Equal Employment Opportunity Commission and Valerie McCarthy v. Union Pacific Railroad Company Co.

COURT United States District Court, Northern District, Oakland, CA

JUDGE Charles Breyer

DATE 8/17/2006

PLAINTIFF ATTORNEY(S) **Marcy Mitchell**, U.S. Equal Employment Opportunity Commission, San Francisco, CA
William R. Tamayo, U.S. Equal Employment Opportunity Commission, San Francisco, CA

DEFENSE ATTORNEY(S) None Reported

FACTS & ALLEGATIONS In August of 2002, the Equal Employment Opportunity Commission issued a finding in favor of claimant Valerie McCarthy, 50s, against her employer of 30 years, Union Pacific Railroad Co., on the basis that managers at Union Pacific's Oakland facility had discriminated according to gender and disability.

Allegedly, after the EEOC issued its finding, managers named in the charge began to give McCarthy assignments that they

knew she was not trained to perform. In December, they terminated her employment, claiming her performance on those assignments was the reason.

The EEOC and McCarthy sued Union Pacific, alleging that the company retaliated against McCarthy in violation of her rights under Title VII of the Civil Rights Act of 1964.

Union Pacific denied the allegations, claiming that McCarthy's termination had nothing to do with her EEOC charge but, rather, was due to her poor performance on assignments she was given in 2002, which Union Pacific maintained she was fully qualified to perform.

INJURIES/DAMAGES McCarthy claimed that she suffered great emotional distress as a result of losing her job of 30 years. She claimed that her emotional state prevented her from pursuing new employment due to the distress caused by Union Pacific's treatment of her.

McCarthy sought an undisclosed amount in front pay as well as an unspecified amount for emotional distress.

Union Pacific disputed McCarthy's claim for back and front pay, contending that her damages stopped running a few weeks after her termination when she was declined a comparable position with another company.


RESULT Union Pacific agreed to settle the case for \$67,500. The company also agreed to provide anti-discrimination training to its employees and provide information to the Equal Employment Opportunity Commission concerning its handling of retaliation complaints for a period of 18 months following the settlement.

EDITOR'S NOTE This report contains information that was gleaned from a report in the East Bay Business Times. Plaintiff's counsel could not provide any information.

—Stephen Kurczy

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