

NORTHERN CALIFORNIA

killed, and 13 were either stabbed or, like Ramirez, wounded by gunshot.

Ramirez sued Harrah's Laughlin Inc., alleging inadequate security. Ramirez contended that Harrah's had warning of the confrontation and failed to take adequate measures to block the entry of the armed Hell's Angels. They also maintained that Harrah's had an inadequate security force at the time of the fight.

Harrah's contended that the security was adequate and that no reasonable security would have stopped or prevented this type of criminal activity. Harrah's further argued that Ramirez chose a particular lifestyle and should have recognized that this type of activity and confrontation was inherent in the activity of these motorcycle clubs.

INJURIES/DAMAGES *abdomen; apnea; gunshot wounds; tendonitis; torn rotator cuff*

Ramirez suffered a gunshot wound to his abdomen and underwent emergency surgery. He claimed that he also suffered a rotator cuff tear/tendonitis in his shoulder that required surgery and an overnight hospital stay, as well as sleep apnea. He claimed past medical expenses of approximately \$10,000 and minimal loss of earning capacity, but significant unspecified general damages.

Ramirez' wife, Sylvia, filed a claim for loss of consortium. The Ramirezes asked the jury to award \$550,000.

RESULT The jury returned a defense verdict.

DEMAND \$550,000
OFFER None

TRIAL DETAILS Trial Length: 8 days
Trial Deliberations: 2 hours
Jury Vote: 12-0

PLAINTIFF EXPERT(S) D. Anthony Nichter, security/premises liability, Las Vegas, NV

DEFENSE EXPERT(S) Thomas G. Davis, security/premises liability, Dublin, OH

EDITOR'S NOTE Plaintiff's counsel did not respond to a faxed draft of this report or two phone calls:

—Randy Stewart

SHASTA COUNTY

MOTOR VEHICLE**Red Light — Intersection**

Jury doesn't know who to believe in question of lights

VERDICT (P) \$4,353
NET \$3,047

CASE Mattie Sanders v. Eileen C. Shupp and Does 1 through 20, inclusive, No. 150051
COURT Superior Court of Shasta County, Redding, CA
JUDGE Bradley L. Boeckman
DATE 5/3/2005

PLAINTIFF ATTORNEY(S) Dugan Barr, Barr & Mudford, Redding, CA

DEFENSE ATTORNEY(S) Guy D. Borges, McNamara, Dodge, Ney, Beatty, Slattery, Pfalzer & Borges, L.L.P., Fairfield, CA

FACTS & ALLEGATIONS On Oct. 21, 2002, plaintiff Mattie Sanders, a 65-year-old retired nurse, was driving a 1973 Chevy Malibu south on East Street in Redding.

As Sanders passed through the Placer Street intersection, Eileen Shupp, heading east on Placer in a 1996 Oldsmobile Bravada, attempted to make a right turn onto East Street and struck Sanders' passenger side door.

Sanders sued Shupp for negligence, claiming that Shupp ran a red light, causing the accident.

Shupp claimed that she entered the intersection on a green light and that it was Sanders who ran a red light. She claimed that a passenger in her car, the only other witness to the accident, can confirm that the light was green.

Sanders claimed that the witness had given two prior inconsistent statements, including one that was recorded.

INJURIES/DAMAGES *head; hip; knee; neck; shoulder*

Sanders claimed that she struck her head, left hip and right knee during the impact. She claimed a significant aggravation of preexisting arthritic and degenerative conditions in her knee, hip and shoulder, as well as new injuries to her neck and abdomen.

Sanders was taken to the emergency room after the accident, and received CT scans, ultrasounds and X-rays. She also had follow-up care with her primary care physician and physical therapy. She claimed that her symptoms would worsen over the course of her lifetime.

Sanders asked the jury for \$26,000 in damages, including \$5,864.39 in medical specials.

The defense claimed that Sanders' treating physician acknowledged that treatment beyond six months after the accident could not specifically be related to the accident. It claimed that her recoverable medical specials were just \$853.17, after reductions for Medi-Cal and the treating physician's concessions.

RESULT The jury found the defendant 70% liable and the plaintiff 30%. It found \$4,353.17 in damages, which was reduced to \$3,047.22 as per the fault apportionment.

Counsel for the defense noted that the award appeared to have been a compromise verdict. He said that the jury initially voted against the defendant's negligence, but when polled, split 6-6 on the issue.

MATTIE SANDERS \$853 medical expenses
\$3,500 non-economic damages
\$4,353

DEMAND OFFER \$10,000
None

INSURER(S) State Farm

TRIAL DETAILS Trial Length: 5 days
Trial Deliberations: 2.5 days
Jury Vote: 9-3 (on liability)
Jury Composition: 9 females, 3 males

PLAINTIFF EXPERT(S) William deVlaming, M.D., general practice, Redding, CA

DEFENSE EXPERT(S) None reported

POST-TRIAL The defense made a motion to recover costs pursuant to CCP 1033.

-James Brennan

CONSUMER PROTECTION

False Advertising — Consumer Fraud

Store accused of selling falsely advertised weight loss product

SETTLEMENT \$525,000

CASE People of California v. Wal-Mart,
No. FCS 025654

COURT Superior Court of Solano County,
Solano, CA

JUDGE Paul Beeman

DATE 3/29/2005

PLAINTIFF ATTORNEY(S) Steven Gold, Deputy City Attorney, San Diego City Attorney's Office, San Diego, CA (the San Diego City Attorney)
Dani Jo Handell, Deputy District Attorney, Solano County District Attorney's Office, Fairfield, CA (the Solano County District Attorney)
Daryl Roberts, Deputy District Attorney, Napa County District Attorney's Office, Napa, CA (Napa County District Attorney)

DEFENSE ATTORNEY(S) Alan Maler, Greenberg Traurig, San Francisco, CA

FACTS & ALLEGATIONS In late 2001 and 2002, a number of retailers, including Wal-Mart's stores in California, stocked and sold the Ab Energizer Abdominal Muscle Stimulator product.

Marketing materials for the Ab Energizer, a battery-powered device which is strapped on a user's stomach, claim that it burns fat and strengthens the stomach muscles with an electrical contraction of those muscles.

The state of California, by way of the Napa County District Attorney, the Solano County District Attorney and the San Diego City Attorney, sought and were granted a preliminary injunction in mid-2002 against distribution of the product on the basis that the manufacturer, distributors and retailers had no basis to support any of the product's claims.

They then brought the instant action against Wal-Mart's for civil penalties and permanent injunctive relief, claiming that the Ab Energizer was a medical device which was illegal, misbranded and not approved by the U.S. Food and Drug Administration. The plaintiff claimed that the product's marketers, distributors and retailers had no basis to support any of the product's purported effects.

Request your **FREE** copy of
ALM's Expert Witnesses &
Consultants Directory
Call 1-800-537-2128 (x9138)