

EDITOR'S NOTE This report is based on information that was provided by defense counsel. Plaintiff's counsel did not return the reporter's phone calls.

—Brian Carreira

VENTURA COUNTY

VERDICT *of the* WEEK

MOTOR VEHICLE

Tractor-Trailer — Wrongful Death — Traffic Offenses

Truck veered onto shoulder of highway, hitting parked semi

VERDICT **\$7,000,000**
ACTUAL **\$5,600,000**

CASE Jacqueline Calderon v. Robert Knieling and Bear Trucking Inc., No. SC 044726
COURT Superior Court of Ventura County, Simi Valley, CA
JUDGE Thomas J. Hutchings
DATE 4/20/2007

PLAINTIFF ATTORNEY(S) Arash Homampour, The Homampour Law Firm, PLC, Beverly Hills, CA
Jeffrey A. Rudman, Law Offices of David H. Greenberg, Beverly Hills, CA

DEFENSE ATTORNEY(S) Robert B. Salley, Tharpe & Howell, Sherman Oaks, CA

FACTS & ALLEGATIONS At 8:30 a.m. on July 12, 2005, plaintiff's decedent and husband, Daniel Torres, a 25-year-old iron welder, was a passenger in the pickup of his co-worker, Erquimedes Moran, on Route 118 in Simi Valley. They were westbound in a pickup when Moran veered off the side of the freeway and onto the shoulder, colliding with a Bear Trucking tractor-trailer parked on the shoulder. The pickup went underneath the rear of the tractor-trailer, causing the tractor-trailer to intrude on the occupant space of the pickup. Torres was killed. The tractor-trailer's driver was sleeping in the cabin at the time.

Claiming that the tractor-trailer's illegal occupancy of the shoulder caused her husband's wrongful death, Torres' widow, Jacqueline Calderon, to whom he'd been married for eleven months, sued Knieling and Bear Trucking, San Bernardino, for

negligent operation of a motor vehicle.

Plaintiff's counsel argued that Knieling had illegally parked the tractor-trailer on the emergency shoulder lane for several hours prior to the collision so that he could sleep. Counsel asserted that the lane shouldn't have been occupied. Moran needed to utilize the lane in response to another vehicle in the left lane that was potentially going to merge into his lane. According to Moran, he applied the brakes to his pickup in order to avoid colliding with the tractor-trailer, but the brakes didn't function properly. While plaintiff's counsel conceded that Moran may have overreacted to a perceived threat, counsel asserted that the tractor-trailer was responsible for Torres' death because Moran's pickup would have recovered successfully had the tractor-trailer not been parked illegally on the shoulder.

The defense stipulated that Knieling had violated statutes that prohibited parking on the shoulder. However, the defense contended that Moran was sleepy because he had a cold and possibly even fell asleep at the wheel, causing him to drift off the roadway into the tractor-trailer. Defense counsel argued that there was no evidence that Moran had applied his brakes or that his pickup would have recovered if it hadn't collided with the tractor-trailer. Defense counsel asserted that Moran was solely responsible for the collision and Torres' wrongful death.

INJURIES/DAMAGES *death; loss of society*

Torres died. As she had been married to Torres for only 11 months, Calderon sought to recover only unspecified general damages for the loss of love, care, companionship, comfort, assistance, protection, affection, society and moral support of her husband.

The defense contended that the general damages should remain reasonable since the couple had only been married for a brief time.

RESULT The jury found Knieling and Bear Trucking 80 percent liable for Torres' death and they awarded Calderon \$7 million, of which she netted \$5,600,000.

JACQUELINE CALDERON \$7,000,000 loss of society

\$7,000,000

DEMAND OFFER \$500,000 CCP 998
\$125,000 CCP 998

INSURER(S) Sentry Insurance Company (primary)

Lexington Insurance Co. (excess) for Bear Trucking and Knieling

TRIAL DETAILS Trial Length: 7 days
Trial Deliberations: 2 days
Jury Vote: 12-0 on causation; 10-2 on damages

S O U T H E R N / C E N T R A L

PLAINTIFF

EXPERT(S)

David J. King, P.E., accident reconstruction, Lake Forest, CA

DEFENSE

EXPERT(S)

V. Paul Herbert, C.P.S.A., trucks, Quincy, CA
Michael S. Varat, accident reconstruction, Camarillo, CA

POST-TRIAL The plaintiff was granted \$134,630 in prejudgment interest and \$41,185 in costs pursuant to the CCP §998. The defendant's motion for JNOV was denied but their motion for a new trial resulted in a \$2.6 million conditional remittitur, which the plaintiff accepted. In response to the defendant's appeal, the plaintiff appealed, contending that the remittitur was defective and that the jury's verdict should be reinstated.

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—Joshua Couzens

CENTRAL CALIFORNIA

S A C R A M E N T O C O U N T Y

MOTOR VEHICLE

Crosswalk — Wrongful Death

Newly minted Ph.D. killed at crosswalk by city bus

VERDICT **\$4,573,520**

CASE Giannoni v. Sacramento Regional Transit District, No. 06AS00499

COURT Superior Court of Sacramento County, Sacramento, CA

JUDGE Judy Hersher

DATE 6/21/2007

PLAINTIFF

ATTORNEY(S)

Roger A. Dreyer, Dreyer, Babich, Buccola & Callaham, Sacramento, CA

DEFENSE

ATTORNEY(S)

Richard S. Linkert, Matheny, Linkert, Long & Sears, Sacramento, CA

Timothy S. Spangler, Sacramento

Regional Transit District, Sacramento, CA

FACTS & ALLEGATIONS On March 23, 2005, plaintiff's decedent Peggy Giannoni, 55, a health care researcher with Sacramento State University, stepped into a pedestrian crosswalk at L Street and 16th St., Sacramento, and was struck by a Sacramento Regional Transit bus when the driver made a left turn. Giannoni was fatally injured.

Robert Giannoni, 54, and two daughters Kristen Giannoni, 25, and Alexa Giannoni, 18, sued Sacramento Regional Transit District for negligence.

The defendant admitted liability.

In a matter precluded by the court and not heard by the jury, the bus driver, Monique Anderson, was charged with misdemeanor manslaughter and sentenced to 540 hours of community service.

INJURIES/DAMAGES *loss of consortium; loss of society*

Giannoni suffered massive injuries and died at UC Davis Medical Center several hours after the accident.

She had recently earned a Ph.D. in epidemiology and was scheduled to work for 12 months on a research project her employer had contracted with the state of California. She would have earned \$100,000 per year under this contract. Plaintiffs' counsel argued that Giannoni would have worked for another 15 years and would have continued to be assigned work on research contracts like that one.

Accordingly, the plaintiffs sought past and future lost wages. They also sought damages for loss of love, affection, society, and companionship. Giannoni and her husband had been married for 32 years.

The defendants claimed that whether or not Giannoni would have continued to obtain assignments like the one she was working on at the time of her death remained unproved, as was the plaintiffs' claim that she would have worked to age 70.

RESULT The jury awarded the plaintiffs \$4,573,520 in damages.

DEMAND \$10 million

OFFER \$2 million

INSURER(S) American International Group
Sacramento Regional Transit District

TRIAL DETAILS Trial Length: 10 days
Trial Deliberations: 1.5 days
Jury Vote: 10-2

PLAINTIFF

EXPERT(S)

Kirk Blackerby, economics, Morgan Hill, CA
Carol R. Hyland, vocational rehabilitation, Lafayette, CA

DEFENSE

EXPERT(S)

None reported