
1/15/14 - Judge JAMES E. MARNER - CV 2011-6252 - NAVARRETTE and MUNRO (Richard J. Gonzales and John E. Davis, III, of The Gonzales Law Firm, P.C.) v RANCHO DEL MAR APARTMENTS LP dba LAS MONTANAS APARTMENTS and CASE ENTERPRISES MANAGEMENT, L.L.C. (Douglas W. Glasson of Curl & Glasson, P.L.C.) - PERSONAL INJURY - PREMISES LIABILITY - NEGLIGENT SECURITY - INADEQUATE ILLUMINATION - GUNSHOT MISHAP. Plntf Navarrette, male, age 27, unemployed, and Plntf Munro, male, age 35, a member of the National Guard, residents at Dfnt apartment complex, alleged Dfnts breached their duty when they failed to maintain the property in a reasonably safe condition. Plntfs also alleged Dfnts failed to take reasonable measures to protect against foreseeable activities which created danger, including criminal attacks. Additionally, Plntfs alleged Dfnts failed to install security cameras, failed to have adequate control of access to the premises, and failed to install adequate lighting. Plntfs also alleged the "courtesy patrol" on site was not for the protection of tenants, and resulted in a shooting. Plntfs called Albert J. Sulzer, C.P.P., a security expert, who was of the opinion that a threat assessment was necessary to determine what measures should/would be reasonable because of the high frequency of police calls to Dfnts'

property. It was also Mr. Sulzer's opinion that, given the crime statistics, hiring a courtesy patrol and closing one access gate did not meet the standard of care. Additionally, it was Mr. Sulzer's opinion that reasonable measures under the circumstances included access control, security cameras, and on-site "capable guardians" which included security guards, maintenance personnel, and managers. COURT GRANTED DFNTS' MOTION FOR JUDGMENT, AS A MATTER OF LAW, ON THE ISSUE OF PUNITIVE DAMAGES. Dfnts denied liability, advancing the defense that non-party shooter and his accomplices, which included the owner of the gun, were at fault. Dfnts alleged Plntfs' actions precipitated the shooting by confronting the suspected thieves, instead of calling security or the police department, and, therefore, Plntfs were comparatively at fault. Dfnts called Donald J. J. Decker, C.P.P., C.P.M., a premises security expert, who was of the opinion that the site of the shooting was maintained and illuminated in a way that provided adequate security to deter planned criminal activity. It was also Mr. Decker's opinion that a mobile security patrol following a random pattern is one of the most important crime deterrents available. Additionally, it was Mr. Decker's opinion that the shooting was an "impulse crime", which would not have been prevented by reasonable security measures. Dfnts also called Chester Flaxmayer, a toxicologist, who was of the opinion that Plntf Navarrette's blood alcohol level was between .084 and .105 at the time of the incident. Plntf Navarrette sustained a gunshot wound to his trunk, which resulted in internal injuries that required multiple surgical procedures, with residual scarring. Plntf Navarrette alleged he now has an increased possibility of future bowel obstruction, and future surgery. Plntf Navarrette also alleged he developed a post-traumatic stress disorder. Plntf Navarrette called Narong Kulvatunyou, M.D., a trauma surgeon, who testified regarding Plntf Navarrette's injuries. Plntf Navarrette used the medical report of Raad

M. Taki, M.D., a plastic surgeon. Plntf Munro alleged he sustained an exacerbation of his preexistent post-traumatic stress disorder. Plntfs called B. Robert Crago, Ph.D., a neuropsychologist, who was of the opinion that, as a result of the shooting, both Plntfs suffered from post-traumatic stress disorders. Dfnts called John T. Beck, Ph.D., a neuropsychologist, who was of the opinion that the test results of the Minnesota Multiphasic Personality Inventory for both Plntfs revealed elevated validity scales and were invalid and uninterpretable. It was also Dr. Beck's opinion that there were no abnormalities in either Plntf's clinical interview, and neither Plntf suffered from a post-traumatic stress disorder as a result of the shooting. Plntf Navarrette's Prayer: Just and reasonable compensatory damages; \$114,540 past medical expenses; plus \$19,700 future medical expenses. Plntf Munro's Prayer: Just and reasonable compensatory damages. Plntf Navarrette made a pretrial demand of \$750,000 - Dfnts made a \$5,000 offer of judgment. Plntf Munro made a pretrial demand of \$500,000 - Dfnts made a \$5,000 offer of judgment (D). (Carrier: State Farm Insurance.) Six day trial. Jury out two-plus hours. FOUND FOR DFNTS. 6 - 2.
