

SECOND TIME AROUND...THE BRASS RING

CASE: LEDESMA vs. PATEL, et al.

PLAINTIFF Browne Greene - Greene, Broillet, Paul, Simon & Wheeler
ATTORNEY: Brian Panish Los Angeles

MED. EXPERT: Todd Pasoff, Orthopedist - Irvine
Nancy Eckherg, R.N. - Whittier
Pedro Garcia, Psychiatrist - Los Angeles

TECH. EXPERT: Ronald Sheridan, Security - Los Angeles
Peter Formuzis, Economist - Santa Ana

DEFENSE Joel Citron - Santa Monica
ATTORNEY: Richard Stavin

FACTS: On New Year's Eve, the Pltf, age 33, was a guest and tenant of the Deft. who owned a motel. That evening the owner left the motel and another tenant was left in charge as the relief manager. The relief manager and a friend got drunk and fired 200-250 shots in the air from a .45 caliber machine gun and a .45 caliber pistol. At about 6:00 a.m., the relief manager thought he saw a tenant make a pass at his wife. He chased the tenant into the Pltf.'s room. The relief manager had to be pulled off by a friend. A fight ensued. At 6:35 a.m., the Pltf. was shot in the neck. The bullet severed his spinal cord.

Pltf. claimed the motel was liable for negligent entrustment to a relief manager who became drunk and caused his injury. Also, evidence was submitted at this trial that the 211 alarm was disconnected by Deft.

Deft. argued the owner did not leave the motel in the care of a tenant/relief manager. His wife was at the hotel all evening. No shots were fired. It all happened suddenly. It was possible it was a "driveby" type of shooting.

Editor's Note: At the first trial, the verdict was rendered against the shooter only and not the hotel owner. The Court of Appeal reversed the decision on the basis that the trial court committed error by excluding evidence that the "211" alarm was disconnected, improper jury instruction and totally inappropriate response to jury questions regarding negligence. Incidentally, we reported this case in O'Brien's Evaluator 1984 on page 82D.

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INJURY: C-

SPECIAL DAM

JUDGE: Hon.

TRIAL LASTE

PLAINTIFF D

DEFENSE OFF
a policy
opened.

JURY VERDIC

Case

(Continued)

INJURY: C-4 quadriplegia with complete paralysis

SPECIAL DAMAGES: Total life time care

JUDGE: Hon. Coleman Swart

TRIAL LASTED: 12 days **DELIB. TIME:** 3 1/2 hours **JURY POLL:** 12/0
negl. 9/3 dmgs.

PLAINTIFF DEMAND: \$1,200,000 CCP998 - raised to \$3,000,000 in 6/83

DEFENSE OFFER: \$500,000 policy limits well after Pltf. had made a policy limits demand. Pltf. rejected when policy limits were opened.

JURY VERDICT: \$9,500,000; \$9,500,000 - Compensatory
\$6,100,000 - Prejudgment Interest
\$15,600,000 Net to Pltf.

Case No. 446-629

LOS ANGELES

12/1/89

DATE: 11/29/89 TRIAL TIME: 9 Days JURY OUT: 3 Days
JUDGE: Michael Berg COURT: L.A. County Superior Court, Los Angeles

CRA REF. NO. 1610

CASE TYPE: Premises Liability - shooting COUNTY: Los Angeles
RESULT: \$15,600,000 REPORT TYPE: Jury Retrial

SUMMARY: Motel tenant shot in room on New Years' Eve; male, age 33, quadriplegia

CASE: Adrian Ledesma vs Jassu Patel d/b/a Mecca Hotel, et al
CASE NO. C 446629

PLTF ATTY: Greene, Broillet, Paul, Simon & Wheeler, By: Browne Greene & Brian J. Panish, Los Angeles

DEFT ATTY: Citron & Peters, By: Joel F. Citron and Richard Stavin, Santa Monica

PLTF MED'L: Todd Pasoff, M.D., Orthopedist, Irvine

Nancy Ekberg, R.N., Nurse, Whittier

Petro Garcia, Psychiatrist, Los Angeles

PLTF TECH'L: Ronald Sheridan, Security, Los Angeles

Peter Formuzis, Economist, Santa Ana

DEMAND: \$1,200,000 CCP 998, raised to \$3,000,000.

OFFER: \$500,000 after Pltf demanded policy limits. Rejected by Pltf, as Pltf is contending that the policy limits were opened up by the insurance carrier when it refused to tender the policy limits.

FACTS: Pltf, a 33 year old male, was a long-term guest (a tenant) at Deft's transient motel in LA's Southgate section. In the early morning hours of New Years day, Pltf was shot through the neck while in his room. The shooting occurred following an argument to which Pltf was a bystander.

PER PLTF: That the Deft motel owner left another tenant in charge of the motel as relief manager. (This was disputed, and the first trial established that the shooting did not occur within the course and scope of employment.) The alleged relief manager and a friend got drunk and started firing a pistol and a submachine gun into the air. The shooting went on for several hours, according to Pltf. During this time the motel owner returned to the hotel. Later, the alleged relief manager saw another tenant whom he believed had made a pass at his wife. An argument ensued, whereafter the alleged relief manager chased the other tenant with a pistol. The other tenant was an acquaintance of the Pltf and ran into Pltf's room. The alleged relief manager fired into the room and the bullet struck the Pltf.

INJURIES: Shot in neck, severed spinal cord at C-4 resulting in quadriplegia.

DEFENSE: That Deft motel owner had not left Deft tenant in charge of motel, and that the owner's wife was present all night. Defts denied that any shots were fired that night before the shooting, and asserted that the shooting occurred quickly, as in a drive-by shooting. Deft further claimed that he called police for assistance shortly before the actual shooting and was placed on hold.

SPECIALS: \$3,800,000 past and future medical expenses

VERDICT: \$15,600,000: \$9,500,000 plus \$6,100,000 prejudgement interest against Deft Patel. Deft's motion for a new trial was denied, and an appeal is in process. Deft's insurer, Fremont Indemnity, has posted a multi-million dollar supersedeas bond, and is pleading collateral estoppel from the first trial.

JURY POLL: 12-0 negligence and causation, 9-3 damages (3 wanted larger verdict)

NOTES: This was a retrial. The first trial resulted in a verdict against the shooter only. Shooter is in jail and bankrupt. Court of Appeal remanded case for retrial based on original Trial Judge Julius Leetham's error in excluding from evidence a disconnected 211 alarm as well as his improper jury instructions.

DATE: 12/19/89 TRIAL TIME: 12 Days JURY OUT: 3 1/2 Hours

JUDGE: Coleman Swarts COURT: L.A. County Superior Court, Los Angeles

CRA REF. NO. 1513

From zero on the first trial to \$15.6 million on retrial. Carrier is appealing, pleading collateral estoppel from the first trial.

Retrial resulted from trial judge's exclusion of certain evidence and improper jury instructions.