

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JS-6

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

GLADIS HERRERA, an individual
and as successor in interest to Jose Raul
Herrera; IVAN HERRERA, an
individual and as successor in interest
to Jose Raul Herrera; and MARLON
HERRERA an individual and as
successor in interest to Jose Raul
Herrera,

Plaintiffs,

v.

CITY OF ONTARIO, a municipality;
and DOES 1-10, inclusive,

Defendants.

Case No. 5:15-CV-1370 JGB (SPx)
Hon. Jesus G. Bernal

FINAL JUDGMENT

Trial Date: November 1, 2016

1 This action came on regularly for trial on November 1, 2016 in Courtroom 1
2 of the United States District Court, Central District of California, Honorable Jesus
3 G. Bernal, presiding. Plaintiffs, Gladis Herrera, Marlon Herrera and Ivan Herrera
4 were represented by attorney Dale K. Galipo and Melanie T. Partow of the Law
5 Offices of Dale K. Galipo. Defendants City of Ontario and Nick Diaz were
6 represented by Dennis M. Cota and Daniel S. Roberts Cota Cole, LLP.

7 A jury of eight persons was regularly empaneled and sworn. Witnesses were
8 sworn and testified. After hearing the evidence and arguments of counsel, the jury
9 was duly instructed by the Court and the case was submitted to the jury. The jury
10 deliberated and thereafter returned a verdict as follows:

11 **QUESTION 1:**

12 Did Officer Diaz use excessive or unreasonable force against Jose Herrera?

13 _____ YES _____ X _____ NO
14

15
16 **QUESTION 2:**

17 Was the use of excessive or unreasonable force by Officer Diaz a cause of
18 harm or death to Jose Herrera?

19 _____ YES _____ NO
20

21
22 **QUESTION 3:**

23 What are Jose Herrera's damages for his loss of life, loss of enjoyment of life
24 and for his pre-death pain and suffering?

25
26 Jose Raul Herrera _____
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

QUESTION 4:

Was Officer Diaz negligent in his conduct towards Jose Herrera?

 X YES NO

QUESTION 5:

Was the negligence of Officer Diaz a cause of Jose Herrera's death?

 X YES NO

QUESTION 6:

Was Jose Herrera negligent?

 X YES NO

QUESTION 7:

Was Jose Herrera's negligence a cause of his death?

 X YES NO

QUESTION 8:

Assuming that 100% represents the total negligence of all individuals, what percentage of negligence do you assign to Mr. Herrera, which you believe caused Mr. Herrera's death?

 55 %

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

QUESTION 9:

Did Ivan and/or Marlon suffer serious emotional distress as a result of perceiving the use of force against Jose Herrera?

Marlon Herrera X YES _____ NO

Ivan Herrera X YES _____ NO

QUESTION 10:

What are Ivan and/or Marlon Herrera’s damages for past and future severe emotional distress that they suffered as a result of perceiving the death of Jose Herrera?

Marlon Herrera \$ 100,000 _____

Ivan Herrera \$ 100,000 _____

QUESTION 11:

What are Plaintiffs’ damages for their past and future loss of Jose Herrera’s love, companionship, comfort, care, assistance, protection, affection, society and moral support?

A. Gladis Herrera

Gladis Herrera: Past and future loss of Jose Herrera’s love, companionship, comfort, care, assistance, protection, affection, society, moral support and marital consortium.

\$ 300,000 _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Gladis Herrera’s past and future loss of financial support: \$ 400,000 _____

B. Marlon Herrera

Marlon Herrera’s past and future loss of Jose Herrera’s love, companionship, comfort, care, assistance, protection, affection, society and moral support. \$ 150,000 _____

C. Ivan Herrera

Ivan Herrera’s past and future loss of Jose Herrera’s love, companionship, comfort, care, assistance, protection, affection, society and moral support. \$ 150,000 _____

NOW THEREFORE IT IS ORDERED, ADJUDGED AND DECREED that final judgment in this action be entered as follows:

- 1. Judgment in the sum of \$540,000 plus costs pursuant to Federal Rule of Civil Procedure 54(d)(1), plus interest on \$202,500 at the rate specified provided by 28 U.S.C. § 1961, is entered against Defendant Nick Diaz and the City of Ontario in favor of Plaintiffs Gladis Herrera, Marlon Herrera and Ivan Herrera.

IT IS SO ORDERED.

Dated: June 28, 2017



Jesus G. Bernal
UNITED STATES DISTRICT JUDGE