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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION

10 Betty Lou Heston, et al.,

NO. C 05-03658 JW

11 Plaintiffs,

JUDGMENT

12 v.

13 City of Salinas, et al.,

14 Defendants.
_____ /

15 This case was tried to a jury, District Judge James Ware presiding. Attorneys John Burton
16 and Peter Williamson represented Plaintiffs Misty Kastner as Administrator of the Estate of Robert
17 C. Heston, Betty Lou Heston and Robert H. Heston. Attorneys Vincent Hurley and Susan Matcham
18 represented Defendants City of Salinas, Chief of Police Daniel Ortega, Officers Juan Ruiz, Valentin
19 Paredes, Lek Livingston, James Godwin, Craig Fairbanks, Mike Dominici and Tim Simpson.
20 Attorneys Mildred O'Linn and Michael Brave represented Defendant TASER International, Inc.

21 The case was tried and submitted to the jury for decision on five claims: The First Claim
22 was by Plaintiffs against the Officer Defendants under 42 U.S.C. § 1983 for violating Robert C.
23 Heston's right under the Fourth Amendment to the United States Constitution to be free from
24 excessive force. The Second Claim was by Plaintiffs against Defendant City of Salinas under 42
25 U.S.C. § 1983 for violating Robert C. Heston's right under the Fourth Amendment to the United
26 States Constitution to be free from excessive force due to inadequate training of city police officers
27 with respect to the deployment of Taser ECDs. The Third Claim was by Plaintiffs against the Officer
28 Defendants for battery. The Fourth Claim was by Plaintiffs against Defendant TASER for

1 negligence by manufacturer in failing to warn. The Fifth Claim was by Plaintiffs against Defendant
2 TASER for strict products liability.

3 The verdict form required the Jury to state its finding with respect to each Claim by
4 answering written interrogatories.

5 On June 6, 2008, the Jury returned a unanimous verdict finding in favor of Defendant City of
6 Salinas and the Officer Defendants on First, Second and Third Claims against Plaintiffs. With
7 respect to the Fourth Claim, the Jury returned a unanimous verdict finding in favor of Plaintiffs
8 against Defendant TASER. The Jury found that at the time TASER International manufactured and
9 sold Taser ECDs, a reasonably prudent manufacturer of an electronic control device knew or
10 reasonably should have known that the Taser ECD was dangerous or likely to be dangerous because
11 prolonged exposure of electric shock from the device potentially causes acidosis to a degree which
12 poses a risk of cardiac arrest in a person against whom the device is deployed. With respect to the
13 Fifth Claim, Jury found in favor of Defendant TASER against Plaintiffs. (See Docket Item No.
14 323.)

15 As to the Fourth Claim against Defendant TASER, the Jury awarded to the Estate of Robert
16 C. Heston \$21,000 in compensatory damages and \$200,000 in punitive damages. To Robert H.
17 Heston and Betty Lou Heston, the Jury awarded \$1,000,000 in compensatory damages and
18 \$5,000,000 in punitive damages.

19 As between Defendants, the Jury attributed 100% of fault to Defendant TASER for Robert C.
20 Heston's death. As between Robert C. Heston and Defendant TASER, the Jury found that Robert C.
21 Heston was 85% comparatively at fault in causing his death and 15% of fault was attributed to
22 Defendant TASER. Accordingly, the judgment for compensatory damages in favor of the Estate and
23 Mr. & Mrs. Heston is reduced to \$3,150 and \$150,000, respectively.

24 On October 24, 2008, the Court found that the Jury's award of \$200,000 in punitive damages
25 to the Estate and \$5,000,000 in punitive damages to the family were improper as a matter of law.
26 (See Docket Item No. 374.) The Court ordered those damages disregarded.

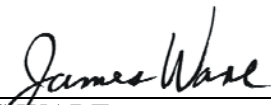
On January 30, 2009, the Court granted Plaintiffs' Motion for Attorney Fees pursuant to Cal. Code Civ. Proc. § 1021.5 and awarded Plaintiffs \$1,423,127 in attorney fees. (See Docket Item No. 401.) The Court DENIED Defendant City of Salinas' Motion for Costs.

Accordingly, Judgment is entered as follows:

- (1) Pursuant to the Jury verdict on the First, Second and Third Claims, judgment is entered in favor of Defendants City of Salinas, Chief of Police Daniel Ortega, Officers Juan Ruiz, Valentin Paredez, Lek Livingston, James Godwin, Craig Fairbanks, Mike Dominici and Tim Simpson, against Plaintiffs. Plaintiffs shall take nothing under this claim. No costs are awarded to Defendants.
- (2) Pursuant to the Jury verdict on the Fourth Claim, and the Court subsequent order striking the punitive damages awarded to all Plaintiffs, judgment is entered in favor of Plaintiffs Misty Kastner as Administrator of the Estate of Robert C. Heston, Betty Lou Heston and Robert H. Heston, against Defendant TASER International, Inc., in the amount of \$3,150 for the Estate, and \$150,000 for Mr. & Mrs. Heston. Defendant TASER is ordered to pay Plaintiffs' attorney fees in the amount of \$1,423,127. Plaintiffs are also awarded costs as against Defendant TASER only.
- (3) Pursuant to the Jury verdict on the Fifth Claim, judgment is entered in favor of Defendant TASER International, Inc., against Plaintiffs Misty Kastner as Administrator of the Estate of Robert C. Heston, Betty Lou Heston and Robert H. Heston.

The Clerk shall close this file.

Dated: January 30, 2009



JAMES WARE
United States District Judge

THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

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Dated: January 30, 2009

Richard W. Wieking, Clerk

By: /s/ JW Chambers

Elizabeth Garcia
Courtroom Deputy