

CIVIL RIGHTS

NEGLIGENCE

False Arrest/Ralph Civil Rights Act

VERDICT: \$2,100,000.

CASE/NUMBER: Alice Benham v. Walgreens Pharmacy, S&J Security Investigation Inc., Omar Ray / BC323316 consolidated with BC330701.

COURT/DATE: Los Angeles Superior Central / Nov. 27, 2007.

JUDGE: Hon. Mary Thornton House.

ATTORNEYS: Plaintiff - V. James DeSimone, Do Kim (Schonbrun, DeSimone, Seplow, Harris & Hoffman, LLP, Venice).

Defendant - Samuel M. Danskin (Green & Hall, APC, Santa Ana) for Omar Ray; Lena J. Marderosian (Bradley & Gmelich, Glendale) for S&J Security Investigation Inc.; Leslie M. Price Jr. (Price & Moorhead, Redondo Beach) for Walgreens Pharmacy.

MEDICAL EXPERTS: Plaintiff - Anthony E. Reading, Ph.D., psychology, Beverly Hills.

Defendant - Deborah Cresswell, Ph.D., psychology, Los Angeles.

TECHNICAL EXPERTS: Plaintiff - R. Bruce Ramm, retired police officer/security, Orange.

Defendant - Roger L. Langner, security, Signal Hill.

FACTS: On April 17, 2004, Alicia Benham, a 40-year-old real estate agent and spokesmodel, went to Walgreens located at 6th Street and Vermont Street in Los Angeles to exchange diet drinks, which were expired and had made her sick. Instead of honoring her request, Walgreens had its security guards take her to a back room where they intimidated and bullied Benham and her friend, Daniel Newman, by repeatedly insisting they were seen on a videotape stealing the drinks from Walgreen's shelf.

Benham testified that security guard Omar Ray made sexually explicit comments and implied that he would let her and her friend go if she gave him sexual favors. She also testified that Ray told her she was "hot," wanted to know if she was having sex with Daniel Newman, and stated, "We could work this out." She further testified that Ray threatened to place her in handcuffs and that she was fearful that he would rape her if he did.

Omar Ray performed a citizen's arrest and Ms. Benham spent one night in jail.

INJURIES: Benham claimed severe emotional distress, including a psychological injury of an adjustment disorder with chronic depression and anxiety and loss of reputation. The defendants denied that the damages were severe and argued that the plaintiff's damages were due to other stress contributing factors in her life.

DAMAGES: For False arrest and negligence, \$850,000 past damages; \$500,000 future damages. \$350,000 (past damages); \$400,000 (future damages).

JURY TRIAL: Length, 12 days; Poll, 12-0 (false arrest), 12-0 (negligent hiring), 12-0 (negligence), 3-9 (for defendant on Unruh Act discrimination), 10-2 and 9-3 (for plaintiff on Ralph Civil Rights Act), 11-1 (damages); Deliberation, 2.5 days.

SETTLEMENT DISCUSSIONS: The plaintiff demanded \$1,250,000. The defendants offered \$175,000.

RESULT: The jury awarded Benham \$2.1 million. (For Ralph Civil Rights Act, threat of violence against women, \$350,000 past damages; \$400,000 future damages).

The jury found that the evidence at trial showed that security guards were lying as the videotape never showed them stealing and, in fact, Benham was completely innocent of any crime. The jury concluded that Benham was falsely arrested by Walgreens' security agent, who threatened and assaulted her while holding her in a small back room of the Walgreens. The jury found that when she insisted on her innocence and refused to comply with his unlawful demands, he made a citizen's arrest and lied to the police that he observed her committing a crime.

The jury concluded that the security company that employed Omar Ray, S&J Security and Investigation, failed to perform a criminal background check prior

to hiring him and failed to make sure he was licensed as required by California law.

OTHER INFORMATION: Roger L. Langer, defendants' security expert testified that the President of the California's Bureau of Security and Investigative Services informed him that loss prevention agents do not have to be licensed. The jury found that the law requires loss prevention agents to be licensed, which requires fingerprints to be sent to the California Department of Justice and the FBI.