

PERSONAL INJURY

DANGEROUS CONDITION OF PUBLIC PROPERTY

Wrongful Death

Settlement: \$3,999,999

CASE/NUMBER: Robert M. Romeri, Patricia Romeri v. California Dept. of Transportation, et al. / CVPI-2017-1215

COURT/DATE: Del Norte Superior / Nov. 15, 2019

ATTORNEYS:

Plaintiff - Roger E. Booth, Andrew S. Pruitt, Ara Saroian (Saroian Law PC for Alexis Galvan)

Defendant - Ted Wood, Vanessa M. Spear (California Dept. of Transportation for California Dept. of Transportation)

FACTS: Decedent, Robert A. Romeri, and his girlfriend, plaintiff Alexis Galvan were students at Humboldt State. On March 13, 2016, they were driving northbound on Interstate 101 in Del Norte County, near the Redwood National and State Parks, on their way to Seattle for spring break. It was a very rainy day. Suddenly they encountered an alder tree that had fallen on to the freeway and was blocking part of the number one northbound lane. Romeri steered to the right to avoid the tree, and his car slid off the road, where it collided with another tree. Romeri was killed instantly. Galvan suffered a traumatic brain injury.

The rear tires on Romeri's Ford Mustang were nearly bald. He had brought his car into Tony Gosselin Tire Service on Oct. 26, 2015, and they had replaced two tires. The new tires were placed on the front wheels.

A toxicology report showed that Romeri had THC in his system. He was a regular marijuana smoker.

PLAINTIFFS' CONTENTIONS: Plaintiffs contended that Tony Gosselin Tire Service was at fault for two reasons. First, they should have installed the new tires on the rear of the car, which is the standard in the industry because it greatly improves the driver's ability to maintain control of the car in wet conditions. In addition, plaintiffs contended that Gosselin should have recommended replacing all four tires because, given the bald condition of the rear tires less than five months later, they must have been significantly worn when Gosselin saw them.

Plaintiffs contended that CalTrans was at fault because the alder tree that fell had been leaning towards the highway for years and should have been removed. There was an ongoing problem with alders leaning towards 101 in that area, and CalTrans' Tree Maintenance Supervisor for District 1 (which includes Del Norte County) testified that the subject tree was leaning to a degree that made it a candidate for removal as part of their routine maintenance.

DEFENDANTS' CONTENTIONS: Tony Gosselin Tire Service contended that there is a difference of opinion in the tire industry about whether new tires should be placed on the front or rear of the car and that it depends on the wear pattern of the tires. Therefore, it was not negligent to place the new tires on the front of Romeri's car.

CalTrans contended that Romeri was driving too fast for the conditions and that the accident was the result of his speed and his failure to notice the fallen tree in time, along with the bald tires and the extremely windy and wet conditions (which can cause all sorts of trees to fall). Moreover, CalTrans contended that they are constrained from removing large numbers of trees because residents and visitors come to that area to see the trees.

Defendants also contested the extent of the damages, particularly the severity of Galvan's brain injury.

INJURIES: Plaintiffs Patricia and Robert M. Romeri sought non-economic damages for the loss of their son, with whom they had a very close relationship.

Galvan was diagnosed with a traumatic brain injury and was hospitalized for approximately one month. She received little treatment after the hospitalization. Neuro-psychological testing showed deficits in attention/concentration, memory and visual perception/construction, and Galvan and her family noted problems with lack of inhibition, poor judgment, irritability and fatigue. However, she graduated from Humboldt State after the incident and is now employed.

DAMAGES: Galvan claimed economic damages consisting of \$136,915 in past medical expenses, \$75,000 in future medical expenses and between \$567,000 and \$822,000 in lifetime earnings loss.

RESULT: The case settled for \$3,999,999. The total settlement was split evenly between the Romeris' wrongful death case and Galvan's personal injury case. Defendant Tony Gosselin Tire Service agreed to pay its \$3 million insurance policy limits in September 2018. Defendant CalTrans agreed to pay \$999,999 in November 2019.

OTHER INFORMATION: CalTrans filed a motion for summary judgment, based on the weather immunity set forth in Gov. Code section 831, which was denied.

Consolidated with: Alexis Adriana Galvan v. California Dept. of Transportation, et al., Case Number: CVUJ-2017-1315, Filed Dec. 12, 2017.

FILING DATE: May 11, 2017