

## CIVIL RIGHTS

### EXCESSIVE FORCE

Police Negligence

SETTLEMENT: \$2,300,000.

CASE/NUMBER: Barbara J. Batchan, conservator for the estate of Parrish Madison Batchan v. County of Los Angeles, Omar Bobadilla, Rigoberto Munoz, Michael Gillman, Daniel Onopa, City of Vernon / BC423702.

COURT/DATE: Los Angeles Superior Central / Aug. 12, 2013.

JUDGE: Hon. Debre K. Weintraub.

ATTORNEYS: Plaintiff - Benjamin Schonbrun, Michael D. Seplow, Amanda Canning (Schonbrun, DeSimone, Seplow, Harris, Hoffman & Harrison LLP, Venice); John C. Burton (John C. Burton, Attorney at Law, Pasadena).

Defendant - Dennis M. Gonzales, Raymond W. Sakai (Lawrence, Beach, Allen & Choi PC, Glendale) for County of Los Angeles, Omar Bobadilla and Rigoberto Munoz; Glen E. Tucker, Mily C. Huntley (Aleshire & Wynder LLP, El Segundo) for

## JUDICIAL VERDICTS AND SETTLEMENTS

City of Vernon, Daniel Onopa and Michael Gillman.

MEDICAL EXPERTS: Plaintiff - Anne Barnes, R.N., life care planning, Glendale; Dale Brent, M.D., general practice, Sherman Oaks; Nathan E. Lavid, M.D., psychiatry, Long Beach; Ronald O'Halloran, M.D., forensic pathology and restraint asphyxia, Ventura; David R. Patterson, M.D., physical medicine and rehabilitation, Pomona.

Defendant - Gene Bruno, M.S., C.R.C., C.D.M.S., life care planning, Encino; Saul J. Faerstein, M.D., psychiatrist, Los Angeles; Arthur P. Kowell, M.D., Ph.D., neurology, Encino; Thomas S. Neuman, M.D., emergency, pulmonary, dive medicine, San Diego; Charles Swerdlow, M.D., cardiac electrophysiology, Los Angeles; Gary M. Vilke, M.D., emergency medicine, San Diego.

TECHNICAL EXPERTS: Plaintiff - Roger A. Clark, police practices and procedures, Santee.

Defendant - Mark Kroll, Ph.D., electrical engineering, Minneapolis, Minn.

FACTS: On the afternoon of Dec. 29, 2008, an African-American male, Parrish Batchan was walking on Triggs Street in Los Angeles without clothes or shoes and appeared disoriented. Batchan had a history of mental illness, including schizophrenia. He was not armed and was not under the influence of any drugs or controlled substances. Los Angeles County Deputy Sheriff Bobadilla responded to a call of a man running naked in the street. The deputy initially followed Batchan in his patrol car and then pursued Batchan on foot. The deputy yelled at Batchan but only got a blank stares and shadow boxing in response. The deputy fired a taser at Batchan and thereafter fired a second taser, which struck Batchan.

Plaintiff, Batchan's mother, claimed that defendant deputies and officers used excessive force on Batchan when they attempted to contain him.

### PLAINTIFF'S CONTENTIONS:

Plaintiff contends that deputy Bobadilla and City of Vernon police officer Daniel Onopa contained Batchan. Officer Onopa fired a taser and struck Batchan in the chest. Batchan fell to the ground and Deputy Bobadilla and Onopa both got on top of Batchan and handcuffed him. While the officers were pinning down Batchan, Officer Onopa again fired his taser striking Batchan. The officers then used a hobble device, claspings his handcuffed hands and ankles together. Despite Batchan being handcuffed, hobbled and surrounded by three armed officers in a contained area, the deputies placed Batchan in a TARP (total appendage restrain position). Being hog-tied not only completely restricted Batchan's movement, it also restricted his breathing. The officers continued to press his face down to the pavement. Deputy Munoz, who weighed about 230 pounds placed the weight of his body onto Batchan's upper back. Batchan weighed 135 pounds.

Lt. Michael Gillman of the Vernon Police Department arrived at the scene but did not exercise command and control of the incident.

As a direct result of the excessive force that Batchan was subjected to, he suffered cardiac arrest and remained in a persistent vegetative state for more than two years. Batchan expired while the jury was deliberating the civil rights case brought by his mother Barbara Batchan.

Plaintiff claimed that defendant deputies and officers used excessive force on Batchan when they placed him in the TARP; failed to monitor his physical condition and breathing; and failed to make sure he was either sitting down or on his left side rather than face down causing positional asphyxiation.

JURY TRIAL: Length, six weeks; Deliberation, six days.

RESULT: City of Vernon settled with plaintiff before trial for \$1.55 million.