

FLORIDA

PREMISES LIABILITY

Inadequate or Negligent Security

Teenager fatally stabbed outside nightclub

VERDICT \$685,000
ACTUAL \$548,000

CASE Olga Sepulveda and John Duque, Personally and as Co-Personal Representatives of the Estate of Joseph Duque v. Tesoro of West Palm Beach Inc. d/b/a Rumbass Night Club, One Point Inc. and the Salvation Army, No. 502004CA009120
COURT Palm Beach County Circuit Court, 15th, FL
JUDGE Diana Lewis
DATE 6/5/2009

PLAINTIFF ATTORNEY(S) Carlos A. Bodden (lead)
 Patrick W. Lawlor

DEFENSE ATTORNEY(S) David V. King, Cooke & King, LLLP,
 West Palm Beach, FL

FACTS & ALLEGATIONS On July 3, 2004, plaintiff's decedent Joseph Duque, 14, was at a teen night at Rumbass Night Club in West Palm Beach. At about 1:30 a.m., a security worker ejected Joseph after he got in a verbal confrontation with another patron. Joseph stayed outside the club waiting for a ride, and when Rumbass closed 30 minutes later, Joseph and a group of others got into a fight. Joseph, who was unarmed, died at the scene from a knife wound to the chest. A criminal investigation is ongoing, but the identity of the killer and the reason for the fight remain unknown.

Olga Sepulveda and John Duque, Joseph's surviving parents, sued Tesoro of West Palm Beach Inc., operating as Rumbass Night Club; One Point Inc., owner of the plaza in which the club was located; and the Salvation Army, owner of the property adjacent to the club, for negligent security. The Salvation Army was dismissed prior to trial.

According to plaintiff's counsel, the defendants were aware of prior instances in which teens had come into Rumbass with weapons. Although the club's bouncers searched patrons as they entered the club, counsel argued that Joseph should not have been escorted outside to an area where there were no security forces in operation. The plaintiffs alleged that One Point was

on notice that frequent fights and robberies had occurred in the plaza and that additional security was therefore warranted.

The estate's security expert opined that the incident was foreseeable based on previous local activity.

The defendants denied liability and asserted an affirmative defense of comparative negligence. Defense counsel argued that Joseph engaged in the fight outside the club of his own volition.

The defendants' security expert opined that the fight was a crime of passion which could not have been predicted by the defendants.

INJURIES/DAMAGES *death*

Joseph was fatally stabbed in the chest. His parents gave emotional testimony to the jury about the loss of their only son. It was disclosed at trial that Duque was neither the natural nor adoptive father of Joseph. Duque testified, however, that he had provided for Joseph's care since his birth. Counsel for the estate asked jurors to award \$4 million.

RESULT The jury found Joseph 20 percent liable and awarded \$685,000 that was reduced to \$548,000.

ESTATE OF JOSEPH DUQUE \$10,000 funeral expenses

JOHN DUQUE \$150,000 past pain and suffering
\$75,000 future pain and suffering
 \$225,000

OLGA SEPULVEDA \$300,000 past pain and suffering
\$150,000 future pain and suffering
 \$450,000

TRIAL DETAILS Trial Length: 5 days
 Trial Deliberations: 5 hours

PLAINTIFF EXPERT(S) Kenneth Harms, security/premises liability, Miami, FL

DEFENSE EXPERT(S) Bronson Steven Bias, security/premises liability, Fort Lauderdale, FL

EDITOR'S NOTE This report is based on information provided by plaintiff's and defense counsel.

—Shannon Green