

The defense also said that there was no evidence that other similarly situated employees were treated more favorably than Martinez for the same type of conduct. The defense put on evidence that Pratt & Whitney's workforce was ethnically diverse and that other Mexican-American employees had received awards and promotions.

**INJURIES/DAMAGES** Martinez sought damages for past and future lost wages, attorney fees and emotional distress. His claim for punitive damages was adjudicated in Pratt & Whitney's favor via summary judgment.

**RESULT** The jury found for the defense.

**TRIAL DETAILS** Trial Length: 11 days  
Trial Deliberations: 3 hours  
Jury Vote: 12-0 on wrongful demotion; 11-1 on retaliation  
Jury Composition: 6 male, 6 female

**PLAINTIFF  
EXPERT(S)** Pamela Perry-Hunter, M.D., psychiatry,  
Los Angeles, CA

**DEFENSE  
EXPERT(S)** David N. Glaser, M.D., psychiatry,  
Encino, CA

**EDITOR'S NOTE** This report is based on information that was provided by defense counsel. Plaintiff's counsel did not return the reporter's phone calls.

—Priya Idiculla

## VERDICT *of the* WEEK

### PREMISES LIABILITY

#### Inadequate or Negligent Security

## Allegedly drunk concert-goer struck and kicked plaintiff

**VERDICT** \$1,050,000  
**ACTUAL** \$770,000

**CASE** Merridy Cress v. Bethalia Verle Jones a/k/a Marcia Cooper & Neederlander-Greek Inc., No. BC362775

**COURT** Superior Court of Los Angeles County, Central, CA

**JUDGE** Aurelio Munoz  
**DATE** 3/4/2009

**PLAINTIFF  
ATTORNEY(S)** P. Paul Aghabala, Law Office of P. Paul Aghabala, Woodland Hills, CA

**DEFENSE  
ATTORNEY(S)** Howard A. Slavin, Lewis Brisbois Bisgaard & Smith LLP, Los Angeles, CA

**FACTS & ALLEGATIONS** On Oct. 1, 2005, plaintiff Merridy Cress, 60s, retired due to disability, was assaulted during a concert at the Greek Theatre in Los Angeles.

Cress attended the concert with her fiancé. Another concert-goer, Marcia Cooper, appeared to be inebriated while David Benoit was performing and obstructed the views of other concert-goers by standing up in front of them. Other concert-goers yelled at her to sit down, but she refused.

After Benoit's performance, Cooper left briefly and returned with a half-liter bottle of wine and three empty glasses for herself and her two companions. Cooper continued to stand up and obstruct the view of others while Kenny G was performing. When Cress's fiancé asked Cooper's fiancé to sit down, Cooper turned around and began yelling profanities at him and Cress. Cress's fiancé complained to an usher, who said that there was nothing they could do about Cooper's behavior.

Cooper continued to verbally and physically threaten Cress and her fiancé. When they changed seats, Cooper followed them. Two ushers spoke to Cooper at that point, but did not eject her from the concert. Cress and her fiancé decided to leave the concert early; Cooper followed them and punched Cress in the left temple, causing her to fall, and then kicked her. At that point, ushers and security intervened.

Cress wanted to press charges against Cooper, but somebody convinced her not to press charges by telling her that she would also be charged. The police then mistakenly took down the information for Cooper's friend, and not Cooper. Cooper was never charged criminally because of the error by the police or the Greek Theatre staff.

The grounds for ejecting a patron from a concert included interfering with others' enjoyment of the concert, making threats, or being inconsiderate. Two other people besides Cress's fiancé had complained about Cooper's behavior during the concert, but she was never ejected.

There were 15 off-duty police officers present at the concert, but they were mostly outside of the venue and were not near Section C, where Cress and Cooper were sitting. The captain in charge of Section C had left her post while the incident was occurring. Furthermore, only captains and two of the 15 off-duty officers had walkie-talkies for purposes of communicating with each other.

Cress sued Neederlander-Greek Inc., the operator of the Greek Theatre, for premises liability and negligence. She also sued Cooper, but Cooper could not be found for purposes of civil litigation.

Cress alleged that Neederlander-Greek provided negligent and inadequate security, because the ushers did not have adequate