



Daily Journal Verdict & Settlements
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ECG Entertainment Client Recovers \$443,000 in Attorneys' Fees and Compensatory Damages in Malicious Prosecution Action

Los Angeles Superior Central – August 26, 2002
Hon. William F. Highberger

Topic: Torts
Sub topic: Malicious Prosecution
Sub-sub topic: Business Torts

Bench Decision

\$443,000

Attorneys

Plaintiff – David Robinson, Enterprise Counsel Group, Irvine
Plaintiff – Jeffrey Lewis, Enterprise Counsel Group, Irvine
Defendant – Gary Brown, Century City

Facts

In 1996, the defendant Vincent J. Lyons, the owner of Dubs Inc., and Gerald Cunningham, the attorney for Dubs Inc., encouraged and caused Dubs Inc. to sue a number of parties, including Videotape Plus Inc. and its president, Marshall W. Brehm, for fraud, negligence and conversion.

In 1997, the fraud and negligence claims were dismissed after Videotape Plus and Brehm filed a motion for summary judgement. The conversion claim was ultimately dismissed when the court issued terminating sanctions for Dubs' discovery misconduct.

In 1999, the plaintiffs Videotape Plus and Brehm brought the subject action for malicious prosecution based solely on the fraud and negligence causes of action. The plaintiffs sought recovery of their

attorney fees in excess of \$220,000, emotional distress, lost business income and other damages.

Contentions

The defendant contended that the prior action was brought with probable cause and without malice.

Damages

Attorney fees incurred in the prior, maliciously prosecuted lawsuit and emotional distress.

Settlement Discussions

No significant settlement discussions occurred until after the trial court granted summary judgment against the prior attorney, Cunningham, and found probable cause lacking with respect to the remaining defendants

Other Information

The plaintiffs obtained summary judgment for \$213,184 against the defendant Cunningham and a settlement of \$230,000 against Lyons and Dubs.



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