

Zeppetella trial: Ex-exec says body-armor firm knew vests degraded

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VISTA – Executives of a company that made a protective vest worn by an Oceanside policeman slain on the job in 2003 knew by 2001 that a fiber used in the ballistic panel degraded over time, a former manager testified Thursday.

Aaron Westrick was the second plaintiff witness to testify in the trial of a civil lawsuit brought on behalf of Jamie Zeppetella, the officer's widow.

Her 27-year-old husband, rookie officer Tony Zeppetella, was killed in a shootout on June 13, 2003, in a credit union parking lot. An ex-con was found guilty of murder last year and sentenced to death.

Plaintiff's attorney Gregory Emerson claims Second Chance Body Armor failed in its duty to warn customers of the alleged defects in the Zylon fiber.

Toyobo Co., which made the fiber, is a co-defendant in the case.

Westrick, who joined Second Chance in 1996 as director of training and became director of research, said Zylon was described that year by Toyobo officials as "Kevlar on steroids," referring to another material commonly used in soft body armor.

Toyobo began warning Second Chance of possible problems in 2001, Westrick testified.

Data received from Toyobo in November 2001 was described as "not good" by Second Chance President Richard Davis, Westrick said.

At the time, 80,000 Zylon vests were on the market and an order for 70,000 had come in from Germany, he said.

Westrick said the board of directors removed him from overseeing testing of Zylon, and he was not invited to a December 2001 "crisis meeting" with Toyobo executives in Los Angeles.

"I was very afraid a police officer or soldier would be killed," Westrick testified.

Defense lawyers told the jurors in their opening statements that the bullet that killed Zeppetella only penetrated five of the 24 layers of Zylon in the vest's ballistic panel before exiting out the edge.

Michael Lyle, representing Toyobo, said several layers would normally be penetrated by bullets as the Zylon absorbs energy from the projectile.

The National Institute of Justice tested body armor by firing at it from a 90-degree angle and a 60-degree angle, Lyle said.

The fatal wound suffered by Zeppetella was fired upward and struck the vest at a "severe" 10-degree angle very close to the top edge, Lyle said.

"No ballistic vest is going to (stop that shot)," the lawyer said.

A bullet fired at the mortally wounded officer when he was face-down in the parking lot was "stopped cold" by the vest because it came in at a favorable angle, even though it, too, struck near the edge of the ballistic panel, Lyle said.

The lawyer displayed photographs of an inspection of each layer of the fiber, some of which were penetrated and others that were indented by the bullet's passage.

The plaintiffs will be unable to show that Zylon was defective, or that the fiber in the officer's vest had degraded, he told the jury.

“I want to be clear with something right now – Toyobo played no role in Officer Zeppetella's death,” Lyle said. “Zylon had no role and did not cause Mr. Zeppetella's death.”

Second Chance executives were testing their products when Zeppetella bought his vest, said lawyer Robert Green, who represents the firm.

Testing showed weakening in panels that were more than two years old, but the officer had worn his vest for only eight months when he was shot, Green told the jurors.

Davis said in December 2001 that he would need \$8 million from Toyobo in order to remove Zylon vests from the workplace, Westrick testified.

That day, he wrote a memo to the Second Chance president suggesting that customers be notified of problems with Zylon and that those who placed orders be given a chance to cancel, Westrick said.

The witness said the Second Chance president was very concerned about safety but, other than ordering a two-day production shutdown in 2002, did nothing about what was referred to within the company as “the Zylon problem.”

Other company executives were more hostile, Westrick said, adding that one threatened to “hang this (problem) on me.”

When he told another employee that he might air the safety issues publicly, Westrick was warned that he'd be “sued until death” and would “never again make another penny,” he told the jury.

The first witness, Navy Corpsman Gabriel Tellez, testified that he rushed to Zeppetella as soon as gunman Adrian Camacho fled and found the officer in a pool of blood.

Tellez said he removed the officer's shirt and the vest and found what turned out to be the fatal wound under the vest.

The trial before Vista Superior Court Judge Michael Anello is scheduled to last about three weeks.