

Cop's widow wins lawsuit over vest

By Jose Luis Jiménez
UNION-TRIBUNE STAFF WRITER

September 8, 2006

VISTA – A jury yesterday found the makers of a bullet-resistant vest an Oceanside police officer was wearing when he was murdered are partially liable in the slaying.

The Superior Court jury found the two companies failed to warn rookie Officer Tony Zeppetella about potential defects with the vest, and it ordered them to pay just over \$2.5 million in damages to Zeppetella's widow and toddler son.

Zeppetella was killed June 13, 2003, by felon Adrian Camacho. He shot the officer 13 times after Zeppetella pulled him over in the parking lot of the Navy Federal Credit Union on College Boulevard in Oceanside. Camacho, 30, is now on death row in San Quentin State Prison.

Yesterday's verdict was returned against Second Chance Body Armor Inc., which made and sold the vest, and Toyobo Co. Ltd., a Japanese company that made the Zylon synthetic fibers inserted into the soft body armor to make it bullet-resistant.

A lawyer and a spokesman for the defendants said they will ask Judge Michael Anello to reject the verdict, and that if he doesn't, they will probably appeal. The judge could also lower the award or the two sides could still reach a settlement.

The jurors deadlocked on another question: whether a defective design allowed one of the bullets to penetrate the soft body armor and caused a fatal chest wound.

During the three-week trial, much of the evidence focused on the hole in the upper-right chest area of Zeppetella's vest.

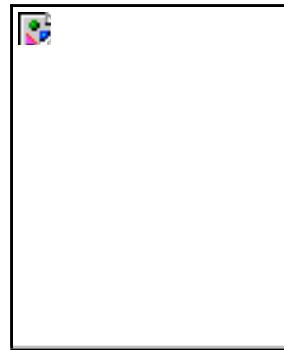
Attorney Greg Emerson, who represented Zeppetella's widow, Jamie, and son, Jakob, argued the hole itself was clear evidence the vest failed.

Emerson presented studies and written documents from both companies that showed Zylon degraded much faster than expected when exposed to heat, humidity and light, conditions most patrol officers encounter while working.

The companies did not warn the public until four months after Zeppetella's death, when they stopped producing Zylon vests, Emerson said.



CHARLIE NEUMAN / Union-Tribune
Jamie Zeppetella and her lawyer, Greg Emerson, met with the media yesterday in the parking lot of the Vista courthouse after the verdict concerning the vest worn by Zeppetella's husband was announced.



Tony Zeppetella

In 2004, Michigan-based Second Chance filed for bankruptcy and Armor Holdings Inc. acquired most of the non-Zylon related assets. A new company called Second Chance Armor Inc. was created and was not part of the lawsuit.

Attorneys for the companies argued that the vest worked as designed because it stopped a bullet at the officer's back. They argued the bullet that caused the fatal chest wound was shot at such a steep angle that no vest on the market could have stopped it.

The jury foreman said in an interview that there was too much conflicting evidence on the question of the design defect and that some jurors agreed with the defense argument about the bullet's angle being too steep for the vest to stop it.

"The evidence was weak on both sides," said the foreman, an accountant from Carlsbad who declined to give his name. "There was no smoking gun."

However, he said the jury could not ignore the internal documents showing the companies discussed the Zylon degradation at least two years before Zeppetella's death and did not make the information public.

If Zeppetella had been aware of the issue, he might have chosen a different vest, the foreman said.

"It led us to believe there was a probability that Zeppetella could have made a decision that could have saved him," he said. "There was something going on that wasn't ethical."

The Oceanside Police Department had issued Zeppetella a different vest, but he paid \$300 of his own money to upgrade to the \$950 Zylon vest.

The jury awarded the officer's widow and son a total of \$3.6 million in damages, of which the two companies will have to pay \$2.5 million.

Jurors found that Camacho bore the responsibility for the balance of the damages, but that is a legal technicality because he was not a defendant in this case.

Camacho had drugs and a stolen gun with him. Authorities described him as an illegal immigrant, gang member and small-time drug dealer.

The damages were computed through an estimate of what the 27-year old officer would have earned in his lifetime.

Attorney Robert Green, who represented Second Chance, questioned the jury's reasoning.

"If the vest is not defective, what do you warn about?" Green asked in an interview after the verdict. "Any other vest would have performed the same way."

A Toyobo spokesman agreed and said the company will fight to clear its name.

Emerson said the jurors got it right and that he is contemplating whether to seek a retrial on the design-defect question.

“This jury said the vest failed and it killed Tony,” Emerson said in an interview. “That's worth multiples more than the money this jury awarded.”

Jamie Zeppetella spent numerous days at the courthouse watching the criminal case against her husband's killer and then pursuing the lawsuit against the companies.

“I wanted everybody who was responsible to be held accountable, and this does that,” she said. “For the last three years, this has been my life.”

Staff writer Dana Littlefield contributed to this report.