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\$7.8 Mil. Verdict Stands in Jockey Death Case

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Of the Legal Staff

A \$7.8 million verdict awarded to the widow of a jockey who was killed when his horse bucked and trampled him after being spooked by a chicken at Parx Casino and Racetrack will stand, a Philadelphia judge has ruled.

Parx requested a new trial or judgment notwithstanding the verdict. However, Philadelphia Court of Common Pleas Judge Albert J. Snite Jr. denied the casino's motions for post-trial relief Monday.

The defendant took issue with the plaintiff's use of still images and a video recording taken 17 months after the accident to show the jury that chickens were able to breach the racecourse and wander onto the track, Snite explained in his opinion. Parx argued that the evidence was not relevant because it did not relate to track conditions at the time of the accident.

However, Snite said the recordings and stills were admissible for three reasons.



TRUNK

were relevant to corroborate and/or support the testimony of various plaintiff and defense witnesses regarding whether chickens could get onto the racetrack. Third, the videotape recording and still photographs were relevant to impeach the testimony of various defense witnesses."

The fatal accident occurred on the morning of May 30, 2010. At that time, jockey Mario Ramiro Calderon was exercising his horse, Cassidy Blue, around the racetrack, according to Snite.

While Calderon was riding his horse, a chicken on the racetrack spread its wings and frightened Cassidy Blue, causing the

"First, the videotape recording and still photographs were relevant to show that chickens have the ability to get onto the racetrack," Snite said. "Second, the videotape recording and still photographs

horse to make sudden movements, Snite said. These sudden movements threw Calderon off-balance, making him fall sideways off the saddle.

Calderon's foot was caught in the stirrup and, as he dangled upside down off of Cassidy Blue, the horse repeatedly kicked Calderon in the head and chest, thrashing him back and forth, Snite said. Calderon was rushed to the hospital where he was pronounced dead three hours after arrival.

At the conclusion of an eight-day trial, the jury found Parx negligent and handed up a verdict in favor of the plaintiff April 9, 2014. Calderon's wife was awarded roughly \$2.3 million for wrongful death, \$500,000 under the Survival Act and \$5 million in punitive damages. On April 16, \$88,000 in delay damages were added to the verdict.

The plaintiff's use of the video recording and pictures of chickens on the racetrack was in response to a defense witness testifying that chickens could not get onto the track, Snite said.

Verdict continues on 10

Verdict

continued from 1

In addition to arguing that a new trial was warranted because the evidence was inadmissible, Parx claimed that the video and photographs were unfairly prejudicial. Again, Snite disagreed with the defendant, and noted that he instructed the jury that the evidence was not a recreation of the track conditions at the time of the accident.

"The videotape recordings and still photographs were relevant to assist the jury in

understanding that chickens could make their way to this racetrack surface," Snite said. "At the same time the court took great care to prevent the jury from improperly using the material by twice instructing them how the material was to be considered."

Snite said in requesting JNOV, Parx argued that the plaintiff didn't meet the burden for proving that it acted in reckless disregard to the safety of Calderon and, therefore, punitive damages were not appropriate.

Several witnesses testified as to the existence of chickens on the Parx racetrack and the dangers they posed, according to Snite.

Jockey "Giordano Farachio testified that

his horse was spooked by a chicken in January of 2010 which resulted in him being thrown from the horse," Snite said. "After the incident occurred, Mr. Farachio told defendant that a chicken was on the racetrack; Lance Morell, chief of security for defendant, told Mr. Farachio that chickens were wild animals and there was nothing defendant could do to prevent them."

Parx racing director Salvatore Sinatra testified that it was Morell's job to remove wild animals from the racetrack and, according to Snite, acknowledged that "having chickens on or near the racetrack presents a serious risk of injury or death to the riders."

However, Sinatra testified that there was no prohibition of chickens on the racetrack prior to the incident.

Snite said the evidence indicated that Parx had a legal duty to remove the chickens from its track.

"The jury's determination, based on the evidence presented, that the defendant acted outrageously, with a reckless indifference to the safety of the riders, warrants an award of punitive damages," Snite said.

Parx was represented by William Conroy of Campbell Campbell Edwards & Conroy, who did not return a call for comment.

Verdict continues on 11

Verdict

continued from 10

Michael Trunk of Kline & Specter

represented the plaintiff and said he was glad Snite recognized that "Parx's arguments were without merit. There was overwhelming evidence to support the verdict for punitive damages" and that Parx knew about the chickens

on the track, but failed to act.

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(Copies of the 14-page opinion in Calderon

v. Parx Casino, PICS No. 14-1310, are available from The Legal Intelligencer. Please call the Pennsylvania Instant Case Service at 800-276-PICS to order or for information.) •