

Verdicts

JANUARY 11, 2002

& Settlements

REAL PROPERTY

Trespass

Adjacent Property

VERDICT: \$1,613,000.

CASE/NUMBER: Bettelman Recreation Enterprises v. City of South El Monte, Regency Outdoor Advertising Inc. / BC236558.

COURT/DATE: Los Angeles Superior Central/ Nov. 16, 2001.

JUDGE: Hon. John P. Shook.

DISBURSEMENT: Economic damages of \$738,000; punitive damages of \$875,000 against Regency Outdoor Advertising Inc.

ATTORNEYS: Plaintiff - Frank W. Nemecek (Nemecek & Cole, Sherman Oaks); Donald A. Gralla (Szabo, Spencer & Mulally, Sherman Oaks).

Defendant - Paul E. Fisher (Fisher & Associates, Newport Beach); Madison S. Spach (Spach & Associates, Newport Beach).

FACTS: The plaintiff partnership is the owner of a miniature golf course in the City of South El Monte adjacent to the Pomona Freeway. In 1998, in a quiet title action instituted by the defendants that concerned an abandoned road abutting the miniature golf course, the court ruled that the plaintiff owned the road, subject to an easement in favor of the city for road

purposes only.

In 1999, the same court determined that the road easement did not give the city the right to grant a billboard site to the co-defendant, Regency Outdoor Advertising Inc. Despite the 1999 court ruling, the city gave Regency the necessary permits to construct a billboard on the city's easement. On Sep. 8, 2000, the co-defendant Regency constructed a 40-foot tall billboard on the plaintiff's abandoned road.

PLAINTIFF CONTENTIONS: The plaintiff contended that both the City of South El Monte and Regency Outdoor Advertising, Inc. were trespassers and in June 2001, the court summarily adjudicated that this was the case.

DEFENDANT CONTENTIONS: The defendants contended that the sign on the road was placed there in error and that it should have been placed across the road on property owned by the South El Monte Union High School District.

JURY TRIAL: Length, seven days; deliberation, 2.5 hours.

SETTLEMENT DISCUSSIONS: The plaintiff demanded \$5.5 million, which was withdrawn after the economic damage phase of trial, then demanded in excess of \$10 million. Defendant Regency Outdoor Advertising Inc. offered \$5,000.