

## TOP #2 TEN

### JURY VERDICTS OF 2006

**\$160 MILLION**

# Nursing home resident with violent history attacks roommate

Natalie White  
Contributing writer

In the third largest nursing home verdict in U.S. history, a Texas jury awarded \$160 million to the family of an elderly man who was severely beaten by his violent and mentally ill roommate.

After a two-week trial, jurors ruled against a West Texas nursing home accused of negligently pairing the aggressive roommate with Tranquilino Mendoza, who died three years after the 1997 beating.

"Their position was: He was beaten. He recovered. End of story," said Thomas J. Rhodes, an attorney for the plaintiff. "But our position was that he never really recovered because of the problems related to that beating. He was a broken man. He was never himself again."

Although Mendoza recovered from the physical injuries, his family said he

never healed psychologically. The roommate knocked him to the floor and attacked him with a water pitcher, a glass and his fists, beating him about the face and head.

Jurors found that the Burbank, California-based Summit Care Corp., its Texas subsidiary and two nursing home employees were at fault for the beating that sent Mendoza to the hospital for days.

Defense attorneys have appealed and filed their initial briefs.

#### A changed man

Mendoza was 81 years old when he was beaten at the Comanche Trail Nursing Center in Big Spring, Texas. His daughter dropped him off Sunday evening after he spent the weekend with her family. When he got to his room he discovered that the nursing home had assigned him a new roommate during his leave. Within a few hours the roommate attacked Mendoza.



The defense pointed out that Mendoza's family agreed that he received excellent care at the nursing home until the attack and that he recovered physically within a few weeks.

Rhodes conceded that the biggest hurdle in the trial was the absence of permanent physical injuries. Mendoza didn't die for another three years after the attack, when he was in his mid-80s.

"Visible injuries heal, it was the intangible injuries

that didn't heal and we were arguing over," said Rhodes. "Just because you're 80 years old doesn't mean your life isn't important. His relationship with his daughter completely changed. They had the most marvelous relationship and it was never the same. As you get older, the only things that matter are family and relationships, and if you take those things away, you take everything away."

Knowing this, Rhodes focused jury selection on finding jurors who could distinguish between physical and emotional injuries.

He said the key to winning the verdict was showing how the beating changed Mendoza and also how the nursing home knowingly put Mendoza in danger, choosing “the bottom line” over patient safety.

Rosamarie Paradez testified at trial that her father was a quiet, peaceful soul, who enjoyed playing rancho music on his guitar, and enjoyed his family and grandchildren as well as his friends at the nursing home.

After the attack, Rhodes said, Mendoza was a changed man who got little joy from life, would not play with his grandchildren and could not go back to the nursing home because of persistent fear caused by the beating.

“He was a broken man for the remainder of his life,” Rhodes said. “He went from being a friendly person to being withdrawn and scared.”

His doctors testified at trial that Mendoza suffered a severe head injury and concussion from the beating, and that such an injury can lead to permanent changes in personality.

“We were able to show the water pitcher has the same consistency as an igloo cooler. It was found shattered and covered in blood,” said Rhodes. “It was a 42-ounce container, but when filled, it was like being hit with a 42-ounce brick. Rosie testified when she saw her father she couldn’t even recognize him.”

### Pressure from the top

The defendants said they moved the attacker, Geronimo Vela, from the locked ward because they thought that his violent attacks were triggered when residents with Alzheimer’s wandered into his personal space.

But Rhodes contended that the nursing home’s decision was driven by the bottom line – officials knew they couldn’t keep Vela in the locked unit but didn’t want to lose the revenue by making him leave the institution altogether.

Rhodes used internal memos and the testimony of nursing home officials to show that during the few years before the beating, Summit Care Corp. pushed nursing homes to increase their occupancy numbers. As part of that push, he said, Comanche Trail Nursing Center converted 28 of its regular beds into a “locked Alzheimer’s unit,” and

then began recruiting psychiatric patients from nearby hospitals – despite the fact that it never obtained a certificate to operate an Alzheimer’s unit.

Rhodes said the plaintiff argued that the corporate pressure was intense and included bonuses to managers who could meet the 95 percent occupancy target.

One of the patients recruited by the nursing home was Vela, who had been involuntarily admitted to a locked unit at Big Spring V.A. Hospital, in part because of violent episodes. He was diagnosed with acute psychosis with schizophrenia and delusions, and continued to exhibit violent behavior while there. In spite of this, a doctor said he could be released to a locked ward.

Vela was moved to the nursing home, and during the 82 days he was in the locked ward, he attacked other resi-

dents on at least 29 occasions. Four people had to be hospitalized as the violent attacks increased in intensity. One resident required stitches above his eye and suffered a broken nose.

Two days later, Vela was moved into Mendoza’s room.

Rhodes emphasized that the nursing home knew Vela was violent before officials decided – against doctor’s orders – to transfer him from the locked ward to a regular room.

“They knew he would keep hurting people when they moved him, but basically their plans were more important than patient safety,” said Rhodes. “It was all about money to them. We argued that Mr. Mendoza mattered. He wasn’t rich. He worked as a dishwasher. He didn’t have a good education, but he mattered.”

The \$160 million verdict included \$150 million in punitive damages against Summit Care Corp. and Summit Care Texas. The remaining \$10 million in compensatory damages was divided among the defendants – 35 percent assessed to Summit Care Corp., 35 percent to Summit Care Texas doing business as Comanche Trail Nursing Center, 25 percent to the nursing home administrator and 5 percent to the regional vice president.

Questions or comments can be directed to the features editor at: [bill.ibelle@lawyersusaonline.com](mailto:bill.ibelle@lawyersusaonline.com)

## AT-A-GLANCE

**Verdict:** \$160 million total  
\$150 million in punitive damages

**State:** Texas

**Type of case:** Personal injury

**Trial:** 2 weeks

**Deliberations:** 2½ days

**Status:** Appellate briefs have been filed by the defense.

**Case name:** *Mendoza v. Summit Care Corp.*

**Date of verdict:** Feb. 22, 2006

**Plaintiffs’ attorneys:** J. Thomas Rhodes III and Laura Pazin of Lyons & Rhodes in San Antonio, Texas; David T. Marks, Jacques G. Balette, Henry P. Giessel and Jason N. Young of Marks, Balette & Giessel in Houston, Texas.

**Defense attorneys:** Laurie Weiss, William J. Baine and William T. Sullivan of Fulbright & Jaworski in San Antonio, Texas; R. Brent Cooper and Diana L. Faust of Cooper & Scully in Dallas; Jerry A. Gibson and Richard N. Francis of Plunket & Gibson in San Antonio, Texas.