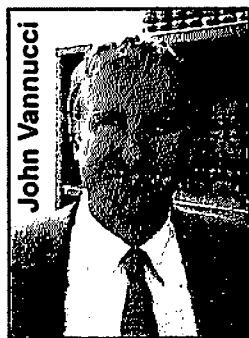


The Bar Association of San Francisco Lawyer Referral and Information Service Attorney Detained at Mall to Receive Six Figure Verdict

By Emmy Pasternak
LRIS Community Outreach and Case
Development Coordinator

It is not an uncommon situation – you go to a store and find an item you like but it's not in your size. The kind salesperson calls another branch and puts the item on hold for you. What is not part of the normal shopping process is to go to the store to pick up your item and, rather than get a bag with your merchandise and a friendly “come back soon” from the cashier, you are instead accused of shoplifting, berated by mall security, not allowed to use the restroom, and handcuffed to a bench for over two hours. This is what happened to a woman who contacted the Lawyer Referral and Information Service (LRIS) in late 2011.

When she called LRIS, the woman was at the time represented by counsel and had been offered a meager settlement. She was frustrated that the defendants were not taking her claims seriously, and felt she had been “profiled” by mall security. The client was quickly referred to LRIS Personal



John Vannucci

Injury attorney John Vannucci. Within a matter of months the attorney turned a \$15,000 settlement offer into a jury verdict in favor of the client at over \$200,000 in damages.

With only a month to prepare for trial, Vannucci carefully worked with the client and the previous attorney to prepare a strong case to present in front of the jury. The defense was unwilling to settle for a reasonable amount before trial so the case moved forward and the client got to tell the jury her side of the story. Despite suffering physical and emotional injuries during her unlawful detainment the client is now doing very well.

According to Vannucci, “It sounds cliché, but this wasn’t about the money for her. She wanted the truth to get out.”

Membership in The Bar Association of San Francisco (BASF) and its LRIS program is financially, intellectually, and emotionally rewarding for Vannucci, who says, “LRIS is the one trustworthy lawyer referral source I know of. BASF is committed to providing San Francisco Bay Area lawyers with the resources they need and to providing the public with excellent, qualified legal representation. Lawyers have enough bad publicity from

things like ‘tort reform’ and it’s essential to have a professional organization that looks out for the public and the legal profession in the proper way.”

For information on how to join the Lawyer Referral and Information Service, please visit www.sfbar.org/lawyerreferrals/att.aspx.

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SAN FRANCISCO
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FEATURED VERDICT

Products Liability

Son alleged loss of love and affection from father's death

\$12,800,000

Boeken v. Philip Morris USA

Los Angeles County Superior Court

Plaintiff Counsel Michael J. Piuze and Geraldine Weiss, Law Offices of Michael J. Piuze, Los Angeles

Defense Counsel Daryl Crone, Crone Hawxhurst LLP, Los Angeles; Patrick Gregory and Frank P. Kelly, Shook, Hardy & Bacon L.L.P., San Francisco

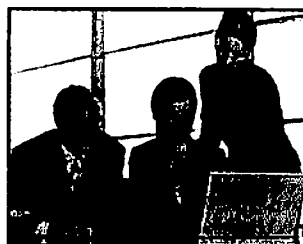
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CASES of NOTE

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NEGLIGENT SECURITY

False Imprisonment — Battery — False Arrest

Shopper: Security arrested her for dispute with store clerk**VERDICT** **\$254,938**

CASE Lucille M. Winston v. Victoria's Secret Stores, LLC; Stonestown Shopping Center, LP; AlliedBarton Security Services, LP; Pierre Washington; April Moffitt; and Does 1 through 10, Inclusive, No. CGC-10-501947

COURT Superior Court of City and County of San Francisco, San Francisco

JUDGE Arnold Rosenfield

DATE 10/21/2011

PLAINTIFF

ATTORNEY(S) John F. Vannucci (lead), Law Offices of John Fitzpatrick Vannucci, San Francisco, CA
Wykeisha Orr, The Orr Law Firm, Oakland, CA

DEFENSE

ATTORNEY(S) Ronald S. Bushner, Wilson Elser Moskowitz Edelman & Dicker LLP, San Francisco, CA (AlliedBarton Security Services, LP, Pierre Washington, Stonestown Shopping Center, LP)
Lenore C. Kelly, Wilson Elser Moskowitz Edelman & Dicker LLP, San Francisco, CA (AlliedBarton Security Services, LP, Pierre Washington, Stonestown Shopping Center, LP)
None reported (April Moffitt, Victoria's Secret Stores, LLC)

FACTS & ALLEGATIONS On April 9, 2010, plaintiff Lucille Winston, a 38-year-old unemployed woman, was shopping at a Victoria's Secret store in the Stonestown Galleria Mall in San Francisco when she got into a dispute with a store clerk over the application of a discount coupon on an item she was trying to exchange. Winston, an African-American woman, claimed the dispute was racially-based, and called the company's customer service line to file a complaint. The clerk subsequently called mall security.

When the director of public safety, Pierre Washington, arrived at the store, Winston was handcuffed and taken to the mall's public safety office. She was then handcuffed to a bench where she remained for approximately two hours until 3:45 p.m., when police arrived at the scene.

Winston was eventually let go by the police and not charged with any crimes.

Winston sued the mall's operator, Stonestown Shopping Center, LP; the store's operator, Victoria's Secret Stores,

LLC; the store clerk, April Moffitt; the mall's public safety company, AlliedBarton Security Services, LP; and Washington. She alleged the defendants' actions constituted negligence, battery, false arrest, false imprisonment, intentional infliction of emotional distress, and negligent infliction of emotional distress.

Counsel for Victoria's Secret and Moffitt filed a motion for summary judgment on liability, and it was granted. However, Victoria's Secret ultimately settled prior to trial for \$15,000. The matter subsequently proceeded to trial against the remaining defendants.

Winston claimed that she was confronted by Washington even though she did not do anything wrong, and that she was simply trying to call Victoria's Secret's customer service line to report the store clerk. She alleged that Washington then grabbed the cell phone and put her in a painful submission hold, which caused her to lose control of her bodily functions and urinate all over herself.

Winston claimed that Washington and six other guards violently transported her to the public safety office, where she was detained against her will. She also claimed that Washington looked through her purse, looking for stolen merchandise, and made statements regarding how he better not find any stolen goods or credit cards. In addition, Winston claimed she was detained by security from 1:28 p.m. to 3:45 p.m., when San Francisco police arrived due to a "Threats" call made by a Victoria's Secret store manager.

Washington claimed that Winston was acting unruly in the store, and that she was yelling and threatening the clerk and others with violence. He claimed that he asked her to step outside the store to discuss whatever it was that had caused her to be upset, but that she refused and began to argue with the security officers. Washington claimed that as a result, he had to apply a "compliance hold" on Winston in order to handcuff her. He further claimed that after Winston was handcuffed, she fell onto her side and began kicking, causing him to have to apply another "compliance hold" on her, raise her to her feet and take her to the public safety office. In addition, Washington contended that he was only looking in Winston's purse for her identification, and denied looking for any stolen property or stolen credit cards.

Plaintiff's counsel argued that the defendants, as well as the six security personnel that arrived on the scene, had inconsistencies in their testimony, as to the timing of the incident and whether Winston did in fact make violent threats. They further argued that the defendants failed to submit surveillance footage of the incident after Washington claimed that he had looked at it, noticed nothing and discarded the tape.

Washington did not deny making the statement, claiming that he believed it to be true at the time he made the comment. However, he claimed that he later learned that the cameras in the store were not operative.

INJURIES/DAMAGES *back and neck; chiropractic; contusion; emotional distress; soft-tissue injuries; tailbone injury*

Winston claimed that she was handcuffed to the public safety office desk in a very uncomfortable manner for almost

two hours. She subsequently went to an emergency room on the evening of the incident and complained of neck, back and tailbone pain. She was diagnosed with a contusion to her tailbone along with soft-tissue injuries to her neck and back. Winston subsequently followed up with roughly five months of chiropractic care.

Winston claimed that she still has some pain in her tailbone and that she suffered emotional distress due to the violation of her freedom and safety. She alleged that she had \$4,938.11 in past medical costs. Thus, plaintiff's counsel asked the jury to award Winston \$350,000 in total damages, including damages for her pain and suffering. Winston also sought recovery of punitive damages.

Defense counsel argued that there was no documentary or testimonial evidence about the plaintiff's injuries, other than Winston's testimony and the testimony of a chiropractor who treated her nine months after the incident. They also argued that there was no evidence that any of the medical treatment was reasonable or necessary, except for the testimony of the chiropractor about his treatment.

Defense counsel contended that Winston was already receiving pain medication for an injury prior to the incident. They also disputed the plaintiff's credibility, arguing that, aside from her lawyers and medical providers, Winston mentioned the events and consequences to one cousin and no one else for at least one year after the event. Defense counsel further argued that although the plaintiff's primary chiropractor recommended that Winston might consider seeing a psychiatrist and gave her two names, she never sought treatment for her alleged emotional distress.

RESULT The jury found that Stonestown, AlliedBarton and Washington were negligent, and awarded Winston \$254,938.11 in total compensatory damages. No punitive damages were awarded.

LUCILLE M.

WINSTON \$4,938 past medical cost
\$165,000 past pain and suffering
\$85,000 future pain and suffering
\$254,938

DEMAND \$74,000
OFFER \$15,00 (CCP 998)

INSURER(S) self-insured AlliedBarton Security Services, LP
self-insured Stonestown Shopping Center, LP

TRIAL DETAILS Trial Length: 9 days
Trial Deliberations: 1.5 days
Jury Vote: 12-0
Jury Composition: 7 male, 5 female

PLAINTIFF
EXPERT(S) Alireza Bagherian, D.C., chiropractic,
San Francisco, CA