

Daily Journal

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TOP VERDICTS OF 2015

The largest and most significant verdicts and appellate reversals handed down in California in 2015

TOP DEFENSE RESULTS

Quintanar et al. v. Absolute Cab et al.

case INFO

Wrongful death

Santa Barbara County

Superior Court Judge
Colleen K. Sterne

Defense attorneys: Hosp, Gilbert &
Bergsten ALC, Robert T. Bergsten

Plaintiffs' attorneys: Cappello &
Noël LLP, A. Barry Cappello, Leila J.
Noël.

In an unusual personal injury trial, a Santa Barbara County jury ruled that a taxi company was not liable because the driver failed to call police after an inebriated, 22-year-old man left the vehicle and was then killed on U.S. Highway 101.

Defense attorney Robert T. Bergsten said community sympathy for the young man's mother didn't derail the argument that his clients — Absolute Cab LLC, co-owner Joshua Klein and driver Thomas Rhyne — were not at fault for Simon Chavez's death.

In a 10-2 decision, the jury decided in

March 2015 that Bergsten's clients, though negligent, could not foresee Chavez walking into freeway traffic and being killed by another driver under the influence. *Quintanar et al. v. Absolute Cab et al.*, 1417092 (Santa Barbara Super. Ct., Jan. 15, 2015).

"It was a timely type of case," Bergsten said. "What you're seeing in the news with Uber and Lyft and what duties they have."

"It's that question of responsibility of going too far or not enough... Yes, he was drunk, but he wasn't so drunk that it didn't give [the driver] the need to call the police. To put the burden on the cab driver, they'd be calling the police every other hour."

On a Tuesday night in January 2013, Rhyne picked Chavez up from a bar to drive him home. At a red light, Chavez jumped out of the cab in the middle of a street to vomit by the curb but kept walking. For five minutes, Rhyne honked his horn and shouted at Chavez from a nearby parking lot, but Chavez's wave signaled Rhyne to leave.

Municipal law requires a passenger to be dropped off curbside, so the driver broke the law, but Bergsten argued his clients' duty of care ended when Chavez left the vehicle. A. Barry Cappello and Leila J. Noël argued common carriers had a duty of care to keep passengers safe until they reached their destinations.

"If there's any precedent, then it's that the insurance companies allow their cab drivers or Uber drivers to leave someone in a



ROBERT T. BERGSTEN

disabled condition — inebriated or blind — because they're going to vomit in the car regardless of where they drop them off," said Cappello, who called the verdict the most shocking of his 50-year career. "That's why I say it's a travesty."

The defense waived the \$100,000 cost bill for the plaintiffs to not appeal the case.

— Kibkabe Araya