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## **COURT BARS ILLEGAL ALIEN FROM RECOVERING TRAFFIC ACCIDENT DAMAGES**

*(Paramount Citrus Association v. Garcia)*

The California Court of Appeal yesterday overturned a multi-million dollar tort judgment awarded to an illegal alien injured in a traffic accident. The decision in *Paramount Citrus Association v. Garcia* was a victory for the Washington Legal Foundation (WLF), which filed a brief urging that the judgment be overturned.

WLF's brief argued that plaintiffs in personal injury lawsuits should be barred from recovering anticipated future costs when those costs are dependent on the plaintiffs remaining illegally in the United States. WLF urged the court to overturn a \$850,000 judgment awarded to an illegal alien based on the cost of receiving medical care here in the United States for the remainder of his life. The same care would cost only \$200,000 if the illegal alien were to return to his native Mexico, as is required by law.

The appeals court decision went even further than WLF had requested. It overturned the entire tort award, finding that the defendant landowner should not be held liable because it owed no duty of care whatsoever to the illegal alien plaintiff.

"We sympathize with Mr. Garcia for the injuries he has suffered," said WLF Chief Counsel Richard Samp after reviewing the appeals court's decision. "But Garcia has no right to be in this country and thus is not entitled to insist on U.S. medical care. If courts devoted even half the time to enforcing immigration law as they do to coming up with new rights for illegal aliens, we could make significant progress in securing our borders," Samp said.

This personal injury tort suit was filed by Ignacio Garcia, an illegal alien who was severely injured as a result of an automobile accident in California. Garcia filed a negligence action against Paramount Citrus Association, a company that owned the road on which the other vehicle was driving. He alleges that the accident would not have occurred if Paramount had maintained better warning signs on its road. The jury agreed that Paramount had been negligent and awarded Garcia more than \$2 million in damages, including \$850,000 for future medical and health care expenses.

The appeals court held that under the circumstances of this case, Paramount owed no duty of care to Garcia. The court noted that: (1) Salud Andrede (the driver of the truck that hit Garcia's van) was trespassing on Paramount's private road; (2) Andrede was speeding when he reached the intersection at which the private road crossed the public highway on which Garcia's van was travelling; and (3) Andrede failed to stop at the intersection even though his view of the intersection was not obstructed. Under those circumstances, the court ruled, a landowner is under no duty to place stop signs at each of the locations at which its rural, unpaved private roads meet a public road. Accordingly, Paramount could not be deemed responsible for the traffic accident that caused Garcia's serious injuries, the court ruled.

In its brief, WLF had argued that even if Paramount could be held partially responsible for the accident, any damage award should be based on an assumption that the plaintiff will obey the law. Because Garcia is required by federal immigration law to leave the United States, WLF argued, any award for future damages should be calculated based on Garcia's presence in Mexico. WLF stated that Garcia would be fully compensated if awarded future medical expenses based on costs in Mexico, because the evidence indicated that the quality of care he would receive there would be equivalent to the care he would receive in the United States.

WLF also argued that the damages sanctioned by the trial court would undermine federal immigration policy by encouraging illegal immigrants with tort claims to remain in this country in order to collect inflated court judgments. WLF also argued that if Garcia were paid \$850,000 to cover the cost of future medical expenses in this country, he could return to Mexico, receive comparable life care at a fraction of the cost, and pocket the \$650,000 savings. WLF argued that awarding Garcia such a windfall would be inequitable.

WLF is a public interest law and policy center with supporters in all 50 States, including many in California. WLF devotes a significant portion of its resources to tort reform efforts and to ensuring the integrity of the American immigration system. WLF also filed a brief in support of Paramount Citrus in pre-trial proceedings in this case.

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For further information, contact WLF Chief Counsel Richard Samp, 202-588-0302. A copy of WLF's brief is posted on its web site, [www.wlf.org](http://www.wlf.org).