

Grieving mother's deceased baby is cremated without her knowledge or consent \$1.1M. Los Angeles County.

Summary

Plaintiff says LA Coroner did not follow the law when cremating her infant's body without her permission.

The Case

- **Case Name:** Yvette Diaz v. County of Los Angeles
- **Court and Case Number:** Los Angeles Superior Court / BC656353
- **Date of Verdict or Judgment:** Friday, October 26, 2018
- **Type of Action:** [Emotional Distress](#)
- **Judge or Arbitrator(s):** Hon. Anthony J. Mohr
- **Plaintiffs:**
Yvette Diaz, 38, unemployed.
- **Defendants:**
Los Angeles County Coroner's Office
- **Type of Result:** Jury Verdict

The Result

- **Gross Verdict or Award:** \$1,100,000
- **Net Verdict or Award:** \$605,000
- **Trial or Arbitration Time:** 6 days.
- **Jury Deliberation Time:** 1 day.
- **Post Trial Motions & Post-Verdict Settlements:** Plaintiff is seeking costs as the prevailing party. Plaintiff is seeking attorneys fees pursuant to CCP 1021.5 because plaintiff's lawsuit resulted in the enforcement of an important right affecting the public interest.

The Attorneys

- **Attorney for the Plaintiff:**
Law Offices of Christopher Montes de Oca by Christopher Montes de Oca, Los Angeles.
The Omofoma Law Firm by Esegbe A. Omofoma, Los Angeles.
- **Attorney for the Defendant:**
Schuler & Brown by Jack M. Schuler and Matthew Ames, Van Nuys.
Brian T. Chu, Principal Deputy County Counsel, Office of the Los Angeles County Counsel.

The Experts

- **Plaintiff's Medical Expert(s):**
David M. Lechuga, Ph.D., psychology, Lake Forest.,
Ching Shih, M.D., psychiatry, Monterey Park.
- **Defendant's Medical Expert(s):**
Tat Cheung, Ph.D., psychology, Monterey Park.
- **Plaintiff's Technical Expert(s):**

Bennet Omalu, MD, MBA, MPH, CPE, DABP-AP,CP,FP,NP; Chief Medical Examiner, Stockton.

- **Defendant's Technical Expert(s):**

Lt. David Smith of the Los Angeles County Coroner's Office.

Facts and Background

- **Facts and Background:**

On May 28, 2016, while at the hospital, plaintiff Yvette Diaz's daughter, Auroranne Delatorre, died unexpectedly, the day after she was born. The Los Angeles County Coroner's office took possession of the body of Auroranne the next day.

On June 8, 2016, a representative from the office contacted Diaz to obtain additional information about the events that occurred just prior to Auroranne's death, along with Diaz's contact information. What was discussed during this call is disputed, but what is not disputed is that Ms. Diaz did not indicate whether or not she wanted her daughter's body to be cremated. Diaz says that she later called that same representative three additional times but no one ever answered the phone.

The Coroner's office left a voicemail for Diaz on July 11, 2016. The voicemail stated that the body had been at the Coroner's office for 30 days and that Diaz should contact the office at her convenience. However, Diaz claims that she was not listening to her voicemails at this time as she was still grieving the loss of her first and only child. Auroranne's body was cremated 63 days after she died, on August 10, 2016. The Coroner's office sent Diaz a letter on Aug. 24, 2016 informing her of the cremation.

- **Plaintiff's Contentions:**

Diaz sued the County of Los Angeles, alleging violations by the Coroner's office of Health & Safety Code Section 7104.1. Plaintiff's counsel contended the section stated that only 30 days after the coroner, "...Notifies or diligently attempts to notify the person responsible for the interment of a decedent's remains which are in the possession of the coroner," and the person fails, refuses, or neglects to inter the remains, the coroner may inter the remains. Plaintiff contended that the office failed to properly notify her prior to cremating Auroranne.

- **Defendant's Contentions:**

The Coroner's office complied with Health & Safety Code Section 7104.1 when its investigator informed Diaz on June 8, 2016 that Auroranne's remains were in its possession and that, although the investigator advised Diaz that she needed to contact a funeral home immediately to make interment arrangements and to communicate and coordinate with the Coroner's office, Diaz ignored her duty for arranging for interment. The defense further contended that plaintiff had a duty to inquire into the status of when the body of the deceased would be ready for release in order to fulfill her statutory duty to arrange for interment.

Injuries and Other Damages

- Emotional distress.

Demands and Offers

- **Plaintiff Final Demand before Trial:** Per plaintiff's counsel: Initially demanded \$100,000 to settle case early on. Per defense counsel: No formal demands were made.
- **Defendant §998 Offer:** \$20,000
- **Defendant Final Offer before Trial:** \$20,000

Additional Notes

The Los Angeles County Coroner's office is now again sending out letters notifying the next of kin prior to cremating the deceased's body in cases where the family has failed to make arrangements for interment. This letter informs the family that the body is in the possession of the Coroner's office, ready for pickup and if the family fails to act within a certain time frame the Coroner's office will move forward with cremation. The Los Angeles County Coroner's office handles approximately 10,000 cases a year.