

COURT: Collin, 366th

CAUSE NO. 366-01036-05

JUDGE Hon. Nathan White

Joshua Christian Alamo

vs.

*Daniel Howard and Betty Stanley French***ATTORNEY(S) FOR THE PLAINTIFF(S)**

Adam Hardison
Rad & Associates
Dallas, TX

ATTORNEY(S) FOR THE DEFENDANT(S)

Jason Thomas & Adam Rowins
Carnahan Thomas, L.L.P.
Southlake, TX

PREMISES / PERSONAL INJURY / NEGLIGENCE**FACTS &
ALLEGATIONS**

Plaintiff Joshua Christian Alamo and Defendant Daniel Howard, both young men in their early 20s, were at the home of Howard's grandmother, Betty Stanley French, in the back yard dressed up as ninjas and doing ninja training. They both claimed to be serious ninjas and experts in the field of marshall arts and had plans some day to open a school for ninja training. One of their exercises involved throwing a tire up on the roof of the house and catching the tire when it rolled down. The two were practicing this exercise when they threw the tire and it got stuck up on the roof of Ms. French's house. The Plaintiff went up to the roof to retrieve the tire. He got the tire and threw it down. Then according to Plaintiff, the Defendant got into some kind of a rage, got a dart gun and started shooting darts at him while he was on the roof. (The grandmother had told them not to be up on the roof anymore.) The Plaintiff was running around, back and forth, trying to avoid the darts that Defendant was allegedly shooting at him. He either jumped or fell off the roof (Plaintiff told a couple of different versions), landed on the concrete landing on the side of the house, and broke his ankle. Plaintiff also initially claimed the roof was defective – that he was hanging down from the house trying to ease himself down to the ground when some shingles came off the roof causing him to fall. That claim, however, was dropped.

A witness, Ricky Torres, who knew both the Plaintiff and Defendant, testified for the Plaintiff claiming he saw the whole thing and that the Defendant was shooting at the Plaintiff.

The Defendant disputed that and said it was not darts he was shooting, rather, he had gotten a BB gun and was acting like he was shooting at him, doing role playing, but that the gun was broken and did not shoot anything.

The Defendant challenged Mr. Torres' credibility as a witness because Torres had been living in Florida. Mr. Torres' story was that he had been back in town (had flown in on Delta and then took a Greyhound) for a week during the period when the incident occurred and just happened to see it. Defense counsel, however, introduced into evidence air travel records of

**FACTS &
ALLEGATIONS
(Continued)**

the dates Mr. Torres had given for his Texas visit, which did not support Mr. Torres' statements as there was no mention of his reported travel. He had supposedly bumped into the Plaintiff at a grocery store about two years after the incident and about 30 days before one of the previous trial settings in this case.

The Defendant's theory was that both Plaintiff and Defendant were a couple of knuckleheads out playing around and essentially got what they deserved. There were several different versions of the facts, as well, and the defense argued that the witness was not credible.

DAMAGES

The Plaintiff, in his early 20s, sustained a severely fractured foot requiring three surgeries and external fixation. His past medical expenses exceeded \$53,000. In addition to the medical expenses, he sought damages for lost wages of \$17,000 (he had been working as a security guard for a topless bar). The Plaintiff also alleged punitive damages but that issue was not allowed to go to the jury.

PLAINTIFF(S) EXPERT WITNESS(ES)**DEFENDANT(S) EXPERT WITNESS(ES)**

Medical & Billing Records by Affidavit

None

VERDICT

The case against Defendant Betty Stanley French was dismissed prior to trial.

The jury placed 80% negligence on the Plaintiff ninja and 20% on the Defendant ninja, and awarded \$0 damages – defense verdict.

12 - 0 (1-day trial; about 1 hr. of deliberation)

Verdict Date: 10-02-2006

Carrier: Farmers Texas County Mutual Insurance Company

DEMAND

\$50,000 plus

OFFER

\$ 5,000

SIDELIGHTS

There were numerous photographs used at trial showing the parties dressed in the ninja garb; one was a photograph of the Plaintiff jumping off the house the day before the incident.

The Judge excluded the Greyhound records associated with the witness's visit to Texas.

There were eight men and four women on the jury panel.