

County settles case of Oildale grandmother killed in crash with speeding sheriff's deputy

BY STEVEN MAYER
smayer@bakersfield.com

A \$2.5 million settlement has been reached in the wrongful death case of Oildale resident Nancy Garrett, who died in September 2014 when a patrol car driven by then-Kern County sheriff's Deputy Nicholas Clerico ran a red light at high speed and crashed into Garrett's vehicle.

The agreement, which was entered in early spring between the county of Kern and attorneys for Garrett's two grown children, was not made public until late Thursday.

of protracted litigation in federal court," said Matt Clark, an attorney with Bakersfield firm Chain Cohn Stiles.

Clark, the lead attorney on the case, said its resolution represents the culmination of nearly a decade of work representing not only the family of Nancy Garrett, but the families of Daniel Hiler, Larry Maharrey and others who have been killed in crashes involving Kern County Sheriff's Office personnel.

"We are pleased with the outcome especially in light of the fact that the civil rights components of the case were fought at

every turn," Clark said. "This case is an example of how the wheels of justice do in fact grind slowly.



Garrett

We appreciate that we had patient clients who believed in the civil rights aspects of the case to see it through to the end." On that long-ago night, Garrett was returning home from a Los Angeles Dodgers baseball game she attended with family and friends when the crash occurred at North Chester Avenue

and West China Grade Loop. The California Highway Patrol found the deputy at fault in the crash, and Clerico would go on to plead no contest to a charge of misdemeanor vehicular manslaughter.

It was the second time in less than three years that a Kern County sheriff's deputy crashed into and killed innocent bystanders in Oildale while driving in excess of 80 mph toward a call for assistance.

The lawsuit, filed in 2015 on behalf of Garrett's adult children, Mark McGowan and Deborah Blanco, and against the county of Kern and Clerico, asked for mon-

etary damages as well as changes within the sheriff's department in how deputies were trained.

"This case is in the public interest," the lawsuit stated. It also referred to similarities between the case and that of Deputy John Swoesrengin, who struck and killed two people, Daniel Hiler and Chrystal Jolley, as they walked across Norris Road in 2011.

That case resulted in a combined \$8.8 million settlement to the families of the deceased.

The CHP's investigation of

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CLEANER AIR APPARENT



ALEX HORNWATH / THE CALIFORNIAN

Traffic through Bakersfield on Highway 99 near Olive Drive is brisk Monday. Total traffic volume on this stretch of the 99 decreased by 18.9 percent in March, 40 percent in April, and 24.4 percent in May, Caltrans found. Not surprisingly, the southern valley saw a corresponding improvement in air quality.

Fewer miles driven during pandemic contributes to decrease in valley pollution

BY STEVEN MAYER
smayer@bakersfield.com

Nobody likes a pandemic. But if there's a silver lining to the coronavirus pandemic — and the state-ordered lockdown that followed — it may be marked improvement in air quality residents enjoyed in the San Joaquin Valley.

"During the early days of the pandemic, a lot of people were sheltering in place, working remotely and not commuting to work," said John Liu, Caltrans District 6's deputy director for mainte-

nance and operations. "There was a very large reduction in traffic volume on almost all the highways," he said.

Highway 99, the busiest traffic artery in Bakersfield and the major north-south corridor on the eastern side of the valley, experienced a stunning phenomenon as traffic volume plummeted.

According to Jessica Olsen, program manager for the San Joaquin Valley Air Pollution Control District, an analysis of vehicle miles traveled on the valley portion of Highway 99 showed an estimated 45 percent reduction in April, compared with

the same month last year.

Even commercial truck traffic in the valley took a hit, with trucks on Highway 99 logging some 26 percent fewer miles in April 2020 than they did in April 2019, Olsen said. And with trucks being among the biggest polluters in the valley's troubled air basin, the reduction in total miles translated to a reduction in pollutants that cause ground-level ozone. The main ingredient in smog, ozone can trigger a variety of health problems, particularly for children, the elderly and those who

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Lawsuit: Kern court is denying access amid pandemic

BY JOHN COX
jcox@bakersfield.com

Civil liberties groups filed a federal lawsuit Friday alleging that the Kern County Superior Court has illegally denied the public and news media constitutionally required access to legal proceedings during the COVID-19 pandemic.

COVID-19 PANDEMIC

The suit in the U.S. District Court in Fresno asserts local officials have barred people including criminal defendants' family members from witnessing hearings and other court proceedings in violation of the First Amendment to the U.S. Constitution. It asserts civil court proceedings also have been inappropriately closed to the public.

Other courts have provided public access during the pandemic by employing teleconferencing technology. Plaintiffs in the case say the Superior Court also has done so but only on a limited basis.

The suit was brought by the American Civil Liberties Union of Southern California, the First Amendment Coalition and five family members of criminal defendants. It names as defendants Kern County Superior Court Executive Officer Tamarah Harber-Pickens, Presiding Judge Judith K. Dulcich and Kern County Sheriff Donny Youngblood.

A senior staff attorney with the ACLU in Northern California said in a news release that denying public access to court amounts to a secret proceeding.

"No one can have confidence that a court proceeding is fair if no one can watch," stated the attorney, Kathleen Generatone.

Plaintiff Janie Randle, whose son has been charged with attempted murder, said in a declaration for the lawsuit that it's unfair she cannot watch her son's court proceedings.

"The Bakersfield mall is now open, as are some casinos in the county," Randle stated. "I do not understand why it is OK to open up casinos but we cannot go into the courthouse."

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Scanner chasers provide fresh perspective to viewers through on-scene livestreaming

BY QUINN WILSON
qwilson@bakersfield.com

Inspired by his friend's success in Los Angeles with scanner chasing and selling footage to local news stations, Bakersfield native Alexander Rodarte tried his luck in his home market with his Facebook page, Califed Lives, in 2018.

However, after hustling on a nightly basis trying to sell his footage, it was no avail.

"I was going to give up and drop it. But I said, hey, I got my equipment, my vehicle and my scanners,

let me try and do it for the community through (livestreaming)," Rodarte said.

Rodarte continued with his Facebook page and YouTube accounts and has gained more than 12,000 followers combined. He said livestreaming on his social media platforms allows him to get the "whole story," an aspect of the venture which has allowed him to press forward.

While he used to livestream daily, he's scaled back to once a week from 8 p.m.

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Alexander Rodarte, Travis West and members of the media observe a crime scene while livestreaming the interaction on Facebook Live.



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LOCAL

GARRETT

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Garrett's death found Deputy Clerico, who was 25 at the time of the accident, at fault because he entered a "solid red light" while traveling south on North Chester Avenue at 85 mph. His vehicle's light and siren were activated, but the speed at which he was driving minimized their effectiveness, the report said.

Garrett was traveling east on China Grade Loop at 43 mph when Clerico's patrol vehicle struck her on the driver's side.

She died from multiple blunt force trauma injuries. Clerico, who was not wearing a seat belt, suffered moderate injuries in the 1:45 a.m. crash.

The deputy was responding to

another deputy's call for assistance with an altercation at the Long Branch Saloon in Olddale when the crash occurred.

"A reasonable person would have known that entering an intersection against a red traffic signal, at 85 mph, and without giving adequate warning to approaching traffic would create a danger to human life," the CHP report stated.

The report also noted Garrett didn't possess a valid driver's license.

The plaintiffs in the lawsuit were represented by Clark. The firm also represented one of the parties in the Sweeney case.

In turning its attention to the county of Kern and the Sheriff's Office, the lawsuit was highly critical. The county's policies, the law-

suit charged, "were not adequate to train its deputies to handle the usual and recurring situations with which they must deal, including...driving at excessive speeds, pre-clearing intersections and responding Code 3."

"Defendant (Kern) county," the lawsuit continued, "was deliberately indifferent to the obvious consequences of its failure to train its deputies adequately."

Deputy County Counsel Kathleen Rivera, who represented the county in the legal dispute, said the main reason for the long delay of a resolution in the case was a severe shortage of judges in the U.S. District Court for the Eastern District of California. It was so backed up, a ruling on the motion could take a year, she said.

The \$2.5 million in damages awarded to the plaintiffs, Mc-

Gowan and Blanc, was divided evenly into two \$1.25 million payments.

The agreement between the two sides was made "without admission of fault or responsibility," the settlement stated.

Rivera also noted that assertions by plaintiff's attorneys contained in the original complaint alleging problems with county policy and training of deputies were not addressed in the legal settlement.

However, Clark suggested that this fatal incident and others have helped bring about change.

"Over all else, the family of Nancy Garrett from the outset sought change in the driving practices within the Kern County Sheriff's Office," he said.

The family, Clark said, believes their lawsuit ultimately had a

positive impact in the community, evidenced by the fact that in the five years of litigation they aren't aware of any deadly traffic collisions involving sheriff's deputies responding to calls.

In a statement provided by McGowan and Blanco, the brother and sister said they continue to stand behind law officers and deputies as they work together with the community to maximize vehicle safety.

"Despite this litigation," they said in the statement, "we support law enforcement and hope it prevents future crashes and tragedies on the part of our officers and our community members."

Steven Mayer can be reached at 661-395-7353. Follow him on Facebook and on Twitter: @semayerTBC.

AIR QUALITY

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suffer from asthma and other lung ailments.

There are thousands of sensors along the freeway system that provide real-time data. Olsen said of the technology used by Caltrans to gather traffic-related data.

The steep drop in vehicle miles traveled in April coincided with a 22 percent drop in valley ozone levels as compared with the previous five-year average, Olsen said. That's a good thing, she said, but also cautioned against attributing the improvement in air quality exclusively to the reduction in traffic.

Air quality in the valley has been improving for years, she said.

Last year was our best ozone year on record," Olsen said. "This year is shaping up to be a great year as well, assuming we aren't inundated by outside influences like wildfires."

By May, traffic numbers on Highway 99 were already beginning to trend upward. But they still remain below normal.

The air district estimated a 20 percent reduction in total vehicle miles traveled last month along the valley portion of 99, with commercial trucks showing a 16 percent drop in miles traveled, compared with May of last year. Air officials saw a similar upward reduction in ozone pollutants—a 13 percent dip.

Traffic counts on Interstate 5, north of the junction of Highway 99, also showed lower total traffic volumes, and the reductions appeared to be even more dramatic than those seen on Highway 99. Truck traffic, however, was the exception, with 99 experiencing a larger reduction in commercial truck volume.

According to data collected by Caltrans on the Interstate 5, total traffic volume—a different measure than vehicle miles traveled—decreased by 19.7 percent in March, 46 percent in April, and 38 percent in May, compared with the same months last year. The corresponding decrease in the volume of truck traffic was much more modest at 1.1 percent, 5 percent and 4.9 percent, respectively.

On Highway 99, between I-5 and Highway 46, the drop in total traffic volume was likely more relevant to air quality in metro Bakersfield.

Total traffic volume on this stretch decreased by 18.9 percent in March, 40 percent in April, and 24.4 percent in May, Caltrans found. The corresponding drop in truck traffic was 4.1 percent, 11.3 percent, and 8.3 percent, respectively.

It's clear that a significant decrease in traffic volume and vehicle miles can have a positive effect



Several trucks travel north on Highway 99 near Olive Drive. Commercial trucks are necessary to the transport of goods in Kern County and across the country. But diesel emissions are a major contributor to the valley's poor air quality.

on the valley's air quality.

That means the opposite is also true. The miles we drive, and don't drive, clearly makes a difference in the air we breathe.

Ironically, the air district has no direct jurisdiction over mobile sources of air pollution, such as cars, commercial trucks, trains and buses. Yet, mobile sources contribute the largest portion of emissions, by far—emissions that generate much of the ozone smog and particulate pollution that continues to bedevil the valley to this day.

Steven Mayer can be reached at 661-395-7353. Follow him on Facebook and on Twitter: @semayerTBC.

Kern health dept. announces 118 new cases, another death

THE BAKERSFIELD CALIFORNIAN

The Kern County Public Health Services Department announced 118 new COVID-19 cases and an additional virus-related death Friday morning.

Total case count reported in Kern is now 4,310 since the county announced its first coronavirus diagnosis March 13. There also have been 65 reported COVID-19 fatalities

COVID-19 PANDEMIC

during that time. Locally, 3,099 residents have recovered from the virus while 1,065 are recuperating at home. There are 71 COVID-19 patients being treated at local hospitals, according to county data.

CHASERS

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to 2 a.m. However, Rodarte isn't alone in the industry and has appeared to inspire others to get involved.

Josiah Valenzuela, 16, began livestreaming his scanner chasing outings since Facebook Live with his page Qualitymoment Productions after meeting Rodarte at a scene about two months ago. Through his Facebook page and YouTube channel, Valenzuela has amassed nearly 6,200 followers.

He doesn't even have his driver's license yet, but has been able to get by with help from his family.

"I got into scanner chasing because I always liked the sirens and lights when I was in the live shooting photography," too," Valenzuela said.

Valenzuela currently owns one scanner and plans on purchasing three more soon. He utilizes remote dispatchers to help relay calls for service. Earlmar native Travis

West has been one of the more recent additions to the local livestream scanner-chasing community. He never considered doing it until Rodarte encouraged him to go live while watching a protest in front of the downtown Bakersfield Police Department on May 29.

On June 4, West created his Facebook group TW Lives. The group has nearly 2,500 members ranging from as far as Australia and Germany, West said.

West affectionately refers to his viewers as "the family"—sometimes a dysfunctional one—because of how supportive they've been to him and each other. However, he and a few others he appointed as moderators strive to keep the group somewhat civil. "We only have two rules—no racism and no political stuff," West said. "We try to be unbiased; we're here for the footage. But I don't tolerate racism and we're not here to get political."

West is accompanied by his business partner, Eric Esquivias, on a nightly

basis, who's responsible for still photography and hopes to incorporate some live drone footage in the future. Esquivias didn't know West personally but decided to link up with him June 13 at a community event the two attended.

The two also utilize remote dispatchers to direct them to calls. They try to livestream on a nightly basis, from 8 p.m. to 2 a.m., yet they've also gone much later.

"We once drove 400 miles through Bakersfield and ended up going from 6 p.m. to 5 a.m. live the whole time," West said.

All of the livestreamers have found themselves in dangerous or difficult situations. Rodarte said he was once caught in a shootout during a nine-hour stand-off between law enforcement and a suspect about four months ago.

West and Esquivias said the most difficult thing they've dealt with was being on scene June 18 when a 1-year-old toddler fell from an apartment window in the 600 block of Union

Avenue. West said he's begun developing relationships with various law enforcement officers and they're beginning to recognize him on scene.

When asked for their takes on scanner chasers, the Bakersfield Police Department and Kern County Sheriff's Office said it was within people's legal rights to do so. BPD Sgt. Nathan McCauley said there's been some instances when scanner chasers have caused disruptions or have acted antagonistically to create a reaction.

"Overall, as long as they're standing out of the middle of an investigation and not creating a safety hazard, they're within their rights to do so," McCauley said.

Kern County Sheriff Donny Youngblood said the KCSO hasn't had issues with scanner chasers.

"Scanner chasers are legal, so we don't have a stance on them," Youngblood said. "We haven't had any major issues with them."



Travis West livestreams a crime scene at a reported stabbing outside the Gretna Lounge.

With each being viewer-funded, the streamers try to give back to the community in their own ways.

"I got a lot of donations at one time and I like to be humble and I know when God blesses me, I want to bless others," Valenzuela said. "I did a free photo shoot today for a foster kid to try and pay it forward."

West will sometimes livestream during the day to patronize various local businesses in an

LAWSUIT

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A Superior Court spokeswoman declined to comment on pending litigation. The Sheriff's Office didn't respond to a request for comment.

A spokesman for the Judicial Council of California said by email the organization hasn't provided statewide guidance to local courts on how to ensure public access to legal proceedings during the pandemic. He noted courts in Alameda, Humboldt, Orange and Sacramento counties stream video coverage of legal proceedings over the Internet.

The lawsuit says Dulcich began denying public access to court proceedings on March 23 and that she's left the order in place despite the resumption of jury trials that were suspended March 24.

It says the Superior Court has denied requests to lift the order and the sheriff's department has continued enforcing it.

The court's website says members of the public and news media may attend hearings in person as long as they wear face masks, observe social distancing and apply for permission from the court.

"In practice, however, defendants have repeatedly denied members of the public and family members of those who are arrested access to the court," the lawsuit states.

The suit refers to a sign posted outside the main courthouse in downtown Bakersfield as recently as June 18 stating, "If you are not an attorney, party, defendant or subpoenaed witness you should not enter the courthouse and you should return home and follow the governor's (stay-home) order."

The lawsuit cites several instances in which people were allegedly denied access to legal proceedings that would normally be open to the public.

In one case Monday, it says, an attorney for the plaintiffs was denied remote access to jury selection proceedings despite the availability of a livestream. The suit says such proceedings have been ruled John C.

Follow John Cox on Twitter: @TheThirdGraf.

COURTESY OF ERIC ESQUIVIAS