

MIGUEL ALVAREZ AND MARIA ALVAREZ vs FILIBERTO VALDIVIA ET

Number: 854-079

Plaintiff Attorney: David M. Zeff, San Francisco
Defendant Attorney: Collins and Zapala, San Jose, by Timothy E. Herr
Plaintiff Expert: Richard J. Devine Ph.D. (Economist) Oakland
Defendant Expert: None
Trial Judge: Hon. John Dearman

ALVAREZ vs VALDIVIA ET - (CONTINUED) - San Francisco County

WRONGFUL EVICTION

November 5, 1985 plaintiffs: Miguel Alvarez, a housepainter; and his wife, Maria Alvarez, both in their mid-30s, moved out of an apartment in San Francisco which they had rented from the defendant.

Plaintiffs contended that after they had complained to the defendant about needed repairs and illegal rent increases, he tricked the plaintiffs out of the subject apartment by asking them to move out for a few weeks for repairs and then locked them out.

Plaintiffs sued for wrongful eviction under the San Francisco rent control ordinance, retaliatory eviction, two counts of fraud, lockout, and breach of the covenant of good faith and fair dealing.

Defendant contended that the plaintiffs moved voluntarily; and that damages to the subject apartment were due to the plaintiffs' waste rather than unmade repairs.

Plaintiff attorney asked the jury to award \$85,050 to \$198,450.

Defendant attorney asked the jury for a defendant verdict, but if liability found to award no more than \$5,000.

Jury out three and one-half hours after a six-day trial.

Damages: Dr. Devine testified that the plaintiffs had to pay approximately \$315.00 per month more in rent for each month they could have reasonably been expected to remain in the apartment, for a total of \$9,135 to date.

Settlement talks: Demand \$45,000 C.C.P. Offer \$13,000 C.C.P.

Result: **PLAINTIFF VERDICT \$37,800 (ECONOMIC DAMAGES).**
PLAINTIFF VERDICT \$20,000 (NON-ECONOMIC DAMAGES). 12-0
PURSUANT TO THE SAN FRANCISCO RENT CONTROL ORDINANCE, THE VERDICT WAS TREBLED TO \$173,400, PLUS ATTORNEYS FEES OF \$42,531.25 AND COSTS OF \$3,749.23, FOR A TOTAL JUDGMENT OF \$220,030.48.
Motion for new trial not made. March 28, 1988