

Los Angeles Daily Journal  
Verdicts & Settlements  
May 31, 2001

**Jeffrey Smith v. Margaritaville Inc. Verdicts & Settlements-Los Angeles**

**Jeffrey Smith v. Margaritaville Inc. (BC228138)**

**L.A. Superior Central -- Mar. 23, 2001**

**Hon. Henry W. Shatford**

Topic: Personal Injury (Non-Vehicular)

Sub topic: Premises Liability

Sub-sub topic: Negligence

Jury verdict: \$523,039 (gross); \$506,937 (net)

Disbursement: \$47,039 (economic); \$275,000 (non-economic); \$200,000 (punitive damages against defendant Margaritaville); \$1,000 (punitive damages against defendant Todd Medina).

Attorneys:

Plaintiff-- Ricardo Echeverria, Shernoff, Bidart & Darras LLP, Claremont

Defendant-- Jeffrey H. Baraban, Baraban & Teske, Pasadena

Technical Experts:

Plaintiff-- Kirian Fitzgibbons security, Ontario

Defendant-- Dale Walters security, Laguna Hills

Facts: On the evening of Nov. 28, 1999, the plaintiff, a 25-year-old restaurant manager of a local sports bar, and his friends went to Margaritaville in Newport Beach. Shortly after arriving at Margaritaville, the plaintiff began having drinks with defendant Todd, an off-duty manager of Margaritaville. The plaintiff took a pair of sunglasses that defendant Todd was wearing around his neck and broke them in half for no apparent reason. Both the plaintiff and defendant Todd had been drinking throughout the night. Defendant Todd then instructed the on-duty bouncer at Margaritaville, defendant Medina, to calm the plaintiff down and to escort him out of Margaritaville. While testifying at trial, defendant Todd admitted that he intended to play a practical joke on the plaintiff but that he did not tell defendant Medina about the joke. Medina, who was an "Ultimate Fighter" and expert in martial arts, came over to the plaintiff and asked him to leave. According to Margaritaville staff, the plaintiff refused and began shouting expletives at Medina and others. According to the plaintiff, he did not believe Medina was serious and did not believe he had done anything wrong. Defendant Medina grabbed the plaintiff to escort him out when a struggle ensued at which time defendant Medina punched the plaintiff in the face, causing injuries.

Contentions: The plaintiff contended that the incident began as joke by defendant Todd, that the plaintiff's conduct did not warrant his removal from the premises, that the force used by defendant Medina was

excessive, and that defendant Margaritaville failed to properly train its employees and managers. The plaintiff also contended that the conduct of Medina, ratified by Margaritaville, was malicious and oppressive, warranting punitive damages. The defendants contended that the plaintiff was drunk, obnoxious and a threat to other patrons, and that defendant Medina was acting in self-defense after he was struck by the plaintiff in the face several times. The defendant further contended that the plaintiff's irresponsible conduct led to his own injuries.

Injuries: The plaintiff suffered broken nose and checkbone.

Specials in Evidence: MEDS \$39,715; LOE \$7,324

Jury trial: Length three weeks; Poll 12-0 (liability), 10-2 (comparative), 12-0 (economic), 11-1 (non-economic);  
Deliberation two days

Settlement Discussions: The plaintiff made a C.C.P. Section 998 demand of \$300,000. The defendant made a C.C.P. Section 998 offer of \$125,000, later increased to \$150,000 one week before trial.