

# Daily Journal

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## TOP VERDICTS OF 2018

The largest and most significant verdicts and appellate reversals in California in 2018

### TOP DEFENSE VERDICTS

## City of Riverside et al. v. American Promotional Events Inc.

#### case INFO

#### Water supply contamination

#### Los Angeles County

#### Superior Court Judge John S. Wiley

#### Defense Lawyers:

Jeffrey D. Dintzer, Matthew C. Wickersham; Alston & Bird LLP; Brian L. Zagon, Van Ness Feldman LLP; James L. Meeder, Emily L. Murray, Allen Matkins Leck Gamble Mallory & Natsis LLP; Steven H. Goldberg, Christopher I. Rendall-Jackson, Downey Brand LLP; John E. Van Vlear, Newmeyer & Dillion LLP

#### Plaintiff's Lawyers:

Duane C. Miller, Tracey L. O'Reilly, Miller, Axline & Sawyer



JEFFREY D. DINTZER



MATTHEW C. WICKERSHAM

try the statutory claims first in a bench trial.

But on the eve of trial, the plaintiffs dismissed all its statutory claims so that the remaining legal claims would be tried exclusively by a jury. *City of Riverside et al. v. American Promotional Events*, BC376008 (L.A. County Sup. Ct., filed Aug. 22, 2007).

Plaintiffs' attorney Duane C. Miller "bucked what the judge wanted to do and changed the dynamic of the case," Dintzer said. "Suddenly, [all the defendants] were jointly and severally liable. My client could no longer point out that others were responsible for the contamination" — especially the U.S., for which Goodyear had been a contractor.

The U.S. was not a defendant in the case because the federal government cannot be sued in state court.

Dintzer said he thought long and hard about how to proceed.

"While I was not sleeping one night, I saw that the opposition had taken away our right to try our case," he said. "I saw I could seek dismissal on the ground that the United

States is an indispensable party to Riverside's action and is not amenable to suit in state court. It was one of the most electrifying moments of my legal career."

"My joint defense group was dubious, but lo and behold, Judge Wiley agreed with me. Mr. [Duane] Miller [the plaintiff counsel] was shocked, very unhappy," Dintzer said.

Wiley held that he had discretion to determine that the United States was indispensable to the claims because it would play a central role in the viability of Goodrich's defense strategy — that the company was immune under the government contractors defense, which can protect contractors from suit where the federal government itself is immune from tort liability.

Miller, who represents the city of Riverside, is currently appealing the ruling. He did not return a message seeking comment.

Dintzer said the outcome settled a key area of law concerning when a party is considered indispensable. Still, even he was surprised that his ploy had worked.

"I almost fell out of my chair," he said.

— John Roemer

A lengthy cost recovery action by local governmental agencies over cleaning up perchlorate contamination of the Rialto-Colton groundwater basin near the Santa Ana River in San Bernardino County ended in dismissal for Jeffrey D. Dintzer's client, Goodrich Corp., in June.

"There had been a consent decree that required Goodrich and others to do a cleanup," Dintzer said. "The plaintiffs wanted to take us to trial, despite our argument that we were cleaning the place up, even though we didn't contaminate it in the first place." The unspecified remediation damages for all defendants was likely to exceed \$50 million.

The complaint contained both statutory claims for hazardous substance contamination and legal claims. The judge wanted to