

THE GILROY DISPATCH

Driver tests positive for drugs

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By Sara Suddes

The tow truck driver whose vehicle plowed into a Caltrans work site killing a Gilroy man tested positive for amphetamines just after the incident, the plaintiff's attorney said.

On April 4, 2006, Louis Estrada Vasquez was traveling faster than 55 mph on northbound U.S. 101. Meanwhile, Sean Merriman, 32, a Caltrans worker from Gilroy, was filling potholes in the rain, shielded from oncoming traffic by a Caltrans truck that served as a buffer. Vasquez's tow truck skidded into the work site, pinning Merriman between two trucks. He died on impact from the trauma.

Charged with vehicular manslaughter by the district attorney's office, Vasquez, and his then-employer Ponzini's Community Garage of Morgan Hill, face a civil suit brought by Sean Merriman's parents, Craig and Jacqui, charging negligence.

The wrongful death suit is backed by evidence that Vasquez has a long and public history of drug use, possession and trafficking, plaintiffs' attorney Robert Bohn Jr. said. According to a Merced County criminal complaint filed a year before Merriman's death, Vasquez sustained multiple felony convictions for narcotic possession and trafficking dating back to 1984, the suit alleges. The complaint also alleges that he served time in state prison for these offenses.

Bohn is still in the process of investigating Vasquez's past medical history and faced staunch opposition from the defendant's attorney, Eugene West, when issuing subpoenas to American Medical Respond, San Jose Kaiser Permanente Medical Group and Saint Louise Regional Hospital. Despite Bohn's previous successful queries into Vasquez's drug use and medical history, West objected to the most recent requests for information on the grounds that the subpoenas violated the defendant's right to privacy.

"This is clearly a case in which Vasquez has time and time again waived the privacy rights which he now belatedly claims," Bohn said. "Under the circumstances presented in the present case, Vasquez should not be allowed to pick and choose when to assert his right to privacy."

Superior Court Judge Socrates Peter Manoukian sided with Bohn, denying West's motion to quash the subpoenas seeking further information into Vasquez's

medical history, but issuing a protective order limiting the use of the information obtained by the subpoenas to the litigation only.

Bohn asserts that, had Ponzini conducted the appropriate drug screening prior to hiring a Vasquez to drive the largest vehicle in the fleet, they would have discovered his long criminal drug record and known about two separate incidences when Vasquez was found in a vehicle on the side of the road, overdosed on drugs.

Neither Eugene West nor Mark Ponzini, owner of the tow truck company, were available for comment Monday.

AMR's response to prior subpoenas revealed that paramedics found Vasquez non-responsive and in a drug-induced state on two instances, once on May 12, 2002 on Bernal Road in San Jose and another on July 23, 2003 on U.S. 101 in Gilroy. A heroin overdose was suspected in the first case.

"We have a strong case," Bohn said. "We have evidence to show he was on drugs at the time of the collision or coming off a drug high. And we have a very nice family that had a close, unique relationship."

The Merriman family is seeking the value of the loss of the relationship with their son, Bohn said. A jury will determine the amount. While attorneys are going back and forth with negotiations, the Merriman family is hoping the end is near.

"Taking one day at a time is pretty much where we're at right now," the victim's father, Craig Merriman, said. "I just hope to God it's settled this year."