

## ***Valenzuela v. City of Anaheim*, 6 F.4th 1098 (2021)**

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*Plaintiff alleging police brutality in violation of 42 U.S.C. § 1983 may seek “loss of life damages” even though Code of Civil Procedure § 377.34 prohibits recovery for a decedent’s loss of life.*

**FACTS:** In July 2016, Anaheim PD Officers responded to a report of a “suspicious person” loitering inside a laundromat. Fermin Valenzuela, Jr. was identified as the suspect when officers arrived at the scene. A violent physical struggle broke out after officers attempted to put Valenzuela into custody. When the dust settled, Valenzuela was dead. His death was ruled a homicide, the result of “complication[s] of asphyxia” during his altercation with multiple police officers; Valenzuela was under the influence of methamphetamine at the time of his death. Valenzuela’s father and children sued the City of Anaheim under California law and 42 U.S.C. § 1983 (“§ 1983”), alleging various theories of liability including excessive force and wrongful death.

**PROCEDURAL POSTURE:** After a five-day trial, a jury returned a verdict in favor of the Valenzuela family. The award totaled \$13.2 million in damages based on various theories of liability. Notably, the verdict included \$3.6 million for the decedent’s loss of life, which the jury awarded independent of any pain and suffering endured by the decedent during and after his protracted struggle with Anaheim PD. Post-trial motions submitted the City of Anaheim argued that because Code of Civil Procedure § 377.34 (“§ 377.34”) did not recognize loss of life damages, such damages should not be recognized by § 1983. The U.S. District Court for California’s Central District disagreed. Relying predominantly upon *Chaudhry v. City of Los Angeles* (9<sup>th</sup> Cir. 2014), in addition to other applicable in-and out-of-circuit case law, the district court concluded that § 1983 permitted recovery of loss of life damages despite § 377.34. Because § 377.44 conflicted with the federal legislative intent embodied by § 1983, the former was subordinate to the latter.

**HOLDING:** Affirmed. A divided panel of Ninth Circuit Court of Appeals affirmed the jury’s verdict awarding “loss of life” damages to decedent’s family. The *Valenzuela* court found that Code of Civil Procedure § 337.34 was inconsistent with the federal policy underpinning § 1983. The court in *Valenzuela* therefore held that § 337.34 is inapplicable to claims arising under § 1983, in which violation(s) of federal law was a substantial causal factor in the decedent’s death.

**DISCUSSION:** The Ninth Circuit begins its opinion in *Valenzuela* with a somewhat ironic observation: “California law forbids recovery for a decedent’s loss of life.” Noting that “relevant federal law [i.e., § 1983] is silent as to loss of life damages” the *Valenzuela* court said that California law is therefore controlling “*unless* [California law] is inconsistent with the policies of § 1983.” In *Valenzuela*, the Ninth Circuit concluded that California law, specifically § 377.34, was inconsistent with federal legislative policies that animate § 1983.

In support of this conclusion, the *Valenzuela* court explained that “Our analysis begins, and largely ends, with *Chaudhry*.” In *Chaudhry*, the Ninth Circuit found that that a primary goal of Congress in enacting § 1983 was “to provide a remedy for killings unconstitutionally caused or acquiesced in by state governments.” The court in *Chaudhry* recognized “there often will be no damage remedy at all under § 377.34” in cases where a victim dies relatively quickly. The court in *Chaudhry* also recognized that § 1983’s remedial purpose demands federal courts construe the statute broadly. In *Chaudhry*, the court explained that the remedial purpose demanding § 1983’s broad construction by federal courts was two-fold: (1) deterring future violations of citizens’ constitutional rights at the hands of state officials by (2) providing a federal remedy available to citizens regardless of the law of the state in which they live.

The Ninth Circuit explained that “Because California’s bar on [loss of life damages] had ‘the perverse effect of making it more economically advantageous for a defendant to kill rather than injure his victim’ we held [in *Chaudhry*] that it clashed with § 1983’s remedial purpose and undermined its deterrence policy.” The Ninth Circuit could “see no meaningful way to distinguish *Chaudhry* from this case” and somewhat reluctantly concluded that *Chaudhry* was controlling. Accordingly, the *Valenzuela* court held that § 377.34 did not apply to bar the decedent’s family from seeking loss of life damages because the decedent’s death had been caused by the Anaheim PD Officers’ violation of federal law.