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## Bay Area family wins Chilean 'atrocities' suit

First U.S. civil jury verdict for crimes against humanity

By Josh Richman

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**Thursday, October 16, 2003** - A Bay Area family that sued a former Chilean death-squad member for killing their relative 30 years ago this Friday has won the first U.S. civil jury verdict for crimes against humanity.

A federal jury in Miami awarded \$4 million in compensatory and punitive damages Wednesday to the family of Winston Cabello, slain Oct. 17, 1973 in Copiapo, Chile, by the "Caravan of Death," a military contingent that traveled the nation after Gen. Augusto Pinochet's coup ordering the executions of many who might have opposed Pinochet.

Caravan member Armando Fernandez Larios -- now 54, living in Miami and working in an auto body shop -- was found liable for conspiring to commit, and aiding and abetting in, Cabello's torture and murder. He's the first Pinochet regime operative ever to be tried in a U.S. court for human rights abuses in Chile, and the verdict against him is the nation's first based on crimes against humanity.

The lawsuit's plaintiffs were Cabello's mother, Elsa, and sister, Zita Cabello-Barrueto, of Foster City; his brother, Aldo Cabello of Piedmont; and another sister, Karin Moriarty of Santa Clara.

A Chilean amnesty law prevented Fernandez Larios' prosecution there, and U.S. criminal laws don't allow prosecution for summary killings committed abroad, or for torture committed abroad before 1994.

But the federal Alien Tort Claims Act and Torture Victim Protection Act let human-rights victims or surviving relatives bring civil lawsuits against perpetrators from abroad who are found in the U.S. This was the family's only way to strike back against Fernandez Larios.

Zita Cabello-Barrueto said Wednesday she's grateful to the U.S. legal system. "It was a very painful and long road that brought us here today, but I would do it again."

"It's never too late -- 30 years is not too long to pursue truth and justice," she said. "At least we have a little piece of the truth of what happened in 1973 to our brother."

Her husband, Patricio Barrueto, was jailed at the same time and in the same town as her brother, and spoke with her brother hours before his execution. Her husband was eventually freed.

Aldo Cabello -- who with his wife, Cristina, owns Baby World, a retail store based on Oakland's Piedmont Avenue with two other East Bay locations -- said the

verdict satisfies him as well. "It's a way to show the American people and the government of Chile that somewhere, somehow, justice will prevail."

Winston Cabello was a 28-year-old regional planning official in the government of President Salvador Allende, and was detained by the Chilean military for more than a month after the Pinochet-led coup. He was one of 12 people slain that night in Copiapo, among more than 90 civilian deaths attributed to the Caravan of Death's tour.

Fernandez Larios at the time was a first lieutenant traveling as part of the Caravan. He later joined the Chilean secret police known as the DINA (the Direccin de Inteligencia Nacional), where he eventually was promoted to major. He retired in 1987 and came to the U.S., striking a plea bargain with federal prosecutors for his part in covering up DINA's responsibility in the 1976 car-bomb slaying of former Chilean Foreign Minister and Ambassador to the U.S. Orlando Letelier and his American colleague Ronnie Moffitt in Washington, D.C. He served about five months of a 13-year federal prison sentence and then went free.

Pinochet ruled Chile from 1973 to 1990; he was arrested five years ago this week in London on a warrant from Spain requesting his extradition on charges he'd murdered Spanish citizens in Chile. He avoided that extradition, instead returning to Chile in March 2000; charges brought against him there were dismissed by that nation's Supreme Court in 2002 based on his alleged mental and physical infirmity. He's now 87.

"While Pinochet was never brought to justice, today at least there was an acknowledgment by a court of law that what the Caravan did to Winston Cabello and others constituted a crime against humanity," said Sandra Coliver, executive director of the San Francisco-based Center for Justice and Accountability, a human-rights group that brought this lawsuit on the family's behalf.

"We will certainly try to enforce the judgment to the full extent possible," she said. "We can seek a court order to garnish Fernandez Larios' salary, so that a portion of his paycheck is paid to the plaintiffs."

Argentina has requested Fernandez Larios' extradition three times for his suspected role in the 1974 assassination of Chilean General Carlos Prats in Buenos Aires; the U.S. hasn't responded to those requests.

The case was tried for the center by two attorneys working pro bono: Leo Cunningham, a partner with Wilson Sonsini Goodrich & Rosati in Palo Alto, and Robert Kerrigan of Kerrigan, Estess, Rankin & McLeod in Pensacola, Fla.

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