

Local

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\$3.2 million food poisoning verdict upheld

A woman suffered nerve damage after eating tainted tuna at the Salt Creek Grille.

By **GREG HARDESTY**
AND **VIK JOLLY**
THE ORANGE COUNTY REGISTER

In a precedent-setting decision, an appeals court on Monday upheld a \$3.2 million jury verdict awarded to a 25-year-old woman who suffered permanent nerve damage after eating tainted raw tuna at a Dana Point restaurant.

Alexis Sarti of Costa Mesa, a cross country runner in high school, had to drop out of Saddleback College for a year and a half for medical treatment and therapy after the April 2005 incident.

She could not walk long distances and often used a wheelchair. She blamed her illnesses on an ahi tuna appetizer she ate at Salt Creek Grille.

Today, for the most part, Sarti said, she functions fine and is able to do most activities that other healthy people can, except for running, long hikes and walks or other strenuous outdoor exercise.

She still has muscle spasms

"I never actually thought the day would ever come."

ALEXIS SARTI
PLAINTIFF

and cramps almost daily, but says she is used to them.

"As I get older, it will be harder for me," Sarti said. "I do have the disability for the rest of my life."

Lawyers for Salt Creek Grille, a popular restaurant that has four other locations in California and New Jersey, had appealed the July 11, 2006, jury

SEE VERDICT • PAGE 3

VERDICT: A milestone ruling

FROM PAGE 1

verdict.

Sarti, who's wrapping up Saddleback College this semester and plans to transfer to a four-year school with the goal of becoming a speech pathologist, said she tried to put the appeal process out of her mind and focus on getting her life back together.

Her boyfriend, Marshall McDaniel, 26, proposed to her last weekend and the couple are to wed next November. On Monday, with the appeals court ruling expected, she sent a two-word text message to her attorney, asking: "Any news?"

"Call me," her attorney responded, and Sarti said she worried that the ruling was not in her favor. She telephoned and learned about the decision.

"I never actually thought the day would ever come," she said. "I am still in shock."

When the jury ruled in her favor two years ago, Sarti felt she had already won.

"The money wasn't an issue for me. I had my day in court and I was happy with it. The money doesn't make

me a better person," she said.

But it will help to pay about a million dollars in past medical bills and Sarti expects to put away another million for any future medical expenses.

Sarti said she is not afraid to eat sushi, although she has done it only once since having the tainted ahi.

"I still like fish," she said. "I am definitely more careful not only with regard to fish, just with everything when I go out to eat at restaurants, more aware of what could happen to you from contaminated food, not just from fish but any (food)."

In its 30-page opinion Monday, a panel of three justices at the 4th District Court of Appeal in Santa Ana sided with the jury verdict, which now can be cited in other food poisoning lawsuits as a milestone ruling.

Sarti spent 49 days in the hospital after eating at Salt Creek Grille on April 7, 2005.

She never completely recovered, had to use a walker for eight months, and to this day retains only about 40 percent of what would have been her normal endu-

rance, according to court documents.

Her illness, which caused her respiratory system to shut down, stemmed from alleged "cross-contamination" of her raw tuna with bacteria found in raw poultry, said her attorneys, Keith Bremer and Tyler Offenhausser.

"We are extremely pleased to know that the appellate court has affirmed the Orange County jury's findings," said Bremer, of Bremer, Whyte Brown & O'Meara in Newport Beach.

"Alexis suffered significant injuries and is justly entitled to be compensated for her injury," Bremer said. "It is always rewarding to help a great person see the legal system all the way through the appellate court and see it work properly."

The attorney who handled the appeal for Salt Creek Grille, Roy G. Weatherup, of Lewis Brisbois Bisgaard & Smith in Los Angeles, was not immediately available for comment.

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PAUL BERSEBACH, THE REGISTER
A LONG ORDEAL: Alexis Sarti spent 49 days in the hospital in 2005 and has never completely recovered.