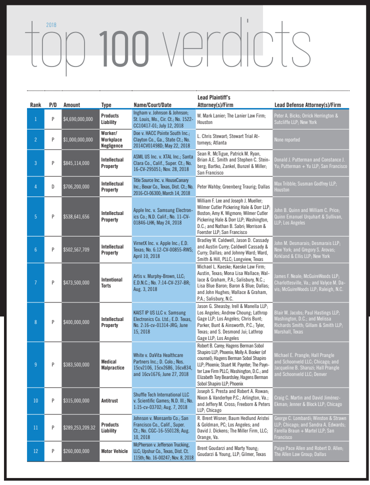
THE NATIONAL LAW JOURNAL

THE TOP 100 VERDICTS OF 2018

VERDICTSEARCH

June 2019

The cover is customized in collaboration and for the sole reprint purposes of Travelers.


top 100 verdicts

THE TOP 100 VERDICTS

OF 2018

The National Law Journal's VerdictSearch affiliate scoured the nation's court records in search of 2018's biggest verdicts, also consulting with practitioners and reviewing reports by other ALM Media publications. The amounts listed here represent jury awards—they do not account for judicial reductions, offsets or appeals.

TOP 100 VERDICTS OF 2018

Top Verdict Categories

Dollar value of Top 100 verdicts by cause of action, in millions.

2017			2018		
1	Professional Negligence	$8,039	1	Products Liability	$5,909
2	Products Liability	$1,454	2	Intellectual Property	$3,497
3	Intellectual Property	$854	3	Medical Malpractice	$1,301
4	Motor Vehicle	$839	4	Worker/Workplace Negligence	$1,274
5	Fraud	$710	5	Intentional Torts	$988
6	Intentional Torts	$612	6	Motor Vehicle	$897
7	Contracts	$539	7	Antitrust	$490
8	Worker/Workplace Negligence	$525	8	Contracts	$146
9	Medical Malpractice	$406	9	Government	$123
10	Government	$390	10	Employment	$116

Source: VerdictSearch. Figures are rounded to the nearest $1 million.

METHODOLOGY

The Top 100 Verdicts report is compiled by NLJ affiliate VerdictSearch, which strives to report as many jury verdicts, decisions and settlements as possible. Although a great many cases are submitted by attorneys, the publication also relies on assignment editors who scour docket lists, cultivate relationships with law firms and search the internet and news sources, including ALM Media's family of legal publications.

Verdicts are ranked by gross award calculated by the jury. They do not reflect reductions for comparative negligence or assignment of fault to settling defendants or nonparties; additurs, remittiturs or reversals; or attorney fees and costs, unless awarded by the jury. In situations in which awards are automatically trebled or doubled by statute, the increased amount determines rank. VerdictSearch does not consider cases in which the jury only determined per-plaintiff or per-year damages that a judge later used to calculate the gross award, nor cases in which the jury's instructions permitted it to determine damages against a party that it had already deemed not liable.

The editors retain sole discretion to make adjustments in rank when necessary to reflect statutes that provide for election of remedies or other overlapping awards.

REAL ESTATE

WORKER/WORKPLACE NEGLIGENCE

Negligent Hiring — Worker/Workplace Negligence — Negligent Supervision

Security guard who raped teen wasn't properly supervised: suit

VERDICT **$1,000,000,000**

CASE Renetta Cheston-Thornton, as mother and next friend of Jane Doe v. HACC Pointe South Inc. d/b/a Point South Apartments, Hammond Residential Group Inc. and Crime Prevention Agency Inc., No. 2014CV01498D

COURT Clayton County, State Court, GA

JUDGE Linda S. Cowen

DATE 5/22/2018

PLAINTIFF ATTORNEY(S) **L. Chris Stewart**, Stewart Trial Attorneys, Atlanta, GA

DEFENSE ATTORNEY(S) **None reported**

FACTS & ALLEGATIONS On Oct. 12, 2012, plaintiff Hope Cheston, 14, was allegedly raped by Brandon Lamar Zachary at the Pointe South Apartments in Jonesboro. Zachary worked as a security guard for the apartment complex.

Hope's mother, Renetta Cheston-Thornton, sued the apartment complex, HACC Pointe South Inc., the property manager, Hammond Residential Group Inc., and Zachary's employer, Crime Prevention Agency Inc.

HACC and Hammond were dismissed prior to trial. The case proceeded against Crime Prevention Agency only, with Cheston-Thornton alleging that the agency failed in its duty to properly supervise and/or monitor its security officer when the incident occurred.

Hope, who was identified as Jane Doe in court pleadings, publicly released her name during the course of litigation. At the time of the incident, she was attending a birthday party outside at the apartment complex, during daylight hours. As she and a male friend walked to a picnic table, they were reportedly approached by Zachary, who was armed. Hope asserted that Zachary ordered Hope's male friend to stay and that Zachary began to sexually assault her. Hope said she attempted to fight off Zachary but was unsuccessful.

Hope said that, following the incident, Zachary walked away and she and her friend returned to the apartment complex, where the police were later called. Zachary was arrested and charged with rape, statutory rape and child molestation. He was sentenced to 20 years in prison.

Plaintiff's counsel argued that Crime Prevention Agency had knowledge of Zachary's behavior against guests and tenants of the complex but ignored the circumstances that any reasonable person would interpret as leading to the injury. Plaintiff's counsel additionally alleged that, Zachary, 22, had been hired when he was not licensed to be an armed guard.

The court, via summary judgment, determined that Crime Prevention Agency was liable. The case was tried on the issue of damages. Crime Prevention Agency did not appear at trial, nor was it represented by counsel.

INJURIES/DAMAGES *emotional distress; post-traumatic stress disorder; rape; sexual assault*

Following the alleged assault, Hope Cheston was taken to a hospital where she underwent a rape kit. She was then discharged. Soon after, Hope came under the care of a psychotherapist, with whom she treated for a few years. She was diagnosed with post-traumatic stress disorder (PTSD).

Hope testified about how the alleged assault impacted her life. She stated that her personality changed, as she became socially withdrawn and lost friends as a result. According to Hope, the relationship with her mother strained and she began to distrust authority figures, especially males, and would not feel comfortable going to the police in an emergency.

At the time of trial, Hope was a college sophomore majoring in social work and volunteering by helping the homeless during the summer. In seeking damages, plaintiffs' counsel asked the jury what the amount was a rape victim should be awarded and noted how professional athletes are paid hundreds of millions of dollars.

RESULT The jury determined that Hope's damages totaled $1 billion.

TRIAL DETAILS Trial Length: 1 day

PLAINTIFF EXPERT(S) None reported

DEFENSE EXPERT(S) None reported

EDITOR'S NOTE This report is based on information that was provided by plaintiff's counsel. Crime Prevention Agency's counsel did not respond to the reporter's phone calls, and the remaining defendants' counsel was not asked to contribute.

–Aaron Jenkins

TRANSPORTATION

MOTOR VEHICLE

Visibility — Motor Vehicle — Reversing Vehicle — Worker/Workplace Negligence — Negligent Training — Motor Vehicle — Broadside — Motor Vehicle — Tractor-Trailer — Motor Vehicle — Multiple Vehicle

Van's driver killed in collision with rig blocking roadway

Verdict **$260,000,000**

Actual **$247,000,000**

CASE Eddie McPherson and Karen Pearson v. Jefferson Trucking, LLC, Timothy Wayne Jefferson and Eric Wayne Jefferson, No. 16-00247

COURT Upshur County District Court, 115th, TX

JUDGE Lauren Parish

DATE 11/8/2018

PLAINTIFF ATTORNEY(S) **Brent Goudarzi**, Goudarzi & Young, LLP, Gilmer, TX

Marty Young, Goudarzi & Young, LLP, Gilmer, TX

DEFENSE ATTORNEY(S) **Paige Pace Allen**, The Allen Law Group, Dallas, TX
Robert D. Allen, The Allen Law Group, Dallas, TX

FACTS & ALLEGATIONS During the evening of Feb. 13, 2016, plaintiffs' decedent Riley McPherson, 21, a house painter, was driving on the southbound side of State Highway 271, in Gilmer. His van struck the left side of a tractor-trailer that was perpendicularly oriented on the roadway, while its driver, Eric Jefferson, attempted to reverse onto a driveway. McPherson suffered a fatal injury.

McPherson's parents, Eddie McPherson and Karen Pearson, sued Jefferson and two parties that were believed to be Jefferson's employers, Timothy Wayne Jefferson and Jefferson Trucking, LLC. The lawsuit alleged that Eric Jefferson was negligent in the operation of his vehicle. The lawsuit further alleged that the remaining defendants were liable because the accident occurred during Eric Jefferson's performance of his job's duties. The lawsuit also alleged that Jefferson's employers were negligent in their training of Jefferson.

Plaintiffs' counsel noted that a witness reported that the tractor-trailer's lights were not activated at the time of the accident. Plaintiffs' counsel also contended that Jefferson had not been properly trained in the operation of tractor-trailers.

Jefferson refused to answer questions regarding the accident, citing an unwillingness for self-incrimination.

The defense claimed that all the tractor-trailer's lights were activated at the time of the accident and that the vehicle was equipped with appropriate reflective tape. Two witnesses, who arrived at the accident scene sometime after the accident, agreed that the tractor-trailer's lights were activated. The defense contended that McPherson therefore should have seen the 18-wheeler up to 2,000 feet from the point of impact.

The defense also argued that Jefferson's training was sufficient and noted that Jefferson had a clean driving record.

The defense contended that McPherson was driving inattentively, given that he never braked or swerved and that his van's cruise control was still activated at the time of impact.

INJURIES/DAMAGES McPherson was believed to have been killed on impact. McPherson did not live with his parents, but they lived in the same county, and he had a good relationship with them.

Eddie McPherson, a house painter, and Karen Pearson, a nurse, sought recovery of damages for past and future loss of companionship, past and future loss of society, and past and future mental anguish.

RESULT The jury found that Eric Jefferson was acting in the scope of his employment at the time of the accident. It found negligence and comparative responsibility of 65 percent on Eric Jefferson, 20 percent on Jefferson Trucking, 10 percent on Timothy Jefferson and 5 percent on McPherson.

The jury determined that the plaintiffs' damages totaled $260 million, but the comparative-negligence reduction produced a net recovery of $247 million.

PLAINTIFF EXPERT(S) None reported

DEFENSE EXPERT(S) None reported

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' counsel. Defense counsel did not respond to the reporter's phone calls.

–John Schneider

MANUFACTURING

MOTOR VEHICLE

Speeding — Motor Vehicle — Alcohol Involvement — Motor Vehicle — Rear-ender — Motor Vehicle — Multiple Vehicle — Motor Vehicle — Passenger — Wrongful Death — Survival Damages

Teen driver was under influence of drugs, alcohol, per plaintiffs

VERDICT **$128,813,522**

CASE David Johnson and Susannah Johnson, Individually and as Surviving Parents of Hannah Johnson, Deceased, and David Johnson, as Administrator of the Estate of Hannah Johnson, Deceased, and David Johnson and Susannah Johnson, Individually and as Natural Guardians of Brooke Johnson, a minor, Kathryn Johnson, a minor, and Owen Johnson, a minor v. Jacob Robert Lee, Robert Lee and Corrugated Replacements, Inc., No. 2012-V-505
COURT Union County, Superior Court, GA
JUDGE Brenda Weaver
DATE 9/14/2018

PLAINTIFF ATTORNEY(S) **Anna Cross**, The Summerville Firm LLC, Atlanta, GA
Brian "Buck" Rogers, Fried Rogers Goldberg LLC, Atlanta, GA
Darren Summerville, The Summerville Firm LLC, Atlanta, GA

DEFENSE ATTORNEY(S) **Kevin P. Branch**, McMickle, Kurey and Branch, LLP, Alpharetta, GA
James W. Hardee, Fain, Major & Brennan, P.C., Atlanta, GA

FACTS & ALLEGATIONS On July 1, 2011, plaintiff David Johnson, 35, a software engineer, was operating his van in Fannin County, with his wife, plaintiff Susannah Johnson, 34, a homemaker, as a front-seat passenger, and their children, plaintiffs Owen Johnson, 3, Brooke Johnson, 10, Hannah Johnson, 6, and Kathryn Johnson, 8, in the back seat. The Johnsons, who were from Palm Bay, Fla., were on their way to a vacation in Fannin County and were traveling west on State Route 515. While they were stopped for a red light at the intersection of State Route 515 and Josh Hall Road, their van was rear-ended by a Dodge Ram truck driven by Jacob Robert Lee. Hannah Johnson died at the scene. David Johnson claimed a concussion;

Susannah Johnson, who was pregnant at the time, claimed multiple fractured ribs; Owen Johnson claimed a spinal injury that rendered him quadriplegic; Brooke Johnson claimed fractures of the left wrist and left femur; and Kathryn Johnson claimed bilateral leg fractures.

Lee, who was 16 years old at the time, was arrested and charged with driving under the influence of alcohol and/or drugs and vehicular homicide. He pled guilty to vehicular homicide and was sentenced to 30 years, with 15 years to serve in a maximum security prison.

The Johnsons sued Lee, alleging he was negligent in the operation of his vehicle. They also sued him for wrongful death. The owner of Lee's vehicle, Corrugated Replacements, Inc., was sued for vicarious liability and negligent entrustment. Jacob Robert Lee's father, Robert Lee, owned a 50 percent interest in Corrugated Replacements Inc. and was a defendant as well.

Prior to trial, Corrugated Replacements was dismissed from the case on summary judgment. The basis of the motion for summary judgment was that Corrugated Replacements could not be held vicariously liable because Lee was on a leisure trip at the time of the accident and was not acting within the scope and course of his employment. Robert Lee, Jacob's father, was also dismissed. The case proceeded against Jacob Robert Lee only.

The Johnsons alleged that Lee was traveling approximately 78 mph when he slammed into the rear of the Johnsons' stopped van. Lee admitted to drinking beer and being under the influence of the inhalant Difluoroethane shortly before the accident.

Lee conceded liability. The trial proceeded on the issues of the plaintiffs' claimed injuries and damages.

INJURIES/DAMAGES *burns; chest; concussion; crush injury, pelvis; death; fracture, femur; fracture, leg; fracture, rib; fracture, tibia; fracture, ulna; fracture, wrist; head; hip; incontinence; internal fixation; neck; open reduction; paralysis; pins/rods/screws; quadriplegia; severed spine; speech/language, impairment of; tracheostomy/tracheotomy*

Hannah Johnson succumbed to her injuries at the scene. The other family members were taken by ambulances and medical helicopters to Fannin Region Medical Center. Owen Johnson was then airlifted to a trauma center at Erlanger Medical Center in Chattanooga, Tenn.

Susannah Johnson, who was 20 weeks pregnant, claimed fractures of all 12 of the ribs on the right side. She subsequently gave birth to a healthy baby girl.

David Johnson claimed a concussion, but did not claim any orthopedic injuries.

Kathryn Johnson claimed bilateral femur and tibia fractures and a crushed pelvis. She underwent open reduction with internal fixation, with the placement of rods and screws to repair the femur fractures and the placement of a plate and screws to repair the tibia fractures.

Kathryn was wheelchair-bound for three months. She claimed residual pain.

Brooke Johnson claimed a fracture of the ulnar bone in the left wrist and a fracture of the femur bone in the left leg. Her wrist was casted and healed on its own. She underwent open reduction with internal fixation, with the placement of a rod and screws, to repair the femur fracture. She also claimed seat belt burns to her chest and hips.

Brooke claimed residual pain, which she said kept her from being as active as she once was in sports or dancing. She also claimed emotional injuries.

Owen Johnson was trapped in his child-safety seat at the scene of the accident and had to be resuscitated twice by paramedics who arrived on the scene. Owen was diagnosed with a severed spinal injury at the C2 vertebra, which rendered him a high-level, ventilator-dependent quadriplegic, with paralysis from the neck down. He is unable to speak due to a tracheotomy and breathes with the assistance of a diaphragm pacer.

Owen is fed through a tube, has no bowel or bladder control and requires 24/7 medical care. He is navigated in a specialized wheelchair that costs $50,000. Owen has had multiple surgeries, one of which was a one-hour procedure done to regulate his diaphragm, which cost $100,000. Owen's life care planner opined that Owen's care plan is approximately $85 million if he lives 50 percent of the average life expectancy for quadriplegics. Owen's life care planner opined that it would be double or more than the $85 million amount if he lives the full life expectancy.

David Johnson sought damages on behalf of Hannah Johnson for her pre-death conscious pain and suffering, pre-death fright, funeral expenses and the full value of her life. The estate did not offer any time estimates in its claim for Hannah's pre-death conscious pain and suffering and pre-death fright. There was no medical evidence indicating if Hannah's death was instantaneous or if she lingered for seconds or a couple of minutes before dying.

According to testimony by the treating paramedic on the scene, Hannah was non-responsive and not breathing when she arrived. The paramedic testified that when she touched Hannah's neck, she felt crepitus, which indicates a fracture of the neck.

Susannah and David Johnson also sought damages for their own emotional and physical injuries, as well as damages on behalf of their surviving children.

The Johnsons' attorney suggested the jury award $200 million in damages. The entire family claimed they suffered severe emotional trauma over being in the accident and seeing Hannah die, as well as suffering emotional trauma over Owen's permanent injuries.

The defense did not call any medical experts and did not actively dispute the family's damages.

RESULT The jury determined that the plaintiffs' damages totaled $128,813,522. Jacob Robert Lee has no assets. The family received the tendered $1,982,00 policy limit from the carrier for Corrugated Replacements.

BROOKE JOHNSON
$106,286 medical cost
$3,000,000 past and future pain and suffering
$3,106,286

ESTATE OF HANNAH JOHNSON
$5,000,000 pre-death pain and suffering, fright and funeral costs
$40,000,000 wrongful death (full value of Hannah's life)
$45,000,000

KATHRYN JOHNSON
$158,538 medical cost
$3,000,000 past and future pain and suffering
$3,158,538

OWEN JOHNSON
$40,000,000 medical cost
$30,000,000 past and future pain and suffering
$5,000,000 earning capacity/services
$75,000,000

SUSANNAH JOHNSON
$48,698 medical cost
$2,500,000 past and future pain and suffering
$2,548,698

DEMAND None
OFFER $1,982,000 (Corrugated Replacements' insurance coverage's limit)

INSURER(S) **Hartford Insurance Group** for Jacob Robert Lee

TRIAL DETAILS Trial Length: 1 week
Trial Deliberations: 2.5 hours

PLAINTIFF EXPERT(S) **LuRae Ahrendt, RN**, life care planning, Marble Hill, GA
J.P. Gingras, MBA, economics, Atlanta, GA

DEFENSE EXPERT(S) None reported

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' and defense counsel.

–Gary Raynaldo

SERVICES

MOTOR VEHICLE

Rear-ender — Worker/Workplace Negligence — Negligent Hiring — Worker/Workplace Negligence — Negligent Training — Motor Vehicle — Multiple Vehicle — Gross Negligence

Trucker's employer ignored poor driving record, suit alleged

VERDICT **$101,361,337**

CASE Joshua Patterson v. FTS International Manufacturing LLC and Bill Hebert Acker, No. 356-15
COURT Upshur County District Court, 115th, TX
JUDGE Lauren Parish
DATE 7/19/2018

PLAINTIFF ATTORNEY(S) **Brent Goudarzi** (lead), Goudarzi & Young, LLP, Gilmer, TX
Marty Young, Goudarzi & Young, LLP, Gilmer, TX

DEFENSE ATTORNEY(S) **D. Patrick Long** (lead), Squire Patton Boggs (US) LLP, Dallas, TX (FTS International Services LLC)
Snow E. Bush, Jr., Snow E. Bush P.C., Longview, TX (Bill Hebert Acker)
Keith W. Starr, Starr Schoenbrun & Comte PLLC, Tyler, TX (FTS International Services LLC)

FACTS & ALLEGATIONS On Sept. 15, 2013, plaintiff Joshua Patterson, 33, a crane's operator, was driving in Ore City. His pickup truck's rear end was struck by a trailing tractor-trailer that was being driven by Bill Acker. Patterson claimed that he suffered injuries of his back and neck.

Patterson sued Acker; Acker's employer, FTS International Services LLC; and an affiliated entity, FTS International Manufacturing LLC. Patterson alleged that Acker was negligent and grossly negligent in the operation of his vehicle. Patterson further alleged that the remaining defendants were vicariously liable for Acker's actions. Patterson also alleged that FTS International Services LLC was negligent and grossly negligent in failing to follow its hiring and training policies and procedures.

FTS International Manufacturing LLC was not submitted as a defendant to the jury.

Paterson claimed that Acker was driving under the influence of marijuana and methamphetamine. Acker tested positive for these substances, and the tests came into evidence.

Plaintiff's counsel asserted that Acker had three traffic violations in a 36-month period before his hiring, and FTS policy said that a driver could not be hired in that situation under the company's employee manual. Also, Acker acknowledged not having undergone some of the training that company records said he underwent. In addition, at the time of the accident, he was already on probation with the company because of prior accidents.

The defense asserted that in-cab video of Acker showed no distracted behavior, such as eating or cell-phone use. The defense denied that he was under the influence of drugs, despite the evidence of drugs in his system.

Acker testified that he had not used methamphetamine since before his 2009 hire date and that he had smoked marijuana only once since then, three days before the accident. He was off work at the time he smoked it and until the day of the accident, he said. Acker had been tested for drugs several times during his employment, most recently three months before the accident, and all the tests had come back negative.

The defense also argued that Acker underwent extensive new-driver training, including defensive driving and drug and alcohol training.

Regarding Acker's driving record, the defense argued that his three traffic violations were not in the 36 months immediately before he was hired.

INJURIES/DAMAGES *arm; bulging disc, cervical; chiropractic; epidural injections; physical therapy; radicular pain / radiculitis; sprain, cervical; sprain, thoracic; strain, cervical; strain, thoracic*

Patterson went to the emergency room the next day, on his own. He claimed neck and back sprains and strains and radicular symptoms in his right arm and hand. At the emergency room, he underwent cervical X-rays, which were unremarkable, and was treated and released.

Within a week, he went to a chiropractor, with whom he underwent physical therapy for neck and mid-back pain until December. During that time, he also underwent a cervical MRI, which showed a bulging cervical disc, and a thoracic MRI, which was normal.

After finishing physical therapy, he went to a pain management specialist. Over the course of the next few years, the specialist performed multiple cervical epidural steroid injections, but Patterson's neck and arm pain persisted.

In October 2016, a neurosurgeon performed disc replacement surgery at C5-6, which resolved Patterson's neck and arm pain, but the surgeon recommended that he not return to work at this time.

Patterson subsequently underwent two thoracic epidural steroid injections, the last of which was in November 2017.

He followed up occasionally with the pain management doctor until trial.

Patterson claimed that he could no longer work or do chores around the house and that he could not play with his children the way he did before.

He sought $131,191.96 for past medical bills. He also sought future medical bills, past and future lost earning capacity, past and future physical pain, past and future mental anguish, past and future physical impairment, past and future disfigurement and punitive damages.

The defense argued that the impact was just a fender-bender and too minor to have caused the injuries that Patterson was claiming. Defense counsel also asserted that Patterson told police at the scene that he was not hurt.

RESULT The jury found negligence and gross negligence on the part of the defendants. The jury awarded Patterson $101,361,337.09, including punitive damages of $75 million against FTS and $50,000 against Acker. As to the actual damages of $26,311,337.09, FTS was liable for all of it, and Acker was liable for 30 percent of it.

JOSHUA PATTERSON	$131,192 past medical cost $612,579 future medical cost $3,000,000 past physical impairment $5,000,000 future physical impairment $500 past disfigurement $75,050,000 punitive damages $8,000,000 future physical pain $67,066 past lost earning capacity $2,000,000 past mental anguish $1,500,000 future lost earning capacity $4,000,000 future mental anguish $2,000,000 past physical pain $101,361,337
INSURER(S)	**Liberty Mutual Insurance Co.** for all defendants (primary insurer) **Aegis** for all defendants (excess) **Aspen Insurance** for all defendants (excess) **Ironshore** for all defendants (excess)
PLAINTIFF EXPERT(S)	**Greg Smith, M.D.**, neurosurgery, Tyler, TX **John M. Trapani, Ph.D.**, economics, New Orleans, LA
DEFENSE EXPERT(S)	None reported

EDITOR'S NOTE This report is based on information that was provided by plaintiff's counsel. Additional information was gleaned from an article that was published by the National Trial Lawyers Association. Counsel of FTS International Manufacturing and FTS International Services did not respond to the reporter's phone calls. Acker's counsel died prior to the writing of this report, and his replacement declined to contribute.

–John Schneider

TRANSPORTATION

MOTOR VEHICLE

Center Line — Motor Vehicle — Negligent Entrustment — Worker/Workplace Negligence — Negligent Supervision — Motor Vehicle — Work Zone — Motor Vehicle — Multiple Vehicle

Plaintiffs claimed truck driver's road rage caused severe injuries

VERDICT	**$52,708,374**
CASE	Matthew John Lennig, Michael Lennig and Rosa Lennig v. CRST, CRST Inc., CRST Expedited Inc., CRST Van Expedited Inc., CRST Lincoln Sales Inc., CRST Lincoln Services Inc., Case Pacific Company, Hector Contreras, Dayton Certified Welding Inc., Foundation Pile Inc., Granite Construction Company, Integrity Rebar Placers, State of California Cal Trans and Does 1 through 250, inclusive, No. MC025288
COURT	Superior Court of Los Angeles County, Los Angeles, CA
JUDGE	J. Stephen Czuleger
DATE	2/21/2018
PLAINTIFF ATTORNEY(S)	**Brian J. Panish** (co-lead), Panish Shea & Boyle LLP, Los Angeles, CA **R. Rex Parris** (co-lead), PARRIS Law Firm, Lancaster, CA **Khail Parris**, PARRIS Law Firm, Lancaster, CA **Bruce Schechter**, PARRIS Law Firm, Lancaster, CA
DEFENSE ATTORNEY(S)	**Fred M. Blum** (lead), Bassi Edlin Huie & Blum LLP, San Francisco, CA (CRST, CRST Expedited Inc., CRST Inc., CRST Lincoln Sales Inc., CRST Lincoln Services Inc., CRST Van Expedited Inc., Hector Contreras) **Michael E. Gallagher, Jr.**, Bassi Edlin Huie & Blum LLP, Los Angeles, CA (CRST, CRST Expedited Inc., CRST Inc., CRST Lincoln Sales Inc., CRST Lincoln Services Inc., CRST Van Expedited Inc., Hector Contreras) **None reported** (Case Pacific Co., Dayton Certified Welding Inc., Foundation Pile Inc., Granite Construction Co., Integrity Rebar Placers, State of California Cal Trans)

FACTS & ALLEGATIONS On July 7, 2014, plaintiff Matthew Lennig, 29, a salesman, was driving a 2013 Ford F-250 pickup truck with his brother, plaintiff Michael Lennig, 36, a deputy sheriff, as a front seat passenger. As they were traveling on northbound State Route 14, also known as Aerospace Highway, in the Mojave area, they entered a construction zone, whereby the lanes of traffic narrowed to a single lane in each direction and only a double yellow line and orange plastic pylons separated the opposing lanes of traffic. While in the construction zone, the Lennigs' northbound truck was struck almost head-on by a CRST tractor operated by Hector Contreras, who was southbound. The collision caused severe damage to the Lennigs' entire vehicle. Matthew Lennig claimed injuries to his head and left arm, and Michael Lennig claimed injuries to his back and head.

The Lennigs sued Contreras; CRST; and several CRST entities, including CRST Inc., CRST Expedited Inc., CRST Van Expedited Inc., CRST Lincoln Sales Inc., and CRST Lincoln Services Inc. The Lennigs also sued entities believed to be responsible for the construction area, but the entities were

ultimately dismissed prior to trial. Thus, the Lennigs alleged that Contreras was negligent in the operation of the tractor and that the CRST entities were vicariously liable for Contreras' actions while he was in the course and scope of his employment.

Plaintiffs' counsel contended that in an attempt to pass another southbound vehicle, Contreras crossed over the double yellow lines and orange pylons, and entered the opposing northbound lane, causing the crash. Counsel argued that Contreras was traveling to Riverside and was several hours behind schedule at the time of the collision. Counsel also argued that Contreras was driving angrily and engaged in road rage when he attempted to pass the other southbound vehicle by crossing over to the northbound lane. In addition, plaintiffs' counsel argued that Contreras and the CRST entities hid or destroyed data from several recording devices that were installed on the CRST tractor that would have recorded speed information and tracked Contreras' GPS coordinates. However, post-incident inspections by CRST were documented by photographs, which allegedly showed that some of the devices were, in fact, recovered.

Plaintiffs' counsel contended that CRST had a policy that all new employee drivers were required to undergo a probationary period, in which the employee is only permitted to operate a truck owned by CRST if there is a co-driver present to aid the employee in operating the truck. Counsel also contended that Contreras was hired in December 2013 and that between the date of his hire and the date of the collision, Contreras had caused a total of four preventable collisions, not including the collision with the Lennigs' truck. Two of those collisions occurred within the time period of June 26, 2014 and July 3, 2014. Thus, plaintiffs' counsel argued that despite causing the four preventable collisions, CRST only required Contreras to attend one defensive driving course, even though CRST had a policy of requiring all employee drivers who cause a preventable collision to take a defensive driving course or be fired.

Prior to trial, Contreras and the CRST entities stipulated to liability and vicarious liability. Thus, the jury was to only decide what amount of compensatory damages the Lennigs deserved and whether punitive damages were warranted.

INJURIES/DAMAGES *arm; back; blood loss; brain damage; closed head injuries; comminuted fracture; complex regional pain syndrome; compression fracture; fracture, arm; fracture, humerus; fracture, rib; head; kyphoplasty; nerve, severed/torn; post-traumatic stress disorder; traumatic brain injury; unconsciousness*

Matthew Lennig lost consciousness at the scene. He also sustained a left, comminuted humeral fracture with massive soft tissue defect that nearly severed the arm, as his ulnar and radial nerves were completely severed. In addition, he sustained multiple left rib fractures and significant blood loss. Matthew Lennig was subsequently airlifted from the remote collision location to the nearest trauma center in Antelope Valley. He requested that the arm be saved, if possible, and that amputation was a last resort.

Orthopedic specialists were successful in reattaching Matthew Lennig's arm, requiring more 33 surgeries and procedures to do so. The arm is now a helper extremity with significant functional limitations. Matthew Lennig, who has two children under the age of 6, claimed that he developed complex regional pain syndrome, also known as reflex sympathetic dystrophy or causalgia, a chronic pain condition, as a result of the arm injury and that he sustained a mild traumatic brain injury. He further claimed that he suffers from severe post-traumatic stress disorder and has not returned to working.

Michael Lennig sustained several compression fractures to his thoracic spine and other trauma to his lumbar spine. He subsequently underwent a kyphoplasty, which is a surgical filling of injured or collapsed vertebrae. He also allegedly suffered a mild traumatic brain injury.

Michael Lennig, who has two children under the age of 10, claimed that he continues to suffer from chronic back pain, as well as physical limitations due to his compromised back. He also claimed that he suffers from severe post-traumatic stress disorder. He alleged that although he was able to return to work, he can now only perform light duty activity.

Michael Lennig's wife, Rosa Lennig, initially presented a derivative claim, but she was ultimately removed as a plaintiff.

After the plaintiffs' case-in-chief, the court ruled that punitive damages should not go to the jury.

Defense counsel acknowledged that the injuries were serious, but argued that the injuries were not as severe as the brothers described. Defense counsel specifically focused on the Lennigs' functional ability and obtained months of sub-rosa surveillance conducted upon the Lennigs, which yielded dozens of hours of video. Counsel argued that the videos showed that the Lennig brothers made significant recoveries since 2014.

RESULT The jury determined that the Lennigs' damages totaled $52,708,374, including $19,242,604 for Michael Lennig's damages and $33,465,770 for Matthew Lennig's damages.

MATTHEW JOHN LENNIG	$1,845,485 future medical cost $266,429 past lost earnings $1,353,856 future lost earnings $10,000,000 past noneconomic loss $20,000,000 future noneconomic loss $33,465,770
MICHAEL LENNIG	$2,200,000 future medical cost $93,624 past lost earnings $448,980 future lost earnings $7,000,000 past non-economic loss $9,500,000 future non-economic loss $19,242,604
TRIAL DETAILS	Trial Length: 16 days Trial Deliberations: 3 days
PLAINTIFF EXPERT(S)	**Kallon Basquin, L.C.S.W., Ph.D.**, psychotherapy, Claremont, CA **H. Ronald Fisk, M.D.**, neurology, Beverly Hills, CA **Tamorah G. Hunt, M.B.A., Ph.D.**, economics, Santa Ana, CA **Don F. Mills, M.D.**, pain management, Irvine, CA **Fardad Mobin, M.D.**, neurosurgery, Beverly Hills, CA **Anthony E. Reading, Ph.D.**, psychology/counseling, Beverly Hills, CA **Nicholas E. Rose, M.D.**, orthopedic surgery,

Newport Beach, CA
Jan Roughan, R.N., B.S.N., life care planning, Pasadena, CA
Rick A. Sarkisian, Ph.D., vocational rehabilitation, Bakersfield, CA
Jeffrey A. Schaeffer, Ph.D., neuropsychology, Beverly Hills, CA
Kenneth A. Solomon, Ph.D., accident reconstruction, Westlake, CA
Lester M. Zackler, M.D., neuropsychiatry, Sherman Oaks, CA

DEFENSE EXPERT(S)

Ronald C. Albucher, M.D., psychiatry, San Francisco, CA
Thomas Chen, M.D., neurosurgery, Los Angeles, CA
Lisa Fitzpatrick, O.T.R./C.H.T., occupational therapy, La Jolla, CA
George K. Henry, Ph.D., neuropsychology, Los Angeles, CA
Mary E. Jesko, Ed. D., life care planning, San Diego, CA
George A. Macer, Jr., M.D., orthopedic surgery, Long Beach, CA
Jennie M. McNulty, C.P.A., M.B.A., economics, Los Angeles, CA
Matthew J. Meunier, M.D., orthopedic surgery, San Diego, CA
Daniel A. Nation, Ph.D., psychology/counseling, Los Angeles, CA
Erik D. Power, P.E., accident reconstruction, Corvallis, OR
Mark H. Strassberg, M.D., neurology, San Francisco, CA

POST-TRIAL A confidential settlement was reached after the verdict.

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' counsel. Counsel of Contreras and the CRST entities did not respond to the reporter's phone calls, and the remaining defendants' counsel were not asked to contribute.

–Priya Idiculla

HOSPITALITY

INTENTIONAL TORTS

Worker/Workplace Negligence — Hotel/Restaurant — Wrongful Death — Survival Damages

Hotel should have intervened in case of domestic abuse: suit

VERDICT **$46,000,000**

ACTUAL **$41,400,000**

CASE Ann Herrera, as Administratrix of Estate of Alcenti McIntosh and Iasia Sweeting, as Personal Representative of Alcenti McIntosh v. Extended Stay America, Inc., ESA Management, LLC., Bre/EAS Propertites, L.L.C., HVM, L.L.C., ESA Properties, L.L.C., Calvin McIntosh, Esa P Portfolio, LLC and Esa P Portfolio Operating Lessee, LLC, No. 16-C-01271-S4

COURT Gwinnett County, Superior Court, GA

JUDGE Joseph Iannazzone

DATE 11/12/2018

PLAINTIFF ATTORNEY(S) **Michael D'Antignac**, Deitch & Rogers LLC, Atlanta, GA
Naveen Ramachandrappa, Bondurant, Mixson & Elmore LLP, Atlanta, GA
Andrew T. Rogers, Deitch & Rogers LLC, Atlanta, GA

DEFENSE ATTORNEY(S) **Christopher T. Byrd**, Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC, Atlanta, GA (Extended Stay America Inc., Bre/EAS Propertites, L.L.C., Esa Management, LLC, Esa P Portfolio LLC, Esa P Portfolio Operating Lessee, LLC)
Shubhra R. Mashelkar, Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC, Atlanta, GA (Extended Stay America Inc., Bre/EAS Propertites, L.L.C., Esa Management, LLC, Esa P Portfolio LLC, Esa P Portfolio Operating Lessee, LLC)
Calvin McIntosh (Calvin McIntosh)
Patrick B. Moore, Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC, Atlanta, GA (Extended Stay America Inc., Bre/EAS Propertites, L.L.C., Esa Management, LLC, Esa P Portfolio LLC, Esa P Portfolio Operating Lessee, LLC)

FACTS & ALLEGATIONS In August 2013, plaintiff's decedent Alcenti McIntosh was born in a room at the Extended Stay America hotel located in Norcross. On Nov. 12, 2014, Calvin McIntosh, the child's father, brought Alcenti to Northside Hospital, where she was pronounced dead on arrival. The cause of death was prolonged starvation. Calvin McIntosh was arrested and convicted of felony murder and child abuse with regard to Alcenti's death. He was sentenced to life in prison.

Ann Herrera, as administratrix of Alcenti's estate and Iasia Sweeting, as personal representative of Alcenti, sued Extended Stay America Inc., the owner of the hotel; management companies ESA Management, LLC, HVM, L.L.C., ESA Properties, L.L.C., Bre/ESA Properties, L.L.C., Esa P Portfolio, LLC and Esa P Portfolio Operating Lessee, LLC; and Calvin McIntosh, for negligence and wrongful death.

Following Alcenti's death, police officers who were investigating the death discovered the child's mother, Iasia Sweeting, along with McIntosh's daughter Najlaa and Najlaa's two children (who were fathered by McIntosh), as well as another child of Sweeting's (also fathered by McIntosh), in the hotel room

where they all lived. Sweeting and the children were discovered to be severely malnourished.

The estate alleged that McIntosh had kidnapped Sweeting in April 2010 near her home in DeKalb County when she was 16 years old and then held her in an Extended Stay hotel room against her will. The estate claimed that Sweeting was tortured, raped and starved by McIntosh and was impregnated by McIntosh during her captivity. She gave birth to Alcenti in August 2013. The estate alleged that McIntosh had ordered his daughter, Najlaa McIntosh, to deprive Sweeting and the children of food if they were disobedient. Sweeting weighed only 59 pounds at the time she was rescued from the hotel, and the others were also emaciated.

The estate alleged that hotel staff knew or should have known that Alcenti was in danger and failed to intervene. According to the estate, the hotel and its personnel knew or should have known that at least six people were living in a single hotel room and that many of them of were being subjected to ongoing abuse and neglect. The estate asserted that the hotel chose to ignore policies designed to ensure guest safety, including a policy requiring that each hotel room be inspected at least once a week.

The estate's expert medical examiner opined that an autopsy determined the manner of the child's death was homicide and the cause of death was severe protein-energy undernutrition.

The defendants dargued that there was no notice that family abuse, culminating in the starvation death of a child, was occurring or could occur at the hotel premises. The defendants argued that Calvin McIntosh, his daughter, Najlaa McIntosh, and son, Khanowk McIntosh, who paid some hotel bills and signed receipts, as well as Sweeting were responsible for Alcenti's death. This argument was supported by the testimony of the defense's security expert. The defense further maintained that Sweeting had not been kidnapped and was not being held captive.

The defense added Iasia Sweeting, Najlaa McIntosh and Khanowk McIntosh as nonparty defendants to apportion any finding of negligence. The defense argued that Iasia Sweeting herself bore some of the blame for the death of her daughter, as her negligence and willing participation contributed to her daughter's neglect and ultimate death.

INJURIES/DAMAGES *death; malnutrition*

Alcenti McIntosh died due to severe protein-energy undernutrition. There was also evidence of multiple physical injuries.

Alcenti's mother, Iasia Sweeting, sought damages for her daughter's death, as well as for Alcenti's pain and suffering.

The defense argued that it was not liable for damages because it was not responsible for the abuse and death of Alcenti.

RESULT The jury apportioned 30 percent liability to Extended Stay America, ESA Management, HVM, ESA Properties, Esa P Portfolio, LLC and Esa P Portfolio Operating Lessee, LLC, and 60 percent liability to Calvin McIntosh. The jury also apportioned 1 percent liability and 9 percent liability, respectively, to nonparty defendants Sweeting and Najlaa McIntosh, with no liability apportioned to Khanowk McIntosh.

The jury determined that the estate's damages totaled $46 million. After factoring in the apportionment of the nonparty defendants, the net award was $41.4 million.

ESTATE OF ALCENTI MCINTOSH	$23,000,000 for pain and suffering $23,000,000 full value of her life $46,000,000
INSURER(S)	**American International Group Inc.** for Extended Stay America
TRIAL DETAILS	Trial Length: 8 days Trial Deliberations: 1 day
PLAINTIFF EXPERT(S)	**Steven Eichel, Ph.D.,** psychotherapy, Newark, DE **Carol A. Terry, M.D.,** pathology, Lawrenceville, GA
DEFENSE EXPERT(S)	**Karim H. Vellani, C.P.P., C.S.C.,** security/premises liability, Sugar Land, TX

EDITOR'S NOTE This report is based on information that was provided by plaintiff's counsel. McIntosh was not asked to contribute, and the remaining defendants' counsel did not respond to the reporter's phone calls.

–Gary Raynaldo

REAL ESTATE

PREMISES LIABILITY

Inadequate or Negligent Security — Premises Liability — Failure to Warn — Premises Liability — Dangerous Condition — Worker/Workplace Negligence — Negligent Security — Premises Liability — Store

Mall's patron struck by cart tossed from balcony

VERDICT	**$45,175,500**
CASE	Michael Hedges, as Guardian ad Litem of Marion Hedges, and Incapacitated Person and Michael Hedges, Individually and Dayton Hedges, an Infant by His Father and Natural Guardian, Michael Hedges and Michael Hedges, Individually v. East River Plaza, LLC., Tiago Holding, LLC., Blumenfeld Development Group, Ltd., Forest City Enterprise, Inc., Forest City Ratner Companies, Inc., ERP Management LLC., Planned Security Service Inc., Target Corporation, Costco Wholesale Corporation and Bob's Discount Furniture of NY, LLC., No. 101854/12
COURT	New York Supreme, NY
JUDGE	Carmen Victoria St. George
DATE	6/15/2018
PLAINTIFF ATTORNEY(S)	**Thomas A. Moore,** Kramer, Dillof, Livingston & Moore, New York, NY
DEFENSE ATTORNEY(S)	**Jessica J. Beauvais,** Perry, Van Etten, Rozanski & Primavera, LLP, New York, NY (Planned Security Services Inc.) **James F. Burke,** Wilson Elser Moskowitz Edelman & Dicker LLP, White Plains, NY (East River Plaza, LLC, Blumenfeld Development Group Ltd., ERP Management LLC, Forest City Enterprise Inc., Forest City Ratner Cos. Inc.)

Mathew P. Ross, Wilson, Elser, Moskowitz, Edelman & Dicker LLP, White Plains, NY (East River Plaza, LLC, Blumenfeld Development Group Ltd., ERP Management LLC, Forest City Enterprise Inc., Forest City Ratner Cos. Inc.)
Jeffrey K. Van Etten, Perry, Van Etten, Rozanski & Primavera, LLP, New York, NY (Planned Security Services Inc.)
None reported (Bob's Discount Furniture of NY, LLC, Costco Wholesale Corp., Jeovanni Rosario, Raymond Hernandez, Target Corp.)

FACTS & ALLEGATIONS On Oct. 30, 2011, plaintiff Marion Hedges, 47, a real estate agent, shopped at the East River Plaza mall, which is located at 517 E. 117th St., in the East Harlem section of Manhattan. The mall comprises six levels; each bounded by walkways that overlook the lower levels. While Hedges was walking on the mall's lowest level, she was struck by a cart that had been tossed off of the fourth level. The act was perpetrated by two boys, Raymond Hernandez and Jeovanni Rosario. Hedges suffered injuries of her back, her head, six ribs, a shoulder and her spleen, and she claimed that she suffers incapacitating residual effects of her head's injury. The incident was witnessed by Hedges' son, plaintiff Dayton Hedges, 13, who was walking behind his mother. Dayton was not injured, but he claimed that he suffers residual emotional distress.

Marion Hedges' husband, Michael Hedges, acting individually, as his wife's guardian, and as Dayton's parent and natural guardian, sued the mall's owners, Blumenfeld Development Group Ltd.; East River Plaza, LLC; Forest City Enterprise Inc.; Forest City Ratner Cos. Inc.; and Tiago Holding, LLC. Mr. Hedges also sued the mall's manager, ERP Management LLC; the mall's contracted provider of security, Planned Security Services Inc.; and three entities that operated stores that were located in the mall, Costco Wholesale Corp., Target Corp. and Bob's Discount Furniture of NY, LLC. The lawsuit alleged that the defendants negligently failed to adequately protect the mall's patrons.

Blumenfeld Development Group, ERP Management, Forest City Enterprise, Forest City Ratner, Planned Security Services, Target and Tiago Holding impleaded Hernandez and Rosario. The first-party defendants alleged that Hernandez and Rosario were entirely liable for the accident.

Hernandez and Rosario defaulted, and plaintiffs' counsel negotiated pretrial settlements of the claims against Bob's Discount Furniture of NY, Costco Wholesale and Target. The matter proceeded to a trial against the remaining defendants. Planned Security Services was obligated to indemnify the mall's owners and operator.

Plaintiffs' counsel contended that the accident was a product of a foreseeable, preventable act. Plaintiffs' counsel presented a witness who claimed that he frequently visits the mall. The witness estimated that he had previously observed 100 instances of objects being tossed off of the mall's walkways. On Oct. 11, 2011, the mall's operators received an anonymous report that indicated that a cart was tossed from the upper landing of an escalator, and Planned Security Services' logs documented eight prior instances of objects having been thrown off of the mall's walkways. The mall's upper-level walkways were bounded by 4-foot-tall railings, but plaintiffs' counsel presented a safety-and-security expert who opined that the many prior incidents should have prompted additional precautions. The expert contended that uniformed guards should have been patrolling the vicinity of the railings, but that the defendants did not undertake such a measure. The expert opined that patrolling guards would have deterred the actions of Hernandez and Rosario. The expert also suggested that the mall's owners should have posted warnings that disclosed the possibility of falling objects, that the mall's owners should have installed a more-obvious system of cameras, and that the railings' height should have been increased to 7 feet. He contended that the latter measure would have nearly ensured that a cart could not have been tossed off of a walkway.

The mall's owners' and operator's counsel contended that the accident was a product of an unforeseeable, unpreventable criminal act. They argued that the mall's owners and operator did not violate any relevant written standard that addresses safety, and they disputed the claim that a similar incident had occurred on Oct. 11, 2011.

Planned Security Services' counsel contended that their client had not been empowered to institute any of the preventative measures that plaintiffs' counsel's expert recommended. They noted that Planned Security Services could not unilaterally increase the number of workers that were assigned to the mall. They also contended that the accident was a product of an instantaneous act that could not have been prevented by a patrolling guard.

INJURIES/DAMAGES *anxiety; brain damage; brain, internal bleeding; cardiac arrest; cognition, impairment; concentration, impairment; depression; diplopia / double vision; emotional distress; fracture, T3; fracture, T4; fracture, T6; fracture, T7; fracture, T8; fracture, rib; fracture, scapula; fracture, shoulder; fracture, vertebra; head; incontinence; memory, impairment; physical therapy; post-traumatic stress disorder; respiratory; spleen, laceration; subarachnoid hemorrhage; subdural hematoma; traumatic brain injury; unconsciousness; vision, impairment*

Hedges was struck by a cart that had fallen from the mall's fourth level. She became unconscious, and she suffered cardiac arrest. She was resuscitated by a bystander.

Hedges also suffered damage of her brain, a subarachnoid hemorrhage, a subdural hematoma, fractures of her T3, T4, T6, T7 and T8 vertebrae, fractures of six ribs, a fracture of her left shoulder's scapula, and a laceration of her spleen.

Hedges was retrieved by an ambulance, and she was transported to a hospital. She required use of a medical ventilator. After 11 days had passed, she was transferred to a rehabilitative facility, where she underwent 41 days of treatment. After having been discharged, she underwent further treatment, which included occupational therapy, physical therapy and therapy that addressed residual impairment of her cognition.

Plaintiffs' counsel claimed that Hedges suffers permanent residual effects that include incontinence, dizziness, diplopia, which is commonly termed "double vision," impairment of her balance and gait, and impairment of her memory, her executive functions and other elements of her cognition. Testifying doctors contended that Hedges also suffers confusion, that she cannot maintain concentration, that she cannot easily formulate decisions, that she cannot easily plan or prioritize tasks, that she cannot easily formulate verbal responses, that she does not easily accept unexpected changes, and that she requires cues that prompt her commencement or continuation of tasks. Hedges' husband claimed that his wife's residual effects also include anxiety, depression, irritability and moodiness. He further claimed that his wife's residual effects have extinguished their marital relationship. Hedges' treating physiatrist opined that Ms. Hedges cannot safely exist without assistance. The doctor also opined that Hedges will require the daily presence of an aide. Hedges has not resumed work, and her

doctors agree that she cannot work.

Mr. Hedges sought recovery of $6,362,406 for his wife's future medical expenses, $356,274 for her past lost earnings, $2,146,830 for her future loss of earnings, unspecified damages for her past and future pain and suffering, a total of $1 million for his past loss of services and society, and a total of $1.5 million for his future loss of services and society.

Dayton claimed that he suffered emotional trauma that stemmed from having witnessed his mother's accident and cardiac arrest. He claimed that he developed post-traumatic stress disorder, that he suffered resultant anxiety, depression and nightmares, and that his anxiety and nightmares persist. He also claimed that his residual effects harmed his academic performance, and he further claimed that he became introverted. He underwent psychological counseling.

Dayton sought recovery of $5 million for past pain and suffering, and he sought recovery of $1 million for future pain and suffering.

Defense counsel contended that Dayton suffered merely minor psychological trauma that does not require further treatment.

Defense counsel also contested the extent of Ms. Hedges' disability. The defense noted that Hedges regularly travels between Connecticut and New York, that she socializes, and that she independently utilizes mass-transit systems. The defense claimed that Hedges will not require an aide, and the defense also contended that Hedges can perform part-time work.

The defense's expert neuropsychologist interviewed and tested Hedges, and he opined that she suffers a merely minor diminution of her intelligence.

The defense's expert psychiatrist opined that Hedges does not suffer a psychiatric condition that is related to the accident. He noted that her medical records reference a prior episode of depression.

RESULT The jury found that the mall's owners and operator negligently failed to maintain a reasonably safe condition of their premises, that their negligence was a substantial cause of Hedges' injuries, that Planned Security Services negligently failed to protect the mall's patrons, and that Planned Security Services' negligence was a substantial cause of Hedges' injuries. The mall's owners and operator were assigned a total of 65 percent of the liability; Planned Security Services was assigned 25 percent of the liability; and Hernandez and Rosario were assigned a total of 10 percent of the liability.

The jury determined that the plaintiffs' damages totaled $45,175,500.

DAYTON HEDGES	$1,500,000 past pain and suffering $1,000,000 future pain and suffering $2,500,000
MARION HEDGES	$3,175,000 future medical cost $1,000,000 past lost earnings $1,500,000 future lost earnings $6,000,000 past pain and suffering $29,000,000 future pain and suffering $40,675,000
MICHAEL HEDGES	$1,000,000 past loss of consortium $1,000,000 future loss of consortium $2,000,000
DEMAND	$25,000,000 (total, by all plaintiffs, from Blumenfeld Development Group, East River Plaza, ERP Management, Forest City Enterprise, Forest City Ratner, Planned Security Services and Tiago Holding)
OFFER	$2,000,000 (total, for all plaintiffs, by Blumenfeld Development Group, East River Plaza, ERP Management, Forest City Enterprise, Forest City Ratner and Tiago Holding)
INSURER(S)	**Scottsdale Insurance Co.** for Planned Security Services (excess) **Arch Insurance Group** for Planned Security Services (primary insurer) **Ace Group of Cos.** for Blumenfeld Development Group, East River Plaza, ERP Management, Forest City Enterprise, Forest City Ratner and Tiago Holding
TRIAL DETAILS	Trial Length: 5 weeks Trial Deliberations: 2 days Jury Vote: 6-0 Jury Composition: 3 male, 3 female
PLAINTIFF EXPERT(S)	**Anne Felicia Ambrose, M.D.**, physical medicine, White Plains, NY (treating doctor) **Les Seplaki, Ph.D.**, economics, Fort Lee, NJ **Charles B. Stacy, M.D.**, neurology, New York, NY (treating doctor) **Jeanette Wasserstein, Ph.D.**, neuropsychology, New York, NY (treating doctor) **Robert A. Wise**, mall security, New York, NY
DEFENSE EXPERT(S)	**Richard Hudak**, mall security, Tequesta, FL **Paul W. Nassar, M.D.**, psychiatry, New York, NY **John J. Sidtis, Ph.D.**, neuropsychology, New York, NY **Karim H. Vellani, C.P.P., C.S.C.**, mall security, Sugar Land, TX

POST-TRIAL Defense counsel has moved to set aside the verdict. Planned Security Services' counsel has moved to reverse a prior order that requires Planned Security Services' indemnification of the mall's owners and operator.

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' counsel and counsel of Blumenfeld Development Group, East River Plaza, ERP Management, Forest City Enterprise, Forest City Ratner, Planned Security Services and Tiago Holding. Additional information was gleaned from court documents. The remaining defendants' counsel were not asked to contribute.

–Aaron Jenkins

WORKER/WORKPLACE NEGLIGENCE

Negligent Supervision — Workplace — Workplace Safety

Boilermaker was killed by falling pipe at refinery

VERDICT **$44,370,000**

ACTUAL **$20,791,235**

CASE Hector Barron, Individually and as Representative of the Estate of Miguel Barron, Deceased, Jorge Barron, Miguel Barron, Maria Barron, Isabel Barron, Jacqueline M. Berrios, as Next Friend of Alyssa M. Barron, and Melissa Perez as Next Friend of Mia Neydeen Barron v. ExxonMobil Oil Corporation, B & G Crane Service, and AltairStrickland, LLC, No. B-198493

COURT Jefferson County District Court, 60th, TX

DATE 9/13/2018

PLAINTIFF ATTORNEY(S) **Byron C. Alfred**, VB Attorneys, Houston, TX
Vuk S. Vujasinovic, VB Attorneys, Houston, TX

DEFENSE ATTORNEY(S) **Kent M. Adams**, Wilson Elser Moskowitz Edelman & Dicker LLP, Houston, TX (B&G Crane Service)
Russell W. Heald, Wilson Elser Moskowitz Edelman & Dicker LLP, Beaumont, TX (B&G Crane Service)
Michael Jacobellis, Wilson Elser Moskowitz Edelman & Dicker LLP, Houston, TX (B&G Crane Service)
None reported (ExxonMobil Oil Corp., AltairStrickland LLC)

FACTS & ALLEGATIONS On May 11, 2016, plaintiffs' decedent Miguel Barron, 37, a boilermaker, was working on a turnaround at a Beaumont refinery owned and operated by ExxonMobil Oil Corp. The turnaround included replacing a 28,000-pound heat exchanger, which was at the top of the five-story refinery and had a platform nearby for access. Before being lowered to the ground and replaced, the exchanger had to be disconnected, rigged to a crane and guided between heavy pipes that were connected to other exchangers. Barron's employer, AltairStrickland LLC, was the rigging contractor, and B&G Crane Service was the lift contractor. In crane jargon, this "lift job" was a "blind lift," in that the crane operator could not see the exchanger; he was some hundred yards away, and it was late at night. Barron and other members of the AltairStrickland crew were on the platform. One of them was acting as the "signal man" for the crane operator and communicating with him by walkie-talkie. Barron and other AltairStrickland employees had rigged the exchanger to the crane, and Barron was cranking a come-along to guide the exchanger between the pipes. The exchanger struck one of the pipes, and the pipe, which weighed 1,000 pounds, broke off and fell onto Barron's head, killing him.

Barron's younger brothers, plaintiffs Hector and Jorge Barron, were also on the AltairStrickland crew. Hector was the foreman and was on the platform, and Jorge, a boilermaker, was on the ground below. Plaintiff Osiel Rocha, a boilermaker, was another member of the AltairStrickland crew and was on the platform. Jorge and Rocha claimed that they sustained injuries while trying to move the pipe off of Barron.

Barron's family, along with Rocha, sued ExxonMobil, AltairStrickland and B&G for negligence. ExxonMobil and AltairStrickland settled with the plaintiffs for confidential amounts before trial, and the case proceeded against B&G only.

Plaintiffs' counsel argued that B&G violated its safety plan, which was attached to its contract, by failing to mitigate the hazards in the heat exchanger's path and failing to have a B&G supervisor anywhere on the site. According to plaintiffs' counsel, B&G's safety plan placed the responsibility for mitigating any hazards squarely on B&G's shoulders. Plaintiffs' counsel further argued that B&G should have had personnel on the platform during the job.

Plaintiffs' counsel argued that B&G was 90 percent responsible for the incident and that ExxonMobil and AltairStrickland were 10 percent responsible.

B&G denied negligence. It argued that, as the lift contractor, it was just providing support and was not in charge. The incident happened at an ExxonMobil refinery, and ExxonMobil and AltairStrickland were responsible, the defense argued.

B&G argued that, if the exchanger could not be maneuvered safely between the pipes, every person on the platform, including the decedent and an ExxonMobil supervisor, had a duty to notice that fact and call a halt to the operation. Hector, as the rigging crew's foreman, was responsible for anything that happened on the platform, the defense argued.

The defense further argued that the AltairStrickland "signal man" was the operator's "eyes and ears" on this job and was therefore responsible for the mishap.

B&G further blamed ExxonMobil by arguing that the pipe, which had been in use for 60 years, would not have broken off had it not been so old and corroded.

Defense counsel asked the jury to find only ExxonMobil and AltairStrickland negligent and to find them equally responsible.

INJURIES/DAMAGES *back; crush injury; crush injury, spine; death; fracture, cervical; fracture, neck; fracture, skull; head; neck; shoulder*

The pipe fell on Barron's head, neck, upper back and shoulders, causing crush injuries, including a skull fracture, and killing him instantly. He was survived by his mother, plaintiff Maria Barron; his father, plaintiff Miguel Barron Sr.; his younger brothers, Jorge and Hector; and his three daughters: plaintiff Mia Neydeen Barron, 10; plaintiff Alyssa M. Barron, 16; and plaintiff Isabel Barron, 18.

Barron's daughters were severely affected by the loss of their father, and they treated with a grief counselor, as did Barron's parents and brothers.

Barron lived in Brownsville with his parents when not traveling for work, and he supported the household financially. His father was retired at the time of Barron's death, and his mother retired subsequently, after having multiple strokes. The grief counselor attributed the strokes to the stress and grief of losing her son.

Barron's daughters lived with their mothers, who were Barron's ex-wives. They lived in Brownsville, and the women testified that Barron had a close relationship with his daughters. The daughters attended voir dire and were introduced to the jury, but did not stay for the rest of the trial or give testimony.

Barron's parents and daughters sought wrongful death damages. Specifically, they each sought $1 million for each of the following six elements of damages: past pecuniary loss, future pecuniary loss, past loss of companionship

and society, future loss of companionship and society, past mental anguish and future mental anguish, a total of $30 million.

As bystanders, Hector and Jorge each sought $1 million in past and future mental anguish, for a total of $2 million.

In addition, Jorge claimed bodily injuries from trying to move the pipe off of the decedent, as did Rocha. They sought unspecified damages for past physical pain and future physical pain.

RESULT The jury found negligence by B&G, ExxonMobil and AltairStrickland. It did not find negligence by Barron, Hector or Rocha.

On the wrongful death claims, Jorge's bystander claim, and the bodily injury claims, the jury found comparative responsibility of 45 percent on B&G, 45 percent on ExxonMobil and 10 percent on AltairStrickland.

On Hector's bystander claim, the jury found comparative responsibility of 45 percent on B&G, 50 percent on ExxonMobil and 5 percent on AltairStrickland.

The total damages awarded were $44,370,000.

ALYSSA M. BARRON
$500,000 past loss of society companionship
$3,500,000 future loss of society companionship
$300,000 past loss of pecuniary contribution
$1,500,000 future loss of pecuniary contribution
$1,500,000 past mental anguish
$2,000,000 future mental anguish
$9,300,000

HECTOR BARRON
$3,000,000 past mental anguish (bystander)
$1,000,000 future mental anguish (bystander)
$4,000,000

ISABEL BARRON
$500,000 past loss of society companionship
$3,500,000 future loss of society companionship
$250,000 past loss of pecuniary contribution
$1,000,000 future loss of pecuniary contribution
$1,000,000 past mental anguish
$2,000,000 future mental anguish
$8,250,000

JORGE BARRON
$150,000 future physical pain
$1,500,000 past mental anguish (bystander)
$1,000,000 future mental anguish (bystander)
$100,000 past physical pain
$2,750,000

MARIA BARRON
$250,000 past loss of society companionship
$1,500,000 future loss of society companionship
$335,000 past loss of pecuniary contribution
$600,000 future loss of pecuniary contribution
$1,500,000 past mental anguish
$1,000,000 future mental anguish
$5,185,000

MIA NEYDEEN BARRON
$500,000 past loss of society companionship
$3,500,000 future loss of society companionship
$250,000 past loss of pecuniary contribution
$2,000,000 future loss of pecuniary contribution
$1,000,000 past mental anguish
$2,000,000 future mental anguish
$9,250,000

MIGUEL BARRON SR.
$250,000 past loss of society companionship
$1,500,000 future loss of society companionship
$135,000 past loss of pecuniary contribution
$600,000 future loss of pecuniary contribution
$1,000,000 past mental anguish
$1,000,000 future mental anguish
$4,485,000

OSIEL ROCHA
$800,000 past physical pain
$350,000 future physical pain
$1,150,000

DEMAND $10,000,000 (total, by all plaintiffs)

OFFER $500,000 (total, for all plaintiffs)

INSURER(S) **Zurich North America** for B&G Crane Service

TRIAL DETAILS Jury Vote: 10-2

PLAINTIFF EXPERT(S)
Jose Arizmendi, Jr., Ph.D., psychology/counseling, Brownsville, TX (treating doctor)
Thomas Mayor, Ph.D., economics, Houston, TX
Rex B. McLellan, Ph.D., P.E., metallurgy, Houston, TX

DEFENSE EXPERT(S) None reported

POST-TRIAL The final judgment, including prejudgment interest, was $20,791,235.34.

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' counsel. Defense counsel did not respond to the reporter's phone calls.

–John Schneider

INDIVIDUAL

MOTOR VEHICLE

Passenger — Motor Vehicle — Stop Sign — Motor Vehicle — Broadside — Motor Vehicle — Intersection — Motor Vehicle — Multiple Vehicle

Parties disputed future care required for paralyzed plaintiff

VERDICT **$41,634,170**

CASE Anthony Taylor v. Samantha Schilling, and Does 1 through 50, inclusive, No. MC026518
COURT Superior Court of Los Angeles County, Los Angeles, CA
JUDGE Stephen M. Moloney
DATE 4/16/2018

PLAINTIFF ATTORNEY(S) **R. Rex Parris** (lead), PARRIS Law Firm, Lancaster, CA
Jonathan W. Douglass, PARRIS Law Firm, Lancaster, CA
Rutger R. Parris, PARRIS Law Firm, Lancaster, CA
Alexander R. Wheeler, PARRIS Law Firm, Lancaster, CA

DEFENSE ATTORNEY(S) **Jeff I. Braun** (lead), McNeil, Tropp & Braun, LLP, Irvine, CA
Tracy L. Breuer, McNeil, Tropp & Braun, LLP, Irvine, CA
Deborah S. Tropp, McNeil, Tropp & Braun, LLP, Irvine, CA

FACTS & ALLEGATIONS On Dec. 19, 2015, plaintiff Anthony Taylor, 27, a custodian, was a passenger in a vehicle that left the Antelope Valley Mall, in Palmdale, after shopping with his girlfriend and her mother. At around 4:45 p.m., as they were traveling on eastbound West Avenue O, in Lancaster, Taylor's vehicle collided into a vehicle operated by Samantha Schilling, who darted out from a two-way stop sign on northbound 15th Street West. Taylor sustained injuries to his neck and was paralyzed.

Taylor sued Schilling, alleging that Schilling was negligent in the operation of her vehicle.

Taylor's girlfriend and her mother settled out.

Taylor claimed Schilling ran the stop sign on 15th Street West and drove into oncoming traffic, colliding with the vehicle he was in. Thus, he claimed Schilling failed to yield the right of way when pulling from a stop sign.

Schilling admitted negligence at trial.

INJURIES/DAMAGES *bedsore/decubitus ulcer/pressure sore; fracture, C5; fracture, C6; halo brace; paralysis; quadriplegia; sepsis; tracheostomy/tracheotomy*

Taylor sustained fractures to his cervical spine at the C5 and C6 levels, causing substantial spinal cord damage. He was immediately paralyzed upon impact, and the fire department removed him from the car. He was then transported to Antelope Valley Hospital, in Lancaster, where it was determined that he was rendered a quadriplegic. Taylor subsequently required a tracheostomy at the hospital and the surgical removal of hardware from a prior spinal fusion for scoliosis. He also required the placement of a halo brace to keep his neck stabilized. In addition, Taylor required another hospitalization for treatment of bedsores, which are alternately termed "decubitus ulcers" or "pressure sores," and sepsis.

Taylor was born with developmental disabilities and was given up for adoption, but he later found a home where he was nurtured. He later worked as a custodian, had a fiancée and was entirely self-sufficient, despite his disabilities. However, Taylor now needs to be cared for by a home health aide as a result of the injuries sustained in the crash. Plaintiff's counsel contended that Taylor should have 24-hour care from a licensed vocational nurse.

Thus, Taylor sought recovery for his past and future lost earnings, future medical care, and past and future pain and suffering. During closing arguments, plaintiff's counsel asked the jury to award Taylor $113 million in total damages.

Defense counsel contended that Taylor is mostly self-sufficient, despite his paralysis, and that Taylor only needed minimal assistance and care. Specifically, counsel argued that a home health aide was adequate.

According to the life care plan presented by the defense's expert life care planner, Taylor would only require $7.5 million to $9 million for quality care to be provided for the rest of his life. Defense counsel also argued that Taylor had made significant progress over the six months that preceded the trial, in that Taylor had increased his independence and overall outlook toward the future.

Thus, in response to the amount requested by plaintiff's counsel during closing arguments, defense counsel asked the jury to award Taylor only $18 million.

RESULT The jury determined that Taylor's damages totaled $41,634,170.

ANTHONY TAYLOR
$15,000,000 future medical cost
$9,170 past lost earnings
$625,000 future lost earnings
$15,000,000 past noneconomic damages
$11,000,000 future noneconomic damages
$41,634,170

DEMAND $54,999,998
OFFER $25,000,000

TRIAL DETAILS Trial Length: 17 days
Trial Deliberations: 4 hours

PLAINTIFF EXPERT(S)
James Caplan, M.D., pulmonology, Los Angeles, CA
Tamorah G. Hunt, M.B.A., Ph.D., economics, Santa Ana, CA
Lawrence Miller, M.D., physical medicine, Santa Monica, CA
Todd D. Moldawer, M.D., orthopedic surgery, Van Nuys, CA
Anthony E. Reading, Ph.D., psychology/counseling, Beverly Hills, CA
Jan Roughan, R.N., B.S.N., life care planning, Pasadena, CA
Rick A. Sarkisian, Ph.D., vocational rehabilitation, Bakersfield, CA

DEFENSE EXPERT(S)
Stacey R. Helvin, B.S.N., R.N., life care planning, Anaheim, CA
Suzy Kim, M.D., physical rehabilitation, Brea, CA
Ryan Klein, M.D., pulmonology, Newport Beach, CA
Ted Vavoulis, M.S., economics, La Jolla, CA
Michael P. Weinstein, M.D., orthopedic surgery, Newport Beach, CA

EDITOR'S NOTE This report is based on information that was provided by plaintiff's and defense counsel. Additional information was gleaned from an article that was published by The Antelope Valley Times.

–Priya Idiculla

WORKER/WORKPLACE NEGLIGENCE

Negligent Hiring — Worker/Workplace Negligence — Negligent Supervision — Worker/Workplace Negligence — Negligent Training — Hotel/Restaurant — Wrongful Death — Survival Damages

Hotel partially liable for death of stabbing victim, per lawsuit

VERDICT **$41,550,000**

ACTUAL **$2,400,000**

CASE The Estate of Kari Rene Hunt Dunn, and Henry "Hank" Hunt, individually and next friend of his minor grandchildren, Brianna A. Dunn, Kylie J. Dunn and Zane A. Dunn v. OM Lodging LLC, Wyndham Worldwide, Inc., Wyndham Worldwide Operations, Inc., Wyndham Hotel Management, Inc., Baymont Franchise Systems, Inc. and Brad A. Dunn, No. 15-0819

COURT Harrison County District Court, 71st, TX

JUDGE Brad Morin

DATE 6/22/2018

PLAINTIFF ATTORNEY(S) **D. Scott Carlile** (lead), Carlile Law Firm, L.L.P., Marshall, TX
Casey Q. Carlile, Carlile Law Firm, L.L.P., Marshall, TX

DEFENSE ATTORNEY(S) **Aaron Pool** (co-lead), Donato, Minx, Brown & Pool, P.C., Houston, TX (OM Lodging LLC)
James T. Sunosky (co-lead), Donato, Minx, Brown & Pool, P.C., Houston, TX (OM Lodging LLC)
Casey Q. Carlile, Carlile Law Firm, L.L.P., Marshall, TX (Brad A. Dunn)
Eugene Podesta, Baker, Donelson, Bearman, Caldwell & Berkowitz, Memphis, TN (Baymont Franchise Systems Inc., Wyndham Hotel Management Inc., Wyndham Worldwide Inc., Wyndham Worldwide Operations Inc.)

FACTS & ALLEGATIONS On Dec. 1, 2013, plaintiffs' decedent Kari Rene Hunt Dunn, 31, a homemaker, was stabbed and killed by her estranged husband, Brad Dunn, in Brad's room at Baymont Inn & Suites hotel in Marshall. Kari died at the scene. Brad Dunn was convicted of Kari's murder.

Kari Dunn's estate, surviving children and father sued Brad Dunn for stabbing Kari. They also sued OM Lodging LLC, which owned and franchised the Baymont Inn, for negligence, including negligent hiring, training and supervision. The plaintiffs alleged that hotel employees failed to call 911 or otherwise render aid and that this failure was a proximate cause of Kari's death.

The plaintiffs also sued franchisor Baymont Franchise System Inc. (a subsidiary of Wyndham Hotel Group LLC, which was a subsidiary of Wyndham Worldwide Corp.) and Baymont affiliates Wyndham Worldwide Operations Inc. and Wyndham Hotel Management Inc., but those claims were dismissed on summary judgment. The case went to trial on the claims against OM Lodging and Brad Dunn only.

At the time of Kari's death, the Dunns had been separated for a few months. Brad Dunn was living with a friend in Longview, while Kari was living with her stepsister in Marshall. Brad rented a room on the morning of Dec. 1, 2013 in order to spend the weekend with his and Kari's three children. Later that morning, Kari was handing the children off to Brad at the hotel when he asked her to come to his room. They shut themselves into the bathroom to talk privately. He stabbed her while they were in the bathroom.

The family acknowledged that Brad's responsibility for the incident was greater than OM Lodging's. They also acknowledged that the hotel could not reasonably have prevented the attack. However, the family claimed that, at about 11 a.m., Kari had shouted from the bathroom for the children to call 911. The Dunns' 9-year-old daughter Brianna reportedly tried to make the call, but she did not know that she had to dial "9" for an outside line. She also sent her younger siblings for help. In the hallway, Kylie, age 4, and Zane, age 2, were allegedly seen by two employees, who did not speak English and were on housekeeping duty. Those employees, according to the plaintiffs, were parents of the general manager, who spoke English and was at the front desk. Brianna and Zane also tried to open their mother's car door in the parking lot.

The plaintiffs alleged that the housekeeping employees essentially ignored the children, including Brianna, who the plaintiffs claimed the employees later saw gesturing frantically for help. The plaintiffs also alleged that the general manager should have been watching the surveillance feed instead of surfing the Internet.

At 11:12 a.m., Brad came out of the bathroom, locked it behind him and drove away, taking Kylie with him. The plaintiffs alleged that he had blood on him.

No hotel employee called 911. A guest in a nearby room called 911 at about 11:17 a.m. Police and paramedics broke down the bathroom door at about 11:26 a.m. and found Kari dead.

The plaintiffs argued that employees should have called 911 when they saw young children unattended in the hallway and parking lot and gesturing for help. Had employees done so, the plaintiffs argued, paramedics would have arrived in time to treat Kari's injuries and save her life. Plaintiffs' counsel argued that the hotel had no plan to deal with guests' medical emergencies.

The plaintiffs' hotel expert testified that any training was not documented; the general manager and other employees were not competent; the employees did not take advantage of such training opportunities as Baymont offered; and the employees were not supervised properly.

Brad Dunn was pro se, was in prison and did not attend trial. His video deposition was played for the jury.

OM Lodging argued that Brad Dunn alone was responsible for the incident and the hotel employees acted reasonably. After seeing the children in the hall, the housekeepers allegedly used a pass key to enter the room twice, but the defense argued that they did not realize a medical emergency was occurring.

INJURIES/DAMAGES *abdomen; chest; death; exsanguination; laceration; larynx; neck; puncture wound; spleen, laceration*

Kari Dunn was stabbed at least 21 times in the throat, chest and abdomen. She suffered multiple lacerations to the spleen

and her jugular vein was damaged, as well. The knife was left in her throat, piercing her larynx.

Plaintiffs' counsel argued that Kari was conscious for 10 to 15 minutes or more after the attack began, but she died by the time help could reach her. She was survived by her three children and her father.

The plaintiffs' medical expert, a trauma surgeon, opined that Kari would have survived with timely treatment. Although the jugular vein was damaged, he said it was not bleeding out rapidly. He opined that Kari was still alive when Brad Dunn left the bathroom.

The estate sought damages for Kari Dunn's physical pain and mental anguish, as well as her disfigurement. Each of the four survivors sought past and future pecuniary loss, past and future loss of companionship and society, and past and future mental anguish. Plaintiffs' counsel argued for a total of about $60 million.

The defense expert, an emergency medicine specialist, said that, due to the stab wounds to the neck and chest and the severe lacerations to her spleen, Kari would not have survived if she had been treated. The expert opined that Kari was probably already dead when Brad left the bathroom.

RESULT The jury found negligence on the part of OM Lodging, including negligent hiring, training or supervision. The jury attributed 80 liability to Brad Dunn and 20 percent liability to OM Lodging. The jury awarded the plaintiffs $41,550,000. OM Lodging was liable for $8,310,000 (20 percent) of the award.

Under "Kari's law," signed in February 2018, hotel rooms generally must be equipped with phones from which persons can call 911 without having to dial 9 for an outside line.

OM Lodging had a $1 million primary policy and $5 million in excess coverage.

BRIANNA A. DUNN
$1,000,000 past loss of society companionship
$2,000,000 future loss of society companionship
$100,000 past loss of pecuniary contribution
$500,000 future loss of pecuniary contribution
$3,000,000 past mental anguish
$5,000,000 future mental anguish
$11,600,000

ESTATE OF KARI RENE HUNT DUNN
$1,000,000 physical pain and mental anguish
$1,000,000 disfigurement
$2,000,000

KYLIE J. DUNN
$1,000,000 past loss of society companionship
$2,000,000 future loss of society companionship
$100,000 past loss of pecuniary contribution
$500,000 future loss of pecuniary contribution
$3,000,000 past mental anguish
$5,000,000 future mental anguish
$11,600,000

ZANE A. DUNN
$1,000,000 past loss of society companionship
$2,000,000 future loss of society companionship
$100,000 past loss of pecuniary contribution
$500,000 future loss of pecuniary contribution
$3,000,000 past mental anguish
$5,000,000 future mental anguish
$11,600,000

HENRY "HANK" HUNT
$500,000 past loss of society companionship
$1,000,000 future loss of society companionship
$50,000 past loss of pecuniary contribution
$200,000 future loss of pecuniary contribution
$1,000,000 past mental anguish
$2,000,000 future mental anguish
$4,750,000

DEMAND $1,000,000 (from OM Lodging [Stowers demand])

OFFER $75,000 (by OM Lodging)

INSURER(S) **OneBeacon Insurance Group** for OM Lodging (primary insurer)

Allied World Insurance for OM Lodging (excess)

TRIAL DETAILS Trial Length: 4 days
Trial Deliberations: 8 hours
Jury Vote: 10-2

PLAINTIFF EXPERT(S) **Alan Tallis**, operations, Dallas, TX
John Weigelt, M.D., trauma, Milwaukee, WI

DEFENSE EXPERT(S) **Shane Jenks, M.D.**, emergency medicine, Houston, TX

POST-TRIAL The plaintiffs and OM Lodging settled for $2.4 million in a mediation conducted by JAMS on Aug. 10, 2018.

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' counsel and counsel of Baymont Franchise Systems, Wyndham Hotel Management, Wyndham Worldwide and Wyndham Worldwide Operations. OM Lodging's counsel did not respond to the reporter's phone calls, and Brad Dunn was not asked to contribute.

–John Schneider

MANUFACTURING

PRODUCTS LIABILITY

Design Defect — Products Liability — Marketing Defect — Products Liability — Failure to Warn — Products Liability — Industrial Machinery — Gross Negligence

Worker claimed plant's spark-detection system was defective

VERDICT **$33,129,391**

CASE	Ralph A. Figgs v. Georgia Pacific Wood Products South, LLC, Reliable Automatic Sprinkler Co., Inc., All State Fire Equipment of Texas, Inc., Tyco Fire Products, LP, GreCon, Inc., New York Blower Company, Aircon Corporation, Ansul Corporation and Mid-South Engineering Co., No. 2016-26100
COURT	Harris County District Court, 129th, TX
JUDGE	Michael Gomez
DATE	4/11/2018
PLAINTIFF ATTORNEY(S)	**Kyle Findley**, Arnold & Itkin LLP, Houston, TX **Adam Lewis**, Arnold & Itkin LLP, Houston, TX **Kala Sellers**, Arnold & Itkin LLP, Houston, TX
DEFENSE ATTORNEY(S)	**William Book** (co-lead), Tekell, Book, Allen & Morris LLP, Houston, TX (Aircon Corp.) **Terry Fitzgerald** (co-lead), Royston Rayzor, Houston, TX (GreCon Inc.) **Jennifer D. Aufricht**, Thompson, Coe, Cousins & Irons, L.L.P., Dallas, TX (GreCon Inc.) **James P. Davis**, Heard & Medack, P.C., Houston, TX (Aircon Corp.) **Joseph M. Heard**, Heard & Medack, P.C., Houston, TX (Aircon Corp.) **Sean R. Hicks**, Thompson, Coe, Cousins & Irons, L.L.P., Dallas, TX (GreCon Inc.)

FACTS & ALLEGATIONS On April 26, 2014, plaintiff Ralph A. Figgs, 62, a supervisor at a plywood mill in Corrigan, sustained severe burns in a massive, fiery explosion that killed two co-workers and injured several others.

The facility was owned by Figgs' employer, Georgia Pacific LLC, and it included a dust-collection system to collect and transport the combustible sawdust generated by the facility's plywood sander. The dust-collection system was designed and installed by Aircon Inc., and it included more than 400 feet of ductwork leading from the sander to a baghouse, a 25-foot-tall, outdoor silo-like structure for holding dust.

The dust-collection system included a spark-detection and spark-extinguishment system, an abort gate and a control center, all of which were designed by GreCon Inc., and the company was responsible for inspections twice a year. The spark-detection sensors and spark-extinguishment equipment were located more than 211 feet down the ductwork from the sander.

On April 26, a fire started at the sander and traveled down the ductwork. The fire reached and triggered the GreCon sensors and extinguishment equipment, which operated correctly, sending down curtains of water, but the fire was not extinguished. Sparks and fire continued toward the baghouse and past the abort gate, and some sparks reached the baghouse, causing the explosion. Figgs and others were standing near the baghouse at the time.

Global Asset Protection Services LLC was a loss-prevention consultant that had performed an audit of the facility.

Figgs sued GreCon, Aircon, Georgia Pacific and four of its subsidiaries, and 18 other companies. However, the only defendants still in the case at the time of trial were Aircon and GreCon.

Georgia Pacific settled for a confidential amount but remained on the verdict sheet for apportionment of liability.

Plaintiff's counsel argued that GreCon and Aircon alone were responsible for the incident. Plaintiff's counsel argued that GreCon and Aircon alone were responsible for the incident.

At trial, the claims against Aircon were negligence, gross negligence, marketing defect and design defect. The claims against GreCon were negligence, negligent undertaking, marketing defect and design defect. The design-defect claim against GreCon was based on the doctrine of substantial participation. The company allegedly substantially participated in the integration of its system into the design of the Aircon system.

Figgs' counsel contended that the dust-collection system was marketed as preventing and eliminating fires and completely isolating the baghouse from any fire source, but it failed to do so. Moreover, the defendants failed to warn Georgia Pacific and its employees of hazards associated with the system. In addition, the dust-collection system failed to meet numerous industry standards, including those set by the National Fire Protection Association.

Figgs' counsel did not claim that the GreCon components failed, but did argue that they were too near the baghouse to ensure total isolation, and the close proximity contributed to the explosion. GreCon should have suggested moving the sensors and extinguishment equipment during installation in 2004 or during subsequent service calls or inspections.

The defense counsel denied liability and contended that the incident resulted from Georgia Pacific's failure to train its employees in the hazards associated with the system and in emergency procedures for dealing with those hazards. GreCon's counsel also maintained that the dust-collection system, including the GreCon components, had been in place for almost 10 years and had worked as intended the entire time, including during this incident.

Counsel argued that the initial fire started because the sander, which had been experiencing plugging and suction issues in the ductwork for at least two days, was being run without suction. Georgia Pacific had failed to maintain the dust-collection system, including cleaning the ducts. The sander manufacturer had deemed the sander a fire hazard during servicing a year earlier, and Georgia Pacific failed to perform a complete overhaul of the sander as recommended by the manufacturer. The chemical fire-suppression system, which was not an Aircon or GreCon system, at the sander failed on the date of the incident; and Georgia Pacific was allowing employees to work in a dangerous area.

GreCon's counsel also contended that one reason its components did not extinguish the fire and sparks was that the dust-collection system's fan had been turned off, allowing the fire and sparks to settle in the ducts, rather than being drawn through the water curtains.

Counsel also argued that, before the incident, the dust-collection system had been inspected by many entities, including Global Asset Protection Services, OSHA and an engineering firm, none of which concluded that the sensors or extinguishment equipment were inappropriately positioned.

John Edmaiston, Aircon's corporate representative and designated expert on dust-collection systems, testified that GreCon was not expected to be involved in placement of the sensors and extinguishment equipment.

GreCon also argued that its service contract with Georgia Pacific did not call for GreCon to evaluate the dust-collection system design.

Stephan Zimmerman was GreCon's corporate representative and designated expert on spark-detection and -extinguishment systems.

INJURIES/DAMAGES *arm; back; brain damage; burns, second degree; burns, third degree; debridement; depression; hand; head; neuropsychological; post-traumatic stress disorder; skin graft*

Figgs was taken by air ambulance to a hospital. He had sustained second- and third-degree burns to his head, arms, back and hands. He also claimed brain damage, post-traumatic stress disorder and major depressive disorder.

Figgs underwent seven operations, one of which was a tendon release on his right hand. The other surgeries were skin grafts and debridements. He also treated with a neuropsychologist.

A home care nurse who scraped and cleaned his wounds on a daily basis testified about the burns and their treatment.

The treating plastic surgeon, burn specialist Dr. Daniel Freet, testified about Figgs' surgeries and the likely future treatment for his burns.

Another treating plastic surgeon, burn specialist Dr. Darrell Henderson, testified about Figgs' future care, as well as the brain damage caused by the heat that penetrated his skull.

Figgs' treating physiatrist testified about his diagnoses and treatment and the effects of PTSD.

A treating neuropsychologist testified about Figgs' future neurological symptoms, deficits and treatment.

Figgs sought $187,210.96 for past medical expenses; $4,830,000 for future medical expenses; $290,116 for past lost earning capacity; and $322,064 for future lost earning capacity. He also sought past and future physical pain, past and future mental anguish, past and future physical impairment and past and future disfigurement, as well as punitive damages. His attorneys asked for a little more than $30 million, not counting punitive damages.

The defense disputed Figgs' claim of brain injury. Counsel argued that he did not lose consciousness; that his score on the Glasgow coma scale was 15 on the night of the incident; and that an MRI and CT scan of the brain were negative for any injury. The defense also argued that Figgs was sent to the burn specialist Henderson, the physiatrist, the life-care planner and the neuropsychologist by his lawyers.

RESULT The jury found that Aircon was 51 percent liable, GreCon was 26 percent liable and Georgia Pacific was 23 percent liable. Figgs was awarded damages of $33,129,390.95.

On the issue of negligence, it found against GreCon and Georgia Pacific, but not Global Asset Protection Services.

On the issue of marketing defect, it found against Aircon and GreCon directly and against GreCon under the doctrine of substantial participation.

On this issue of design defect, it found against Aircon directly and against GreCon under the doctrine of substantial participation.

The jury did not find gross negligence.

RALPH A. FIGGS
$187,211 past medical cost
$4,830,000 future medical cost
$2,000,000 past physical impairment
$5,000,000 future physical impairment
$2,000,000 past disfigurement
$1,500,000 future disfigurement
$5,000,000 future mental anguish
$6,000,000 past physical pain
$290,116 past lost earning capacity
$3,000,000 future physical pain
$322,064 future lost earning capacity
$3,000,000 past mental anguish
$33,129,391

DEMAND None reported
OFFER $1,000,000 (from Aircon)

TRIAL DETAILS
Trial Length: 13 days
Trial Deliberations: 9 hours
Jury Vote: 11-1

PLAINTIFF EXPERT(S)
Daniel Freet, M.D., burn medicine, Houston, TX (treating surgeon)
Patrick M. Hayes, M.D., physical medicine, Houston, TX (treater)
Darrell L. Henderson, M.D., burn medicine, Lafayette, LA (treater)
Kenneth G. McCoin, Ph.D., economics, Houston, TX
Gregg McCormick, P.E., engineering, Kingwood, TX
Larry Pollock, Ph.D., neuropsychology, Houston, TX (treater)
Shelly N. Savant, M.D., life care planning, New Iberia, LA

DEFENSE EXPERT(S)
John Edmaiston, safety systems, Memphis, TN
Albert Moussa, Ph.D., P.E., engineering, Woburn, WA
Stephan Zimmerman, fire suppression systems, Tigard, OR

EDITOR'S NOTE This report is based on information that was provided by plaintiff's counsel and GreCon's counsel. Aircon's counsel did not respond to the reporter's phone calls, and the remaining defendants' counsel was not asked to contribute.

–John Schneider

MANUFACTURING

PRODUCTS LIABILITY

Design Defect — Products Liability — Industrial Machinery — Worker/Workplace Negligence — Negligent Assembly or Installation — Wrongful Death

Defective crushing machine caused death, family claimed

VERDICT **$30,000,000**

CASE Johnny Anaya, Ezekiel Anaya, and Delila Anaya, By and Through Their Guardian Ad Litem Eliza Perez v. Superior Industries Inc. dba Superior Industries Conveyors Inc.; General Equipment & Supplies Inc.; Tri-State Aggregate Machinery; Parsell & Getters LP; Terex Corporation; Terex USA LLC; David Esparza dba David Esparza Safety Consultants; and Does 1-100, No. BC594187
COURT Superior Court of Los Angeles County, Los Angeles, CA
JUDGE Michelle Williams Court

DATE 3/19/2018

PLAINTIFF ATTORNEY(S) **Don Liddy** (lead), Liddy Law Firm, Pasadena, CA
Paula J. Khehra, Liddy Law Firm, Pasadena, CA
David R. Shoop, Shoop | A Professional Law Corporation, Beverly Hills, CA

DEFENSE ATTORNEY(S) **John A. Kaniewski** (lead), WFBM, LLP, Orange, CA (General Equipment & Supplies Inc.)
Sadaf A. Nejat, WFBM, LLP, Orange, CA (General Equipment & Supplies Inc.)
None reported, San Diego, CA (Superior Industries Inc., David Esparza, Cedarapids Inc., Fab Tec Inc., Parsell & Getters LP, Terex Corp., Terex USA LLC)

FACTS & ALLEGATIONS On Oct. 7, 2013, plaintiffs' decedent Rolando Anaya, 34, a maintenance worker and groundskeeper at R.J. Noble Co.'s materials recycling plant, in Corona, was cleaning up debris near a rock-crushing machine when he became entangled in the conveyor belt and was pulled into it. Anaya was subsequently crushed to death inside the machine.

The decedent's partner, Eliza Perez, acting as guardian ad litem for the decedent's three minor children, Johnny Anaya, Ezekiel Anaya and Delila Anaya, sued the company that manufactured the conveyor belt, Superior Industries Inc. (which was doing business as Superior Industries Conveyors Inc.); the company that designed, sold and assembled the rock-crushing machine, General Equipment & Supplies Inc. (which was doing business as Tri-State Aggregate Machinery); the company that manufactured the safety guards that were included with the machine, Fab Tec Inc.; and several other companies. The Anaya family alleged that the defendants defectively designed the machine, its safety guards and other machinery components.

Fab Tec settled out of the case, and several other defendants were let out of the case prior to trial. The matter continued against General Equipment only.

Plaintiffs' counsel contended that General Equipment defectively designed the rock-crushing machine to use removable safety guards, which it provided, with no interlock or adequate emergency stop device.

The plaintiffs' civil engineering expert opined that if the safety guards were removed, then there should have been an interlock device or an emergency stop installed.

General Equipment's counsel contended that the safety guards were removed by the decedent's employer, R.J. Noble, and that R.J. Noble should have never allowed the machine to operate without the provided safety guards. Thus, R.J. Noble was included on the verdict sheet (not as a defendant), but since it was the decedent's employer, the only remedy available to the plaintiffs was workers' compensation. Defense counsel further argued that the decedent was negligent for working near the machine without a safety guard.

General Equipment's counsel argued that the subject machine was safe, if it was used with the safety guards provided, and that when it delivered the machine, General Equipment provided an emergency stop in the control room, which was the primary physical guard.

The defense's civil engineering expert opined that a secondary stop was unnecessary, as an emergency stop was already provided. (Defense counsel noted that Judge Michelle Court did not allow the defense's civil engineering expert to opine about The American Society of Mechanical Engineers' standard for conveyor belts and found it inadmissible at trial.)

INJURIES/DAMAGES *crush injury; death*

Rolando Anaya, 34, sustained multiple traumatic crushing injuries and subsequently died at the scene. He was survived by his sons, Johnny (then age 17) and Ezekiel (then age 11), and his daughter, Delila (then age 14).

The decedent's children claimed they lived with their mother, Eliza Perez, who was the decedent's partner and not married to him, but that they loved their father very much. Thus, they sought recovery of wrongful death damages for the loss of their father's love, compassion and guidance.

General Equipment's counsel claimed that the decedent did not live in the same state as his children and that the decedent only saw his family a few weeks per year and was absent from their lives for a number of years.

RESULT The jury found that the machine failed the risk-benefit test and that the design of the machine was a substantial factor in causing harm to the decedent. It also found that the decedent was not negligent, but that his employer, R.J. Noble, was negligent and that R.J. Noble's negligence was a substantial factor in causing harm to the decedent. The jury apportioned 70 percent liability to General Equipment and 30 percent liability to R.J. Noble. It also determined that the damages sustained by the decedent's children totaled $30 million, which included $10 million for each child.

DELILA ANAYA $5,000,000 past loss of society companionship
$5,000,000 future loss of society companionship
$10,000,000

EZEKIEL ANAYA $5,000,000 past loss of society companionship
$5,000,000 future loss of society companionship
$10,000,000

JOHNNY ANAYA $5,000,000 past loss of society companionship
$5,000,000 future loss of society companionship
$10,000,000

DEMAND $5,000,000 (from General Equipment & Supplies; (C.C.P. § 998)

OFFER $250,000 (by General Equipment & Supplies; C.C.P. § 998)

INSURER(S) **Sentry Insurance** for General Equipment & Supplies

TRIAL DETAILS Trial Length: 7 days
Trial Deliberations: 1.5 days
Jury Vote: 12-0 (liability); 11-1 (damages)

PLAINTIFF EXPERT(S) **Peter Petrovsky, P.E.**, civil, Agoura, CA

DEFENSE EXPERT(S) **Roman R. Beyer, P.E.**, civil, Los Altos, CA

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' counsel and General Equipment & Supplies' counsel. The remaining defendants' counsel were not asked to contribute.

–Priya Idiculla

MOTOR VEHICLE

Rear-ender — Motor Vehicle — Negligent Entrustment — Worker/Workplace Negligence — Negligent Training — Motor Vehicle — Multiple Vehicle

Plaintiff claimed auto accident caused permanent spinal woes

VERDICT **$27,410,000**

ACTUAL **$20,000,000**

CASE Hershell Allen Wingfield v. AT&T Corp., Multiband Field Services, Incorporated and Shane W. Wood, No. 16-00552

COURT Upshur County District Court, 115th, TX

JUDGE Lauren L. Parish

DATE 10/11/2018

PLAINTIFF ATTORNEY(S) **Brent Goudarzi**, Goudarzi & Young, LLP, Gilmer, TX
Marty Young, Goudarzi & Young, LLP, Gilmer, TX

DEFENSE ATTORNEY(S) **David L. Merkley** (lead), Germer PLLC, Houston, TX (Multiband Field Services Inc., Shane W. Wood)
Jessica Z. Barger, Wright Close & Barger, Houston, TX (Multiband Field Services Inc., Shane W. Wood)
Curtis Fenley, Fenley & Bate, Lufkin, TX (Multiband Field Services Inc., Shane W. Wood)
Sarah C. Jones, Germer PLLC, Houston, TX (Multiband Field Services Inc., Shane W. Wood)
None reported (AT&T Corp.)

FACTS & ALLEGATIONS On March 4, 2016, plaintiff Hershell Allen Wingfield, 54, a construction worker, was driving a pickup truck west on State Highway 154, in Upshur County. He stopped to make a left turn, and Shane W. Wood rear-ended him in a van. Wingfield claimed neck, knee and back injuries.

Wingfield sued Wood; Wood's employer, Multiband Field Services Inc, a satellite provider; and AT&T Corp., a company that was allegedly contracting with Multiband. Wingfield alleged that Wood was negligent in the operation of his vehicle. Wingfield further alleged that Multiband and AT&T were vicariously liable for Wood's actions on the grounds of negligent entrustment and negligent training.

AT&T was nonsuited before trial.

An investigating police officer found Wood to be at fault for the accident, but Wood testified that he did not believe he failed to exercise ordinary care in operating his vehicle. He testified that he was behind a box truck, which blocked his view of Wingfield's truck. He claimed that, after having picked up his soft drink out of a cup holder, he looked back up and discovered that the box truck had swerved out of his lane and he then saw Wingfield's truck stopped in front of him. Wood swerved but hit Wingfield at about 65 mph.

The defense also argued that the training Wood received was extensive and more than sufficient. The defense also noted that Wood had no prior accidents or prior moving violations.

In its closing argument, the defense admitted that Wood was negligent and that his negligence was a proximate cause of the accident.

INJURIES/DAMAGES *disc protrusion, cervical; disc protrusion, lumbar; disc protrusion, thoracic; epidural injections; fusion, cervical; fusion, cervical, two-level; fusion, lumbar; headaches; rhizotomy*

Wingfield testified that he was shaken up at the scene and therefore did not request medical attention. Later that evening, he went to the emergency room and complained of pain in his neck, head and knees. Knee X-rays and a cervical CT scan showed degenerative changes and spurring. He was released that night. His knee pain resolved soon after.

Wingfield followed up with his family doctor about a week later and complained of head, neck, mid-back and lower back pain.

About a month after the accident, Wingfield's family doctor referred him for MRIs and a surgical consultation. The MRIs showed cervical, thoracic and lumbar disc protrusions, and the surgeon suggested conservative pain management.

In June 2016, Wingfield underwent two thoracic epidural steroid injections.

In August 2016, Wingfield underwent a fusion from C5 to C7. His head and neck pain improved thereafter.

In November 2016, Wingfield underwent a thoracic neurotomy.

In February 2017, Wingfield underwent fusion of his spine's L4-5 level. The lumbar pain improved.

In October 2017, a thoracic spinal cord stimulator was implanted. The stimulator required multiple surgical adjustments, including one that was about a week before trial.

Wingfield's family doctor, as well as the doctor who performed the fusions and the doctor who implanted the stimulator, testified that Wingfield would require additional thoracic surgeries throughout his life because disc replacements and fusions would not work in this area. They testified that Wingfield would also experience continuous pain and discomfort in the areas of his fusions. Wingfield testified that his thoracic pain was eight out of 10, even with the stimulator.

Wingfield also testified that he was unable to return to work.

Wingfield sought $698,394.73 for past medical bills; $543,840 for future medical bills; $38,095.62 to $75,076.39 for past loss of earning capacity; $93,217.01 to $180,192.37 for future loss of earning capacity; $4 million to $6 million for past physical pain; $7 million to $13 million for future physical pain; $2 million to $4 million for past mental anguish; $8 million to $12 million for future mental anguish; $4 million to $6 million for past physical impairment; $7 million to $13 million for future physical impairment; $25,000 for past disfigurement; and $50,000 for future disfigurement, for a total award of $33,448,547 to $55,572,503.

The defendants conceded the economic damages.

The defense's medical expert, a neurosurgeon, testified that the fusions were performed sooner than he would have performed them, but he did not say that any of the treating doctors did not meet the standard of care.

Defense counsel suggested that the jury award $698,394.73 for past medical bills; $543,840 for future medical bills; $75,076.39 for past loss of earning capacity; and $180,192.37 for future loss of earning capacity. For noneconomic damages, defense counsel suggested an award of $500,000 for past physical pain; $1.5 million for future physical pain; $250,000 for past mental anguish; $500,000 for

future mental anguish; $750,000 for past physical impairment; $2.25 million for future physical impairment; and zero for disfigurement, for a total award of $7,322,503.

RESULT The jury found negligence and comparative responsibility of 70 percent on Wood and 30 percent on Multiband. The jury awarded Wingfield $27,610,000.

HERSHELL ALLEN

WINGFIELD

$700,000 past medical cost
$900,000 future medical cost
$3,000,000 past physical impairment
$10,000,000 future physical impairment
$25,000 past disfigurement
$50,000 future disfigurement
$5,500,000 future physical pain
$75,000 past loss of earning capacity
$1,000,000 past mental anguish
$360,000 future loss of earning capacity
$4,000,000 future mental anguish
$2,000,000 past physical pain
$27,610,000

DEMAND $21,000,000 (total, from Multiband and Wood)

OFFER $11,000,000 (total, by Multiband and Wood)

INSURER(S) **American International Group Inc.** for Multiband and Wood (primary insurer)

CNA for Multiband and Wood (excess)

Navigators Group Inc. for Multiband and Wood (excess)

TRIAL DETAILS Trial Length: 4 days
Trial Deliberations: 5 hours
Jury Vote: 12-0

PLAINTIFF EXPERT(S)

Aaron Calodney, M.D., pain management, Tyler, TX (treating doctor)

Charles Gordon, M.D., neurosurgery, Tyler, TX (treating doctor)

Rucker S. Murry, M.D., family medicine, Gilmer, TX (treating doctor)

John M. Trapani, Ph.D., economics, New Orleans, LA

DEFENSE EXPERT(S)

David S. Baskin, M.D., neurosurgery, Houston, TX (testified via videotape)

Robert Cox, vocational rehabilitation, Corpus Christi, TX (video deposition; called adversely by plaintiff)

James Yeager, Ph.D., economics, Missouri City, TX (adverse witness; testified via videotape)

POST-TRIAL The case settled post-trial for $20 million.

EDITOR'S NOTE This report is based on information that was provided by plaintiff's and defense counsel.

–John Schneider

HOSPITALITY

WORKER/WORKPLACE NEGLIGENCE

Negligent Service of Alcohol — Motor Vehicle — Alcohol Involvement — Motor Vehicle — Red Light — Motor Vehicle — Speeding — Motor Vehicle — Broadside — Motor Vehicle — Intersection — Motor Vehicle — Rollover — Motor Vehicle — Multiple Vehicle — Motor Vehicle — Passenger — Hotel/Restaurant — Dram Shop — Wrongful Death — Survival Damages

Illegal service of alcohol led to fatal car crash, per lawsuit

VERDICT **$27,091,054**

CASE Tom Sitton, the Estate of Pamela Sitton, Deceased, Tom Sitton on Behalf of Christian Sitton, and Julie Pugh v. Ceeda Enterprises, Inc. d/b/a Riley's Show Bar, John Doe 1, John Doe 2, John Doe 3 and Corporations X, Y, Z, No. 16EV004325

COURT Fulton County, State Court, GA

JUDGE Wesley B. Tailor

DATE 7/17/2018

PLAINTIFF ATTORNEY(S)

W. Pitts Carr (lead), Carr & Weatherby LLP, Atlanta, GA (Christian Sitton, Estate of Pamela Sitton, Tom Sitton)

W. Winston Briggs, W. Winston Briggs Law Firm, Atlanta, GA (Julie Pugh)

Alex D. Weatherby, Carr & Weatherby LLP, Atlanta, GA (Christian Sitton, Estate of Pamela Sitton, Tom Sitton)

DEFENSE ATTORNEY(S) **James N. Cline,** James N. Cline, P.C., Roswell, GA

FACTS & ALLEGATIONS On March 28, 2016, plaintiffs' decedent Pamela Sitton, 51, a homemaker, was driving westbound on Discovery Boulevard, in Cobb County. Her passengers included her mother, plaintiff Julie Pugh, a part-time accounting employee in her 70s, and Sitton's son, plaintiff Christian Sitton, 14. Upon entering the intersection with Mableton Parkway, their vehicle was broadsided by another vehicle. The Sitton vehicle overturned at least twice and hit another vehicle that was stopped at a red light at the intersection. Pamela Sitton died at the scene. Christian Sitton claimed a finger injury. Pugh claimed severe injuries to her head and internal organs, including her colon.

Tom Sitton, both individually and on behalf of his son Christian, Pugh and the estate of Pamela Sitton, sued Ceeda Enterprises, Inc. d/b/a Riley's Show Bar, pursuant to the Georgia Dram Shop Act. According to the complaint, the other driver involved in the crash was a 20-year-old female who was speeding and ran a red light at the intersection. The other driver was later arrested and charged with homicide by vehicle, serious injury by vehicle, driving under the influence of alcohol and possession of cocaine. Her criminal case was still pending at the time of this civil trial.

Earlier in the evening on the date of the crash, according to the plaintiffs, the 20-year-old driver had been at Riley's Show Bar, a bar and adult entertainment club in Atlanta. The plaintiffs' alleged that Riley's failed to check the 20-year-old's ID and allowed her to drink underage. The plaintiffs further pointed to a video the young woman posted on Facebook on the night of the accident that reportedly showed the female looking visibly intoxicated, yet continuing to receive drinks at Riley's.

The defense failed to file a response to the initial lawsuit within 30 days. Plaintiffs' counsel thus filed a motion for default judgment. Defense counsel responded with a motion to open the default judgment, arguing that he had attempted to e-file his answer within the 30-day deadline, but unintentionally saved the response as a draft rather than submit it to the court website. He alleged he was unaware of this mistake until he received the motion for default judgment several weeks later.

The motion to open the default judgment was denied and the plaintiffs' motion for default judgment was granted on liability. The case proceeded to a damages-only trial.

INJURIES/DAMAGES *abdomen; arm; colon; death; emotional distress; fracture; fracture, C5; fracture, C6; fracture, finger; fracture, neck; fusion, cervical; head; heart; laceration; physical therapy; swelling*

Pamela Sitton suffered broken bones, a severe head injury and a nearly severed arm. She died at the scene. She was survived by her husband and two children.

Pamela Sitton's estate sought damages for funeral expenses and Pamela Sitton's pain and suffering prior to her death.

Christian Sitton was placed in an ambulance and transported to Grady Memorial Hospital. He was diagnosed with a fractured pinky finger on his left hand. He was admitted to the hospital and had his finger taped.

Christian Sitton had some follow-up treatment, but made a good recovery. However, he and his family said the trauma of seeing his mother die in front of him caused him severe emotional distress. Christian and the family said it was still hard for the teen to talk about what had happened. He also missed a few days of school following the collision.

Tom Sitton sought damages for the value of Pamela Sitton's life, along with damages for Christian's physical and emotional injuries.

Pugh was placed in an ambulance and transported to Grady Memorial Hospital. She suffered fractures to the C5 and C6 vertebrae in her neck. She also had severe trauma and major injuries to her head and internal organs, particularly her colon. Her heart also swelled due to the accumulation of fluid.

Pugh remained hospitalized for six weeks after the crash. During that time, she underwent multiple surgeries. One procedure repaired a laceration to her head. Another removed and replaced the broken vertebrae and fused them together. Pugh also required multiple surgeries to cut out and re-attach parts of her colon.

After leaving the hospital, Pugh was sent to an inpatient rehab center for several weeks before being discharged. She then required several more weeks of rehab in her home. During her treatment, she underwent physical therapy and had to re-learn how to walk and talk.

Pugh recovered well from her injuries, but still has some intestinal issues as a result of the crash. She also said she had to quit her part-time job due to the accident.

Pugh sought general damages for her injuries.

The defense did not present any witnesses during the trial. Defense counsel just asked the jury to be fair with its damages award.

RESULT The jury awarded for $3,007,379.90 to Pamela Sitton's estate, $14 million to Tom Sitton for the value of his wife's life, $2 million to Christian Sitton and $8,083,674 to Pugh, for a total of $27,091,053.90.

JULIE PUGH	$8,083,674 total damages $8,083,674
CHRISTIAN SITTON	$2,000,000 total damages $2,000,000
ESTATE OF PAMELA SITTON	$3,007,380 funeral expenses and pain and suffering of Pamela Sitton $3,007,380
TOM SITTON	$14,000,000 value of the life of Pamela Sitton $14,000,000
TRIAL DETAILS	Trial Length: 2 days Trial Deliberations: 1.25 hours Jury Vote: 12-0
PLAINTIFF EXPERT(S)	None reported
DEFENSE EXPERT(S)	None reported

EDITOR'S NOTE This report is based on information that was provided by counsel for Tom Sitton and the estate of Pamela Sitton. Additional information was gleaned from court documents. Defense counsel for Ceeda Enterprises and counsel for Julie Pugh did not respond to the reporter's phone calls.

–Melissa Siegel

HOSPITALITY

MOTOR VEHICLE

Passenger — Motor Vehicle — Speeding — Motor Vehicle — Alcohol Involvement — Worker/Workplace Negligence — Negligent Service of Alcohol — Motor Vehicle — Rollover — Motor Vehicle — Single Vehicle — Gross Negligence — Wrongful Death — Survival Damages

Athlete died in wreck after driver was allegedly overserved

VERDICT	**$25,000,000**
ACTUAL	**$24,000,000**
CASE	Stacy M. Jackson, individually, and as the administratrix for the Estate of Jerry Jerome Brown, Jr. v. Beamers Private Club d/b/a "Beamers"; Privae Lounge; CBF Corporation; CBF Management Corporation; and Schahrouz Ferdows/Estate Of Jerry J. Brown, Jr., And Jerry J. Brown, Sr. v. Beamers Private Club, d/b/a Privae Lounge, Bavarian Management, LLC, And ADRCC, LLC, And Sharouz Ferdows, No. DC-13-12937; DC-13-13245
COURT	Dallas County District Court, 191st, TX
JUDGE	Gena Slaughter
DATE	12/13/2018
PLAINTIFF ATTORNEY(S)	**Charla G. Aldous**, Aldous \ Walker LLP, Dallas, TX (Stacy M. Jackson) **Joshua J. Bennett**, Carter Arnett PLLC, Dallas, TX (Estate of Jerry Jerome Brown Jr.) **Brent R. Walker**, Aldous \ Walker LLP, Dallas, TX (Stacy M. Jackson) **None reported**, Carter Arnett, PLLC (Jerry Jerome Brown Sr.)

DEFENSE ATTORNEY(S)

Spencer G. Markle (lead), Markle ¿ DeLaCruz, LLP, Houston, TX (Beamers Private Club)
Carlos R. Cortez, Cortez Law Firm, P.L.L.C., Dallas, TX (Bavarian Management LLC)
Delia C. Rivera, Markle DeLaCruz LLP, Houston, TX (Beamers Private Club)
None reported (CBF Corp., CBF Management Corp., Daryush Dario Ferdows, Joshua Price-Brent, Privae Lounge, Schahrouz Ferdows)

FACTS & ALLEGATIONS Shortly after midnight on Dec. 8, 2012, plaintiffs' decedent Jerry Jerome Brown Jr., a football player in his 20s and a recent addition to the Dallas Cowboys' practice squad, went with a group of people, including his roommate and longtime best friend, starting defensive tackle Joshua Price-Brent, to Beamers Private Club, a nightclub in Dallas. After staying there a little less than an hour, Price-Brent and Brown left Beamers in a sedan, with Price-Brent driving.

A few minutes later, they were traveling west at a high speed on State Highway 114, in Irving. Price-Brent lost control of the vehicle. The car rolled over and caught fire, and Brown sustained fatal injuries. A blood test showed Price-Brent's blood alcohol concentration to be 0.189, more than twice the legal limit. He was charged with driving while intoxicated and sentenced to six months in jail and 10 years' probation.

Brown's mother, Stacy Jackson, acting individually and as administrator of Brown's estate, sued the club's operator, Beamers Private Club; the club's manager, Bavarian Management LLC; a private room in Beamers where Prent-Brice had been served, Privae Lounge; a party who was believed to be one of the club's owners, Schahrouz Ferdows; two entities that were believed to be managers of the club, CBF Corp. and CBF Management Corp; and Price-Brent. The lawsuit alleged that the club's staff was negligent in its service of alcohol to Price-Brent. It further alleged that Price-Brent was negligent in the operation of his vehicle.

Privae Lounge, Ferdows, CBF Corp. and CBF Management Corp. were dismissed. The matter proceeded to a trial against the remaining defendants. Beamers Private Club and Bavarian Management were not insured and filed for bankruptcy after the lawsuit had commenced.

Brown's father, Jerry Jerome Brown Sr., also filed his own lawsuit into which the mother's suit was consolidated. The father subsequently nonsuited his claims.

Plaintiffs' counsel argued that the bar's written policies and procedures about serving alcohol were not followed. The bar offered "bottle service," which consists of selling bottles of alcohol and allowing patrons to serve themselves. Plaintiffs' counsel argued that, in dong so, Beamers and Bavarian failed to monitor how much Price-Brent was drinking and allowed him keep drinking even after he was obviously intoxicated. Plaintiffs' counsel claimed that cell-phone videos showed Price-Brent drinking straight from a bottle, as well as pumping two empty bottles in the air. The plaintiffs' toxicology expert opined that Price-Brent would have had to drink 17 drinks to have a blood alcohol concentration of 0.189.

Plaintiffs' counsel suggested the jury find Beamers and Bavarian 85 percent responsible and Price-Brent 15 percent responsible for Brown's injuries and death.

Beamers and Bavarian denied that Price-Brent was obviously intoxicated. Their attorneys further argued that Brown did not know that Price-Brent was drunk; if Brown had known, then he would not have gotten in the car with Price-Brent or let him drive at all, they contended.

Alternatively, Beamers' and Bavarian's counsel argued that, if Price-Brent was obviously drunk, then Brown was negligent for getting in the car with him. Brown was also negligent for not wearing a seat belt, they argued.

Beamers' and Bavarian's counsel argued that Price-Brent had no more than three drinks at Beamers. They alleged that Price-Brent and Brown had gone out to dinner at 9:30 p.m., where Price-Brent had the equivalent of at least six drinks at dinner, and then went to his apartment for an hour before going to Beamers, where he continued drinking before going to the bar. Beamers and Bavarian therefore contended that although Price-Brent drank enough that night to have a .189 blood alcohol concentration, he was not obviously intoxicated at the club, and most of his drinks were not consumed at Beamers. Beamers and Bavarian also noted that they were not cited for overserving.

Price-Brent testified that he did not drink at the apartment. He further testified that he believed that he ordered three bottles of champagne and one bottle of Hennessy cognac at Beamers, but not admit drinking straight from a bottle. He testified that the person in the videos may not be him and that, if it was, the bottle may have been contained water.

Beamers' counsel suggested the jury put 95 percent responsibility on Price-Brent and 5 percent on Brown.

Bavarian's counsel suggested that the jury find Price-Brent alone negligent.

The defense argued unsuccessfully that the jury charge should not include gross negligence and punitive damages claims.

INJURIES/DAMAGES *death; fracture, neck; fracture, vertebra*

Brown sustained multiple blunt force trauma and a broken neck and was extracted from the vehicle by Price-Brent. Brown died, and he was survived by his mother and father. He and his father were not close; Brown's mother lived out-of-state and had one other child, a son.

The plaintiffs claimed that Brown was alive and conscious until he was transported to the hospital.

The estate sought damages for Brown's pain and mental anguish. His mother sought damages for past and future mental anguish and past and future loss of companionship and society.

Plaintiffs' counsel asked the jury to award $10 million to $20 million in actual damages and $75 million in punitive damages.

Beamers and Bavarian argued that Brown died at the scene. A photo showed him face-down on the ground with no one around him, and defense counsel argued that, if he were alive at the time of the photo, someone would have been attending to him.

Beamers and Bavarian also argued that the amounts the plaintiffs were seeking were excessive.

RESULT The jury found negligence and comparative responsibility of 48 percent on Beamers and Bavarian, 48 percent on Price-Brent and 4 percent on Brown. The jury did not find gross negligence. The plaintiffs were awarded $25,000,000.

Brown's comparative responsibility reduced the damages to $24,000,000.

ESTATE OF JERRY JEROME BROWN JR.	$10,000,000 pain and mental anguish $10,000,000
STACY M. JACKSON	$2,500,000 past loss of society companionship $2,500,000 future loss of society companionship $5,000,000 past mental anguish $5,000,000 future mental anguish $15,000,000

TRIAL DETAILS Trial Length: 6 days
Trial Deliberations: 5 hours
Jury Vote: 11-1

PLAINTIFF EXPERT(S) **Sarah Kerrigan, Ph.D.**, toxicology, Houston, TX
Mark Willingham, Ph.D., dram shop, Jacksonville, FL

DEFENSE EXPERT(S) None reported

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' and defense counsel.

–John Schneider

SERVICES

MOTOR VEHICLE

Right Turn — Motor Vehicle — Bicycle — Wrongful Death — Affirmative Defenses — Contributory Negligence

Trucker's hasty turn caused fatal accident, lawsuit alleged

VERDICT **$25,000,000**

ACTUAL **$20,000,000**

CASE Pat Dougherty and Anita Forester, as Co-Personal Representatives of the Estate of Abigail Dougherty v. WCA of Florida, LLC, No. 01 2017 CA 001288

COURT Alachua County Circuit Court, 8th, FL

JUDGE Monica Brasington

DATE 10/5/2018

PLAINTIFF ATTORNEY(S) **W. Cort Frohlich** (lead), Frohlich, Gordon & Beason, P.A., Port Charlotte, FL
Brian M. Beason, Frohlich, Gordon & Beason, P.A., Port Charlotte, FL
Christopher E. Frohlich, Frohlich, Gordon & Beason, P.A., Port Charlotte, FL
C. Richard Newsome, Newsome Melton, P.A., Orlando, FL

DEFENSE ATTORNEY(S) **Todd R. Ehrenreich** (lead), Lewis Brisbois Bisgaard & Smith LLP, Coral Gables, FL
Noel Johnson, Lewis Brisbois Bisgaard & Smith LLP, Coral Gables, FL
David Luck, Lewis Brisbois Bisgaard & Smith LLP, Coral Gables, FL

FACTS & ALLEGATIONS On Oct. 28, 2016, plaintiffs' decedent Abigail Dougherty, 20, a student, was bicycling southbound on NW 17th Street in Gainesville. While in the crosswalk of the intersection with West University Avenue, she was struck by a garbage truck that was executing a right turn onto that avenue. The truck was owned by WCA of Florida, LLC, and an employee of that company was driving the truck at the time of the crash. Dougherty was killed in the accident.

Dougherty's parents Pat Dougherty and Anita Forester, serving as co-representatives of their daughter's estate, sued WCA of Florida. They alleged that the garbage truck driver was negligent in the operation of his vehicle, that his negligence caused Abigail Dougherty's death, and that WCA of Florida was vicariously liable for the truck driver's actions.

Plaintiffs' counsel argued that Abigail Dougherty was veering to the right at the time of the crash, to get from the 17th Street bike lane to the crosswalk. Counsel alleged that the truck driver failed to yield, failed to check his mirrors, failed to use his turn signal and failed to slow down as he executed his turn. The estate's accident reconstructionist opined that the impact caused the bike to lean to the left before Dougherty was run over.

The defense maintained that Abigail Dougherty was fully liable for the crash. The defense alleged that the deceased was executing a right turn at the intersection and then suddenly made a left in front of the garbage truck. The defense also retained an expert accident reconstructionist who stated that the truck driver's right turn signal was on at the time of the crash.

The defense further argued that tests showed Dougherty had both alcohol and cocaine in her system at the time of the crash. The defense thus invoked Statute 768.36 and alleged that the deceased was impaired prior to the accident. According to the statute, a plaintiff may not recover any damages if she was impaired by drugs or alcohol at the time of her injury and was more than 50 percent at fault for her own harm.

Plaintiffs' counsel admitted that Dougherty consumed alcohol and cocaine the night before the crash. But the estate's toxicology expert stated that at the time of the accident, Dougherty was not impaired because the cocaine and alcohol in her body had already metabolized.

INJURIES/DAMAGES *death* Abigail Dougherty was run over by the truck and sustained blunt force trauma injuries. She died at the scene.

Dougherty's parents each sought recovery of damages for their past and future pain and suffering. Their counsel asked the jury to award each parent $15 million for a total award of $30 million.

In closing, the defense argued that the parents' recovery should be limited to approximately $1 million each.

RESULT The jury found that WCA was 80 percent liable for Abigail Dougherty's death, while Dougherty herself was 20 percent liable. The jury further found that Dougherty was not impaired by drugs or alcohol at the time of her death.

The jury awarded Dougherty's parents a total of $25 million. The comparative-negligence reduction produced a net recovery of $20 million.

ESTATE OF ABIGAIL DOUGHERTY $12,500,000 past and future pain and suffering (Pat Dougherty)
$12,500,000 future pain and suffering (Anita Dougherty)
$25,000,000

INSURER(S) **American International Group Inc.**

TRIAL DETAILS Trial Length: 5 days
Trial Deliberations: 4.5 hours
Jury Vote: 6-0
Jury Composition: 3 male, 3 female

PLAINTIFF EXPERT(S) **G. Bryant Buchner, P.E.**, accident reconstruction, Tallahassee, FL
William R. Sawyer, Ph.D.,

medical toxicology, Sanibel, FL

DEFENSE EXPERT(S) **Timothy Joganich, M.S.E.S., C.H.F.P.**, accident reconstruction, Penns Park, PA

EDITOR'S NOTE This report is based on information that was provided by plaintiff's and defense counsel. Additional information was gleaned from court documents.

–Melissa Siegel

INDIVIDUAL

MOTOR VEHICLE

Left Turn — Motor Vehicle — Work Zone — Motor Vehicle — Intersection — Motor Vehicle — Multiple Vehicle — Worker/Workplace Negligence

Plaintiffs: Collision resulted in multiple injuries, truck damage

MIXED VERDICT **$22,035,732**

CASE Jonathan Sullivan, Jr. and Leonard Sweaney v. Enbridge Pipelines (North Texas) L.P. and Tommy Doyle Lewis, No. 15-00536

COURT Upshur County District Court, 115th, TX

JUDGE Lauren Parish

DATE 11/30/2018

PLAINTIFF ATTORNEY(S) **Brent Goudarzi**, Goudarzi & Young, LLP, Gilmer, TX
Marty Young, Goudarzi & Young, LLP, Gilmer, TX

DEFENSE ATTORNEY(S) **H. Dwayne Newton** (lead), Newton, Jones & Spaeth, Houston, TX (Enbridge Pipelines (North Texas) L.P., Tommy Doyle Lewis)
Jessica Z. Barger, Wright Close & Barger, Houston, TX (Enbridge Pipelines (North Texas) L.P., Tommy Doyle Lewis)
Jerald L. Butler, Law Office of James A. Lawrence, Irving, TX (Panola Sign & Barricade Inc.)
Steven W. Comte, Starr Schoenbrun & Comte PLLC, Tyler, TX (Enbridge Pipelines (North Texas) L.P., Tommy Doyle Lewis)
Anthony E. Spaeth, Newton, Jones & Spaeth, Houston, TX (Enbridge Pipelines (North Texas) L.P., Tommy Doyle Lewis)
Michael V. Winchester, Michael V. Winchester & Associates, Plano, TX (H.H. Howard & Sons Inc.)

FACTS & ALLEGATIONS On July 29, 2015, plaintiff Jonathan Sullivan Jr., a truck driver, was driving a dump truck in a construction zone on Highway 300, in Upshur County. The roadway had been reduced to two lanes. Sullivan was traveling south in the construction zone, and Tommy Doyle Lewis was traveling south in the open lane that was being used for southbound traffic. The drivers were approaching the intersection at Bluebird Road. Lewis made a left turn at the intersection, which was not part of the construction zone, and Sullivan, continuing straight, struck Lewis' left side. Sullivan claimed neck and back injuries.

Sullivan and the truck's owner, Leonard Sweaney, sued Lewis; his employer, Enbridge Pipelines (North Texas) L.P.; and two contractors on the road construction job, H.H. Howard & Sons Inc. and Panola Sign & Barricade Inc. The lawsuit alleged that Lewis was negligent in his operation of the pickup. The lawsuit further alleged that Enbridge was vicariously liable for Lewis' actions on a theory of respondeat superior. The lawsuit also alleged that H.H. Howard & Sons and Panola Sign & Barricade were negligent in failing to properly implement the traffic-control plan provided by the Texas Department of Transportation and that this negligence created a dangerous condition.

Sullivan testified that he braked and steered left to try to avoid the accident. Plaintiffs' counsel argued that Lewis failed to yield the right of way and was not keeping a proper lookout.

Lewis and Enbridge contended that Lewis had the right of way. They also contended that Sullivan was driving too fast for the conditions and that he was improperly trained by Sweaney, who was allegedly Lewis' employer.

Lewis' and Enbridge's counsel also argued that there should have been traffic controls at the intersection and that H.H. Howard & Sons, Panola and the Texas Department of Transportation were negligent for failing to provide or implement an adequate traffic control plan, leading to the accident.

INJURIES/DAMAGES *fusion, lumbar; neck; numbness; physical therapy; radicular pain / radiculitis; rhizotomy; shoulder*

Sullivan went to the emergency room by private vehicle. Right shoulder and lumbar X-rays and a cervical CT scan were unremarkable. He was released the same day.

He followed up with a chiropractor two days later and complained of neck pain, radicular pain, numbness and tingling in his shoulder; and lower back pain. He underwent physical therapy off and on through March 2016.

He was referred to a pain management doctor, who administered a cervical neurotomy in January 2016 and a lumbar neurotomy in July 2016.

In January 2017, he referred Sullivan to a surgeon for his lower back pain. In February 2017, Sullivan underwent a fusion from L4 to S1. His pain improved, but he claimed that he would nevertheless be unable to return to work as dump truck driver.

He testified that the neck and radicular symptoms improved more than the lower back pain, and that he could not play with his young children as much as before.

For medical expenses, he sought $549,519.84 in the past and $1 million in the future. For past and future loss of earning capacity, he sought $1,363,623. Sullivan also sought damages for past and future physical pain and mental anguish, past and future physical impairment, and past and future disfigurement.

Sweaney sought damages for the diminution in the market value of the dump truck, as well as for loss of use and loss of profits.

The defense argued that Sullivan's symptoms resulted from pre-existing conditions, including ulcerative colitis, which can cause early degeneration of the spine. The defense also noted that had treated for back pain off and on since his teens.

RESULT The jury found that only Lewis was negligent. Sullivan was awarded $21,756,752 in damages and Sweaney was awarded $270,000 in damages for a total award of $22,035,732.44.

JONATHAN SULLIVAN, JR.	$549,520 past medical cost $2,822,590 future medical cost $3,000,000 past physical impairment $5,500,000 future physical impairment $10,000 past disfigurement $20,000 future disfigurement $5,500,000 future physical pain and mental anguish $119,239 past loss of earning capacity $1,244,384 future loss of earning capacity $3,000,000 past physical pain and mental anguish $21,765,732
LEONARD SWEANEY	$60,000 diminution in value $210,000 loss of use and loss of profits $270,000
INSURER(S)	**Aegis** for Enbridge and Lewis (excess) **Ironshore Inc.** for Enbridge and Lewis (excess) **Zurich North America** for Enbridge and Lewis (primary insurer and excess coverage)
TRIAL DETAILS	Jury Vote: 11-1
PLAINTIFF EXPERT(S)	None reported
DEFENSE EXPERT(S)	None reported

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' counsel and Panola Sign & Barricade's counsel. Counsel of Enbridge and Lewis declined to contribute, and H.H. Howard & Sons' counsel did not respond to the reporter's phone calls.

–John Schneider

Sometimes bad things happen to good companies.

In today's litigious environment, your clients depend on you to make sure they have the extra protection they'll need if they face an unforeseen, catastrophic loss. With Travelers Excess Casualty, you not only have access to broad coverage options which provide an additional layer of security, but to underwriting, claim, actuarial and legal professionals dedicated exclusively to umbrella business. We set the standard for umbrella protection and service, and back it up with the financial strength and stability of Travelers.

To discuss opportunities with Travelers Excess Casualty, contact your Travelers representative.

TRAVELERS

It's better under the umbrella®

travelers.com