

THE NATIONAL
LAW JOURNAL

THE TOP 100 VERDICTS OF 2021

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2021 top 100 verdicts

Rank	Winner	Amount	Topic	Caption, Court, Docket, Date	Prevailing Plaintiff(s)	Opposing Counsel
1	P	\$301,929,000.00	Worker/ Workplace Negligence	Anderson v. Bear Stearns Sports Bus. ... 2018 BCV 00043-4, Dec. 7, 2021	Richard Kucera, Constance Cotton-Cohen, Terry, and Craig W. Cook and David Wright, Dale Wheeler Harris LLP, Capron Cotton, Inc.	John Reed, Jason M. Longenecker, Curtis Chiles, Terry, and Craig W. Cook and David Wright, Dale Wheeler Harris LLP, Capron Cotton, Inc.
2	P	\$1,275,000,000.00	Intellectual Property	3D Technology LLC v. 3M Ind. Corp. W.D. Texas, No. 2:21-cv-00013- 000, March 2, 2021	Wagner Cho, Benjamin B. McIntosh, Sara J. Hering and Amy E. Pugh, and J. Brandon L. P. Law Offices	Michael J. Lee and Joseph J. Herman, Robert J. Pappalardo, John and Robert G. Pappalardo, and Robert G. Pappalardo
3	P	\$1,002,000,000.00	Motor Vehicle	Sines v. Kessler Services Inc. Texas Ct. App., No. 2019- 00048, March 22, 2021	Casey Pappas, Bailey Carleton, Bak Loh and Ben Richard, Pappas & Pappas, Jacksonville, Fla.	David W. McCallister and Joseph William White, Case Wheeler Harris LLP, Capron Cotton, Inc.
4	P	\$730,000,000.00	Transportation	Harvey v. Landstar Paper Inc. Texas Ct. App., No. 2019- 00046, No. 21, 2021	Ben Gaudin, Gordon B. Young LLP, Gilmer, Tate, and Nelson I. Beach, Beach Longman Patterson LLP, Georgetown, Texas	David J. Stein, Marko Dolezal, Jonathan S. Hinkle, Jeffrey and Richard S. Stein, Capron Cotton, Inc., Capron, Texas
5	P	\$552,732,000.00	Motor Vehicle	Chen v. West American Farming Company of America Inc., et al. Ga. Sup. Ct., No. 2019- 1100, No. 21, 2021	Barry Daniels and Alexandra Farrar Gorman, Gorman, Lane, Lancaster	Barry Daniels and David Gault, Barry Daniels & Associates, Houston
6	P	\$398,000,000.00	Intentional Property	Parsons v. M&M, et al. Ill. App. Ct., No. 21-0236, March 18, 2021	Douglas J. White, Robert Trotter, Jr., Scott F. Gorman, and J. Andrew Gorman, Gorman Patterson LLP, Houston	Gregory J. Patten, Robert S. Criswell, Ross S. McWhorter, E. James, Richard & John LLP, Chicago

THE TOP 100 VERDICTS

OF 2021

The National Law Journal's VerdictSearch affiliate scoured the nation's court records in search of 2021'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 2021

A large loss doesn't have to derail your company's growth. While you stay focused on your business, we'll help take care of protecting it. Trust Travelers' expertise and experience to manage large-scale losses like the ones that topped the National Law Journal's Top 100 Verdicts.

METHODOLOGY

VerdictSearch strives to report as many jury verdicts, decisions and settlements as possible. Although a great many cases are submitted by attorneys, we also rely on a diligent team of assignment editors who scour docket lists, cultivate relationships with law firms, and search the Internet and news sources, including the ALM family of legal publications. Our exhaustive efforts allow us to present what we believe is a comprehensive list of the top 100 jury awards of 2021. Nevertheless, we sincerely apologize to anyone whose case may have been inadvertently omitted.

The Top 100 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 cases in which awards were automatically doubled or trebled by statute, the doubled or trebled amount determined rank. We do 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, cases in which the jury's instructions permitted it to determine damages against a party that it had already deemed not liable, or cases in which a jury awarded damages against one or more parties while one or more other parties awaited trial in the same matter. (The latter example applied to the well-publicized Sines v. Kessler case, in which a Virginia federal jury awarded a total of more than \$26 million against several defendants while the case remained open against other defendants.) The editors retain sole discretion to make adjustments in rank when necessary to reflect statutes that provide for election of remedies or other types of overlapping awards.

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Top Verdict Categories

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

2020			2021		
1	Intellectual Property	\$14,858	1	Worker/Workplace Negligence	\$301,929
2	Products Liability	\$3,117	2	Intellectual Property	\$3,675
3	Worker/Workplace Negligence	\$706	3	Motor Vehicle	\$2,046
4	Construction	\$285	4	Transportation	\$730
5	Motor Vehicle	\$261	5	Products Liability	\$651
6	Medical Malpractice	\$199	6	Employment	\$489
7	Intentional Torts	\$138	7	Business Law	\$410
8	Legal Profession	\$108	8	Intentional Torts	\$364
9	Fraud	\$94	9	Insurance	\$251
10	Dangerous Condition of Public Property	\$76	10	Government	\$167

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

Plaintiff claimed crash caused by driver on cell phone

TYPE: Verdict-Plaintiff
AMOUNT: \$129,171,113
ACTUAL AWARD: \$141,189,424
STATE: California
VENUE: Los Angeles County
COURT: Superior Court of Los Angeles County, Lancaster, CA

INJURY TYPE(S): *back* - fusion, lumbar; herniated disc, lumbar; herniated disc at L1-2; herniated disc, lumbar; herniated disc at L2-3; herniated disc, lumbar; herniated disc at L4-5; herniated disc, lumbar; herniated disc at L5-S1

head

neck - herniated disc, cervical; herniated disc at C2-3; herniated disc, cervical; herniated disc at C3-4; herniated disc, cervical; herniated disc at C5-6; herniated disc, cervical; herniated disc at C6-7

brain - brain damage; traumatic brain injury
surgeries/treatment - laminotomy

CASE TYPE: *Motor Vehicle* - Rollover; Broadside; Stop Sign; Cell Phone; Intersection; Multiple Vehicle; Negligent Entrustment

CASE NAME: Jesse Equihua and Barbara Equihua v. Marilyn Chausse and Shayna Nash, No. 19AVCV00071
DATE: August 18, 2021

PLAINTIFF(S): Jesse Equihua, (Male, 58 Years)
 Barbara Equihua

PLAINTIFF ATTORNEY(S): James M. Baratta; Grant, Genovese & Baratta; Irvine CA for Barbara Equihua
 R. Rex Parris; PARRIS Law Firm; Lancaster CA for Jesse Equihua
 Khail A. Parris; PARRIS Law Firm; Lancaster CA for Jesse Equihua
 Eric N. Wilson; PARRIS Law Firm; Lancaster CA for Jesse Equihua
 Brittney M. Baca; Accident Attorneys; Lancaster CA for Jesse Equihua

PLAINTIFF EXPERT(S): Ray H. Hashemi M.D.; Radiology; Lancaster, CA called by: James M. Baratta, R. Rex Parris, Khail A. Parris, Eric N. Wilson, Brittney M. Baca
 Fardad Mobin M.D.; Neurosurgery; Beverly Hills, CA called by:
 James M. Baratta, R. Rex Parris, Khail A. Parris, Eric N. Wilson, Brittney M. Baca
 Narinder Grewal M.D.; Pain Management; Santa Clarita, CA called by: James M. Baratta, R. Rex Parris, Khail A. Parris, Eric N. Wilson, Brittney M. Baca

Christopher L. Stephenson M.D.; Physical Medicine; Sacramento, CA called by: James M. Baratta, R. Rex Parris, Khail A. Parris, Eric N. Wilson, Brittney M. Baca

DEFENDANT(S): Shayna Nash
 Marilyn Chausse

DEFENSE ATTORNEY(S): Scott B. Spriggs; Kinkle, Rodiger & Spriggs P.C.; Riverside, CA for
 Marilyn Chausse, Shayna Nash

DEFENDANT EXPERT(S): Barry I. Ludwig M.D.; Neurology; Santa Monica, CA called by: for Scott B. Spriggs
 Bonnie Dean R.N.; Coding & Billing (Medical); Roseville, CA called by:
 for Scott B. Spriggs
 Ronald S. Kvitne M.D.; Orthopedic Surgery; Los Angeles, CA called by: for Scott B. Spriggs
 Dr. Stephen L.G. Rothman M.D.; Radiology; Los Angeles, CA called by: for Scott B. Spriggs

FACTS: On Feb. 14, 2018, plaintiff Jesse Equihua, 58, a truck driver, was driving on West Avenue D, in Lancaster. As he proceeded through the intersection with 60th Street West, his truck's left side was struck by a vehicle that was being driven by Shayna Nash, who was traveling on 60th Street West. Equihua's truck rolled more than a full revolution, and it came to rest on one side, with Equihua suspended by his seat belt. Equihua suffered injuries of his back, his head and his neck.

Equihua sued Nash and the owner of Nash's vehicle, Marilyn Chausse. Equihua alleged that Nash was negligent in the operation of her vehicle and that Chausse was vicariously liable for Nash's actions. Equihua also alleged that Chausse was negligent for entrusting the vehicle to Nash.

Equihua's counsel contended that Nash ignored a stop sign because she was talking on a cell phone. Equihua's course was not governed by a traffic-control device. Equihua's counsel also contended that Chausse should have known that Nash was an unfit driver.

Defense counsel conceded liability.

INJURY: Equihua suffered a traumatic brain injury. He claimed that he also suffered herniations of his C2-3, C3-4, C5-6, C6-7, L1-2, L2-3, L3-4, L4-5 and L5-S1 intervertebral discs.

Equihua was transported to a hospital, where he was treated and released. After exhausting every conservative care measure for his lumbar spine, he underwent fusion at the L4-5 level, with a right L5-S1 hemilaminotomy.

Equihua's wife, Barbara Equihua, testified about how her husband has been changed by his injuries. She claimed that he is now more moody and lashes out more often in emergent situations. She also claimed that her husband is not the same man anymore, but that there are moments in which "the old guy is still in there." She further claimed that her husband will no longer be able to continue working as a result of his injuries.

Jesse Equihua's physicians believe that he will need an additional three surgeries to his spine, as well as the implantation of a neurostimulator. The physicians also believe that Equihua would require a lifetime of care as a result of his traumatic brain injury.

Equihua sought recovery of past and future medical costs, and damages for past and future pain and suffering. His wife sought recovery for her past and future loss of consortium.

Judge Wendy Chang issued terminating sanctions against defense counsel prior to trial, so the defense did not get to oppose damages at trial.

RESULT: The jury determined that the plaintiffs' damages totaled \$129,171,113.

Jesse Equihua
\$ 371,113 Past Medical Cost
\$ 8,800,000 Future Medical Cost
\$ 84,000,000 Future Pain Suffering
\$ 12,000,000 Past Pain Suffering

\$ 105,171,113 PLAINTIFF'S TOTAL AWARD

Barbara Equihua
\$ 3,000,000 Past Loss of Consortium
\$ 21,000,000 Future Loss of Consortium

\$ 24,000,000 PLAINTIFF'S TOTAL AWARD

Trial Information:

JUDGE: Wendy W.Y. Chang
DEMAND: None
OFFER: \$100,000
TRIAL LENGTH: 3 days
TRIAL DELIBERATIONS: 1 days
JURY VOTE: Unanimous

POST TRIAL: Since the plaintiffs beat the defendants' § 998 offer to compromise, a total judgment was entered in favor of the Equihuas in the amount of \$141,189,424.34.

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

MOTOR VEHICLE

Teen killed in auto collision involving impaired motorist

TYPE: Verdict-Plaintiff
AMOUNT: **\$66,500,000**
STATE: Georgia
VENUE: Liberty County
COURT: Liberty County, State Court, GA
INJURY TYPE(S): *other* - death
CASE TYPE: *Wrongful Death, Motor Vehicle - Rollover; Passenger; Rear-ender; Alcohol Involvement*
CASE NAME: Tamara N. Dock, as Surviving Parent of Albert Wilson Dock v. Antoine O. McLendon, Big C's Investments Inc., D/B/A Doodles Billiards, and Gata's Sports & Grille, No. STSV2019000019

DATE: July 27, 2021
PLAINTIFF(S): Albert Wilson Dock , (Male, 18 Years)
PLAINTIFF ATTORNEY(S): Brent J. Savage; Savage Turner Durham Pinckney & Savage; Savannah GA for Albert Wilson Dock Brad S. McLelland; The Law Office of Brad S. McLelland, PC; Brunswick GA for Albert Wilson Dock

DEFENDANT(S): Antoine O. McLendon
Big C's Investments Inc.
Gata's Sports & Grille

DEFENSE ATTORNEY(S): Quentin L. Marlin; Ellis Painter Ratterree & Adams LLP; Savannah, GA for Antoine O. McLendon
Roy E. Paul; Meyer & Sayers LLP; Savannah, GA for Big C's Investments Inc.
Kevin M. Crouch; Meyer & Sayers LLP; Savannah, GA for Big C's Investments Inc.
Jason D. Darneille; Gower Wooten & Darneille LLC; Atlanta, GA for Gata's Sports & Grille

FACTS: On Jan. 26, 2019, plaintiff's decedent Albert Dock, 18, a high school student, was a front-seat passenger of a vehicle that was traveling on Oglethorpe Highway, in Hinesville. The vehicle's rear end was struck by a trailing vehicle that was being driven by Antoine McLendon. Dock's vehicle spun, overturned and slid into a ditch. Dock suffered a fatal injury. McLendon was arrested. He received charges of vehicular homicide and driving under the influence of alcohol.

Dock's mother, Tamara Dock, sued McLendon and the operators of two establishments in which McLendon was believed to have consumed alcoholic beverages within hours of the accident, Big C's Investments Inc. and Gata's Sports & Grille. The lawsuit alleged that McLendon was negligent in the operation of his vehicle. The lawsuit further alleged that the remaining defendants were negligent in their service of alcohol to McLendon.

Big C's Investments and Gata's Sports & Grille were dismissed. The matter proceeded to a trial against McLendon.

Plaintiff's counsel contended that McLendon was intoxicated and traveling more than 100 mph at the time of the accident.

Defense counsel conceded liability. The trial addressed damages.

INJURY: Albert Dock was killed instantly. Dock, 18, died Jan. 26, 2019. He was survived by his mother. She sought recovery of wrongful-death damages, which comprised the cost of her son's funeral and damages for her emotional pain and suffering.

RESULT: The jury determined that damages totaled \$66.5 million.

Albert Dock

Trial Information:

JUDGE: Jeffrey N. Osteen
TRIAL LENGTH: 3 days
TRIAL DELIBERATIONS: 3 hours

POST TRIAL: Defense counsel has expressed an intention to file an appeal.

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

MOTOR VEHICLE

Tractor-trailer crash caused career-ending injuries: Plaintiff

TYPE: Verdict-Plaintiff
AMOUNT: **\$43,051,020**
STATE: Illinois
VENUE: Cook County
COURT: Cook County Circuit Court, IL
INJURY TYPE(S): *arm*
neck - fracture, neck; fracture, C5; fusion, cervical; fracture, vertebra; fracture, C5
other - spasticity; physical therapy; hardware implanted; epidural injections; compression fracture; decreased range of motion
foot/heel - foot drop (drop foot)
hand/finger - hand
neurological - nerve damage/neuropathy; neurological impairment; neuroma
sensory/speech - vocal cord, damage
surgeries/treatment - laminectomy; open reduction; internal fixation
mental/psychological - emotional distress
paralysis/quadruplegia - tetraplegia
CASE TYPE: *Motor Vehicle* - Rear-ender; Tractor-Trailer; Multiple Vehicle
CASE NAME: Cynthia Kroft and Mark Kroft v. Viper Trans, Inc.; PR Rental, Inc.; Predrag Radisavljevic, individually and as employee, agent and/or servant of Viper Trans, Inc. and PR Rental, Inc.; Kraft Food Groups, Inc.; Kraft Heinz Foods Company; Land Transportation (Division of Evans Delivery Company, Inc.); and Evans Delivery Company, Inc., No. 2016-L-009466
DATE: May 13, 2021
PLAINTIFF(S): Mark Kroft , (Male, 0 Years)
Cynthia Kroft , (Female, 50 Years)
PLAINTIFF ATTORNEY(S): Kenneth J. Allen; Allen Law Group; Valparaiso IN for Cynthia Kroft, Mark Kroft
Bryan L. Bradley; Allen Law Group; Valparaiso IN for Cynthia Kroft, Mark Kroft
Otto J. Shragal; Allen Law Group; Valparaiso IN for Cynthia Kroft, Mark Kroft
PLAINTIFF EXPERT(S): Gary M. Yarkony M.D.; Life Care Planning; Elgin, IL called by: Kenneth J. Allen, Bryan L. Bradley, Otto J. Shragal

Stan V. Smith Ph.D.; Economics; Chicago, IL called by: Kenneth J. Allen, Bryan L. Bradley, Otto J. Shragal
Anita K. Rao M.D.; Pain Management; Chesterton, IN called by: Kenneth J. Allen, Bryan L. Bradley, Otto J. Shragal
Brian T. Damitz D.P.M.; Podiatry; Portage, IN called by: Kenneth J. Allen, Bryan L. Bradley, Otto J. Shragal
Nirav N. Thakkar M.D.; Otolaryngology; Orland Park, FL called by: Kenneth J. Allen, Bryan L. Bradley, Otto J. Shragal
Jeffrey P. Gatz M.D.; Primary Care Physician; Valparaiso, IN called by: Kenneth J. Allen, Bryan L. Bradley, Otto J. Shragal

DEFENDANT(S): PR Rental, Inc.
Viper Trans, Inc.
Land Transportation
Kraft Food Groups, Inc.
Predrag Radisavljevic
Kraft Heinz Foods Company
Evans Delivery Company, Inc.

DEFENSE ATTORNEY(S): Michael J. Mullen; Kralovec & Marquard, Chartered; Chicago, IL for Viper Trans, Inc.
Michael R. LaBarge; LaBarge, Campbell, Lyon & Kahan, LLC; Chicago, IL for PR Rental, Inc., Predrag Radisavljevic
None reported for Kraft Food Groups, Inc., Kraft Heinz Foods Company, Land Transportation, Evans Delivery Company, Inc.

DEFENDANT EXPERT(S): Gary R. Skoog Ph.D.; Economics; Glenview, IL called by: for Michael J. Mullen, Michael R. LaBarge
Caitlin Mitchell B.S.N., R.N.; Life Care Planning; San Francisco, CA called by: for Michael J. Mullen, Michael R. LaBarge

FACTS: On May 11, 2016, plaintiff Cynthia Kroft, a nurse in her early 50s, was driving on Gateway Boulevard, in Chesterton, Ind. When she was at the intersection with State Road 49, her vehicle was rear-ended by a tractor-trailer operated by Predrag Radisavljevic. Kroft suffered a neck fracture, resulting in tetraplegia.

Kroft sued Radisavljevic; Radisavljevic's employer, Viper Trans Inc.; Radisavljevic's company, PR Rental Inc.; and the companies that were part of Radisavljevic's shipping chain, Kraft Food Groups Inc., Kraft Heinz Foods Co. LLC, Land Transportation and Evans Delivery Company Inc. Kroft alleged that Radisavljevic was negligent in the operation of a vehicle and that the remaining defendants were liable for Radisavljevic's actions.

Land Transportation and Evans Delivery settled with Kroft for undisclosed amounts pretrial, and the Kraft defendants were dismissed from the case prior to trial. Thus, the matter continued against Radisavljevic, Viper Trans and PR Rental.

Radisavljevic, Viper Trans and PR Rental stipulated to liability, and the matter was tried on the issues of causation and damages.

INJURY: Kroft was taken by ambulance to a hospital, where she was admitted. She was diagnosed with a comminuted cervical fracture of the C5 vertebra, which resulted in neuropathy and tetraplegia on the left side of her body. Kroft underwent an open reduction and internal fixation. She was later diagnosed with neuroma, a foot drop, and damage to her vocal cords due to the neck surgery.

On May 25, 2016, Kroft was transferred to an inpatient rehabilitation facility, where she treated for approximately one month. Following her discharge, she treated with outpatient physical therapy and received multiple epidural injections.

In the spring of 2017, about one year post-accident, Kroft underwent a laminectomy and fusion in her cervical spine. After the procedure, Kroft treated with a course of physical therapy. At the time of trial, she continued to treat with pain medication.

In their respective testimonies, Kroft's experts in pain management and podiatry opined that the accident caused Kroft to suffer permanent structural damage and nerve damage to her cervical spine. They also opined that Kroft is at risk for adjacent segment disease and that Kroft requires future treatment that consists of surgery, pain management, imaging studies and physical therapy.

Kroft's otolaryngology expert opined that Kroft suffered damage to her vocal cords as a result of the surgery.

Kroft testified about how her injuries ended her 25-year career as a nurse, resulting in permanent disability. In addition to ongoing neck pain and limited range of motion, she claimed she experiences neuropathic pain and some spasticity on the left side of her body, including her left, non-dominant hand. Kroft discussed how her impairments have restricted her in her activities of daily living and social life. Her husband testified about how he has become his wife's home health aide.

Kroft sought recovery of \$1,144,020 in past medical costs, \$7 million in future medical costs, \$407,000 in lost wages and \$1 million in future lost wages. She also sought recovery of damages for her past and future pain and suffering, disability, disfigurement and emotional distress. Her husband, Mark Kroft, sought recovery of damages for his alleged loss of consortium.

Defense counsel maintained that Ms. Kroft, despite her injuries, made a good recovery.

The defense's economics and life-care planning experts opined that Ms. Kroft did not need the extent of future treatment that she alleged and that Ms. Kroft's future costs only amounted to \$1,447,962.

RESULT: The jury found Radisavljevic, Viper Trans and PR Rental jointly and severally liable. It determined that the Krofts' damages totaled \$43,051,020, which included \$39,551,020 for Ms. Kroft's damages and \$3.5 million for Mr. Kroft's damages.

Mark Kroft

\$ 500,000 Past Loss of Consortium
 \$ 2,500,000 Future Loss of Consortium
 \$ 250,000 Past Lost of Service
 \$ 250,000 Future Lost of Service
 \$ 250,000 Past Lost of Service

\$ 3,500,000 PLAINTIFF'S TOTAL AWARD

Cynthia Kroft

\$ 1,144,020.38 Past Medical Cost
 \$ 7,000,000 Future Medical Cost
 \$ 407,000 Past Lost Earnings

\$ 1,000,000 Future Lost Earnings
 \$ 6,000,000 Future Pain Suffering
 \$ 2,000,000 Past Pain Suffering
 \$ 2,000,000 Past emotional distress
 \$ 3,000,000 Disfigurement
 \$ 7,500,000 Future disability
 \$ 7,500,000 Future emotional distress
 \$ 2,000,000 Past disability

\$ 39,551,020.38 PLAINTIFF'S TOTAL AWARD

Trial Information:

TRIAL LENGTH: 1 weeks
TRIAL DELIBERATIONS: 4 hours

EDITOR'S COMMENT: This report is based on information that was provided by plaintiffs' counsel. Defense counsel for Predrag Radisavljevic, Viper Trans Inc. and PR Rental Inc. did not respond to the reporter's phone calls. The remaining defendants' counsel were not asked to contribute.

MOTOR VEHICLE

Trucker's overreaction caused fatal crash, plaintiffs claimed

TYPE: Verdict-Plaintiff
AMOUNT: **\$30,000,000**
STATE: Texas
VENUE: Harris County
COURT: Harris County District Court, 334th, TX
INJURY TYPE(S): *head*
burns
other - death
CASE TYPE: *Wrongful Death*
Motor Vehicle - Head-On; Speeding; Center Line; Tractor-Trailer; Multiple Vehicle Transportation - Trucking Worker/Workplace Negligence - Negligent Training; Negligent Supervision
CASE NAME: Bonnie Cargal, Individually and as Representative of the Estate of Joseph Cargal; Jack Cargal & Andrew Cargal v. FedEx Freight, Inc., and David Forehand, No. 2018-80520
DATE: October 15, 2021
PLAINTIFF(S): Jack Cargal, (0 Years)
 Andrew Cargal, (0 Years)
 Bonnie Cargal, (0 Years)
 Estate of Joseph Cargal, (Male, 68 Years)
PLAINTIFF ATTORNEY(S): Devin McNulty; Chandler McNulty LLP; Houston TX for Bonnie Cargal, Estate of Joseph Cargal, Andrew Cargal, Jack Cargal Troy Chandler; Chandler McNulty LLP; for Bonnie Cargal, Estate of Joseph Cargal, Andrew Cargal, Jack Cargal

PLAINTIFF

EXPERT(S): Roger C. Allen; Trucks; Friendswood, TX called by: Devin McNulty, Troy Chandler
Stephen Irwin; Accident Reconstruction; Dallas, TX called by: Devin McNulty, Troy Chandler

DEFENDANT(S): David Forehand
FedEx Freight Inc.

DEFENSE

ATTORNEY(S): William Chamblee; Chamblee Ryan P.C.; Dallas, TX for FedEx Freight Inc., David Forehand
Matthew Loving; Chamblee Ryan P.C. for FedEx Freight Inc., David Forehand
Donald Snook; FedEx Freight for FedEx Freight Inc., David Forehand

DEFENDANT

EXPERT(S): Manuel Meza-Arroyo Ph.D.; Ergonomics/Human Factors; Ann Arbor, MI called by: for William Chamblee, Matthew Loving, Donald Snook

FACTS: At about 1:30 a.m. on Sept. 8, 2018, plaintiffs' decedent Joseph Cargal, 68, a truck driver, was driving on the northbound side of Highway 59, near Tenaha. His tractor-trailer was involved in a head-on collision with a southbound tractor-trailer that was being driven by David Forehand, who had crossed the roadway's double yellow centerline. Cargal suffered a fatal injury.

Cargal's sons, Andrew Cargal and Jack Cargal, and widow, Bonnie Cargal, who was acting individually and as representative of her husband's estate, sued Forehand and Forehand's employer, FedEx Freight Inc. The lawsuit alleged that Forehand was negligent in the operation of his vehicle, that FedEx Freight was liable because the accident occurred during Forehand's performance of his job's duties, and that FedEx Freight had been negligent in its supervision and training of Forehand.

Plaintiffs' counsel negotiated settlements of the estate's claim and Bonnie Cargal's claim. The trial addressed the claims of Andrew Cargal and Jack Cargal.

Plaintiffs' counsel claimed that Forehand was speeding. Evidence indicated that Forehand had been maintaining a speed of 65 mph, in an area in which the limit was 55 mph.

Plaintiffs' counsel also contended that Forehand overreacted while trying to avoid a branch that had fallen onto the roadway. Plaintiffs' counsel suggested that Forehand should have entered the other southbound lane or the southbound shoulder. Forehand claimed that he had not been trained to avoid entering oncoming traffic. The jury charge included an instruction that "[t]he law requires a commercial driver to exercise extreme caution when hazardous conditions, such as those caused by rain, adversely affect visibility or traction."

Forehand suffered a head injury and was comatose during the month that followed the accident. He claimed that he could not recall the circumstances leading to the accident. Defense counsel asserted a sudden-emergency defense.

INJURY: Joseph Cargal suffered injuries of his head and torso, and he suffered burns of about 75 percent of his body. He died at the scene of the accident.

Cargal's sons claimed that their father had recently purchased a recreational vehicle and was looking forward to retiring within 1.5 years and spending his remaining years with his children and grandchildren. The plaintiffs contended that they were

essentially orphaned by the loss of their father because their mother had abandoned the family when they were children.

Plaintiffs' counsel argued that Cargal would have lived well beyond the accident. Cargal was a middle child with nine siblings, all of whom were still alive. His mother lived into her late 90s, and his father died of lung cancer in his 80s, after a lifetime of cigarette use.

Cargal's sons sought recovery of wrongful-death damages that included past and future pecuniary losses, damages for past and future loss of companionship and society, and damages for past and future mental anguish. Plaintiffs' counsel requested a total of \$30 million.

RESULT: The jury found that the defendants were liable for the accident. FedEx Freight was assigned 51 percent of the liability, and Forehand was assigned 49 percent of the liability.

The jury determined that damages totaled \$30 million.

Jack Cargal

\$ 3,000,000 Past Loss of Society Companion

\$ 3,000,000 Future Loss of Society Companion

\$ 500,000 Past Loss of Pecuniary Contribution

\$ 3,000,000 Past Mental Anguish

\$ 3,000,000 Future Mental Anguish

\$ 2,500,000 Future Loss of Pecuniary Contribution

\$ 15,000,000 PLAINTIFF'S TOTAL AWARD

Andrew Cargal

\$ 3,000,000 Past Loss of Society Companion

\$ 3,000,000 Future Loss of Society Companion

\$ 500,000 Past Loss of Pecuniary Contribution

\$ 3,000,000 Past Mental Anguish

\$ 3,000,000 Future Mental Anguish

\$ 2,500,000 Future Loss of Pecuniary Contribution

\$ 15,000,000 PLAINTIFF'S TOTAL AWARD

Estate of Joseph Cargal

Bonnie Cargal

Trial Information:

JUDGE: Dawn Rogers

TRIAL LENGTH: 9 days

TRIAL DELIBERATIONS: 1.5 days

JURY VOTE: 11-1

EDITOR'S COMMENT: This report is based on information that was provided by plaintiffs' counsel. Defense counsel provided the following statement from FedEx Freight: "Our sympathies are with the Cargal family and those impacted by this tragic accident. Safety is our highest priority. FedEx Freight respectfully disagrees with the verdict and is exploring its options."

MOTOR VEHICLE

Broadside crash caused spinal injuries, per passenger

TYPE: Verdict-Plaintiff

AMOUNT: \$21,059,014

STATE: Illinois

VENUE: Cook County
COURT: Cook County Circuit Court, IL
INJURY TYPE(S): *arm*
leg
back - upper back; fracture, back; fracture, T3; fracture, back; fracture, T4; fusion, thoracic; fracture, vertebra; fracture, T3; fracture, vertebra; fracture, T4
neck
other - atrophy; neuropathy; massage therapy; physical therapy; chronic pain syndrome; decreased range of motion
epidermis - paresthesia
urological - incontinence
neurological - radicular pain / radiculitis
surgeries/treatment - decompression surgery
mental/psychological - anxiety; depression; emotional distress
pulmonary/respiratory
CASE TYPE: *Motor Vehicle* - Broadside; Passenger; Multiple Vehicle
CASE NAME: Kayla Neese, Destenii Allen, Delilah Austin and Demita Rudolph v. SAFEbuilt, LLC and Ericka Taylor, No. 2018-L-006732
DATE: December 09, 2021
PLAINTIFF(S): Kayla Neese, (Female, 33 Years)
Delilah Austin, (Female, 0 Years)
Destenii Allen, (Female, 0 Years)
Demita Rudolph, (Female, 0 Years)
PLAINTIFF ATTORNEY(S): Aaron D. Boeder; Salvi, Schostok & Pritchard P.C.; Chicago IL for Kayla Neese
Brian L. Salvi; Salvi, Schostok & Pritchard P.C.; Chicago IL for Kayla Neese
Rob L. Kohen; Salvi, Schostok & Pritchard P.C.; Chicago IL for Kayla Neese
Patrick A. Salvi II; Salvi, Schostok & Pritchard P.C.; Chicago IL for
None reported; for Destenii Allen, Delilah Austin, Demita Rudolph
PLAINTIFF EXPERT(S): Gary M. Yarkony M.D.; Physical Medicine; Elgin, IL called by: Aaron D. Boeder, Brian L. Salvi, Rob L. Kohen, Patrick A. Salvi II
Joel R. Meyer M.D.; Neuroradiology; Gilbert, AZ called by: Aaron D. Boeder, Brian L. Salvi, Rob L. Kohen, Patrick A. Salvi II
David S. Gibson M.B.A.; Economics; Chicago, IL called by: Aaron D. Boeder, Brian L. Salvi, Rob L. Kohen, Patrick A. Salvi II
Lisa A. Rone M.D.; Psychiatry; Chicago, IL called by: Aaron D. Boeder, Brian L. Salvi, Rob L. Kohen, Patrick A. Salvi II
Timothy R. Lubenow M.D.; Pain Management; Chicago, IL called by: Aaron D. Boeder, Brian L. Salvi, Rob L. Kohen, Patrick A. Salvi II
DEFENDANT(S): Ericka Taylor
SAFEbuilt, LLC

DEFENSE ATTORNEY(S): Terrence Guolee; Querrey & Harrow; Chicago, IL for Ericka Taylor
Jason Callicoa; Querrey & Harrow; Chicago, IL for Ericka Taylor
None reported for SAFEbuilt, LLC
DEFENDANT EXPERT(S): W. Stephen Minore M.D.; Pain Management; Rockford, IL called by: for Terrence Guolee, Jason Callicoa
Jerry Bauer M.D.; Neurosurgery; Park Ridge, IL called by: for Terrence Guolee, Jason Callicoa
Daniel Yohanna M.D., Ph.D.; Psychiatry; Chicago, IL called by: for Terrence Guolee, Jason Callicoa
Thomas R. Ireland Ph.D.; Economics; St. Louis, MO called by: for Terrence Guolee, Jason Callicoa

FACTS: On March 24, 2017, plaintiff Kayla Neese, 33, was a passenger in a sedan that was traveling west on Oak Street, between 9th and 10th Avenues, in Maywood. The passenger's side of the car was struck by the front of a vehicle driven by Ericka Taylor, who was traveling in an alleyway and failed to stop. Neese suffered spinal fractures.

Neese sued Taylor and her employer, SAFEbuilt LLC. Neese alleged that Taylor was negligent in the operation of a vehicle.

Three other passengers in Neese's vehicle, Destenii Allen, Delilah Austin and Demita Rudolph, were also named as plaintiffs, but their claims settled prior to trial pursuant to undisclosed terms. SAFEbuilt was dismissed from the case on summary judgment. The matter proceeded on Neese's claim against Taylor.

While Taylor's motion for summary judgment on the issue of liability was pending, the parties stipulated to a finding of liability against Taylor. The case then proceeded to a trial that addressed causation and damages.

INJURY: Neese was taken by ambulance to a hospital. She underwent imaging studies and was diagnosed with fractures of her T3 and T4 vertebrae. She was placed in a cervical-thoracic collar and discharged. She was later diagnosed with chronic pain syndrome, depression, anxiety and adjustment disorder.

On March 26, 2017, Neese returned to the emergency room with a sensation of something floating in her lungs. Tests were negative and she was released. A few days later, Neese came back to the hospital with complaints of the inability to hold her urine, and weakness in her arms and legs. A neurologist determined that surgery was needed to decompress indentation and compression on her spinal cord. She was discharged and returned a few days later to have the surgery.

Neese underwent a decompression surgery and fusion at T1, T2, T3, T4, T5 and T6. She remained hospitalized for four nights and then transferred to an inpatient rehabilitation facility where she treated for a week. Upon discharge, Neese treated with several courses of physical therapy through the end of 2020. She further treated with a neurologist, received pain medication, used a transcutaneous electrical nerve stimulation (TENS) unit and underwent psychiatric treatment for her depression, anxiety and adjustment disorder. At the time of trial, Neese continued to treat with a neurologist and a pain-management physician.

Neese's experts in pain management, neuroradiology, physical medicine and psychiatry opined that Neese suffered permanent injuries as a result of the accident. The physicians testified that she requires future treatment that consists of implantation of a permanent spinal cord stimulator, imaging studies, physical therapy and intensive neuropsychological therapy.

Neese alleged that she experiences intermittent pain that consists of stabbing, burning, throbbing and shooting pain down her right dominant arm and right leg. She testified about how that has permanently changed her relationship with her daughter, who was 5 years old at the time of the accident. Neese discussed how she is not able to be physically active with her child like other mothers.

Neese sought to recover \$309,014 in past medical costs and approximately \$1.5 million in future medical costs, plus damages for past and future pain and suffering, disfigurement, loss of normal life, emotional distress and increased risk of future harm.

The defense's expert in neurosurgery testified that Neese's ongoing complaints were not supported by any objective evidence.

The defense's expert in pain management disputed that Neese required a spinal cord stimulator, opining that it was unnecessary and would be unhelpful.

The defense's expert in economics questioned the calculations determined by Neese's economist, and testified that Neese's damages for future medical costs are much lower.

According to the defense's expert in psychiatry, Neese did not have any symptoms of depression and her mental condition would later resolve.

RESULT: The jury determined that Neese's damages totaled \$21,059,014.

Demita Rudolph
Delilah Austin
Destenii Allen
Kayla Neese
\$ 309,014 Past Medical Cost
\$ 1,500,000 Future Medical Cost
\$ 5,000,000 Future Pain Suffering
\$ 2,000,000 Past Pain Suffering
\$ 5,000,000 future loss of normal life
\$ 2,000,000 future emotional distress
\$ 500,000 disfigurement
\$ 3,000,000 past loss of normal life
\$ 1,000,000 past emotional distress
\$ 750,000 increased risk of future harm

\$ 21,059,014 PLAINTIFF'S TOTAL AWARD

Trial Information:

JUDGE: Janet Adams-Brosnahan
DEMAND: \$10.6 million
OFFER: \$3 million
TRIAL LENGTH: 5 days
TRIAL DELIBERATIONS: 0

EDITOR'S COMMENT: This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls. Demita Rudolph,

Delilah Austin, Destenii Allen and SAFEbuilt were not asked to contribute.

MOTOR VEHICLE

Poorly paved road led to fatal vehicle collision: lawsuit

TYPE: Verdict-Plaintiff
AMOUNT: \$74,000,000
STATE: Kentucky
VENUE: Boone County
COURT: Boone County Circuit Court, KY
INJURY TYPE(S): *other* - death; multiple trauma
mental/psychological - emotional distress
CASE TYPE: *Gross Negligence*
Motor Vehicle - Head-On; Multiple Vehicle
Worker/Workplace Negligence - Negligent Repair
Emotional Distress - Negligent Infliction of Emotional Distress
CASE NAME: Nicholas Godwin and Alton G. Godwin, as natural father and court-appointed legal guardian of the minor children BG and MG v. Eaton Asphalt Paving Co., Inc. and Darrin Carroll, No. 19-CI-00328
DATE: July 12, 2021
PLAINTIFF(S): B. G., (Male, 12 Years)
M. G., (Female, 12 Years)
Alton G. Godwin, (Male, 0 Years)
Nicholas Godwin, (Male, 16 Years)
Estate of Amy Skiba, (Female, 45 Years)
PLAINTIFF ATTORNEY(S): Ronald E. Johnson Jr.; Hendy | Johnson | Vaughn | Emery; Louisville KY for Estate of Amy Skiba, Nicholas Godwin, M. G., B. G., Alton G. Godwin, Jay R. Vaughn; Hendy | Johnson | Vaughn | Emery; Louisville KY for Estate of Amy Skiba, Nicholas Godwin, M. G., B. G., Alton G. Godwin
PLAINTIFF EXPERT(S): Glen E. Farr Pharm.D.; Pharmacology; Knoxville, TN called by: Ronald E. Johnson Jr., Jay R. Vaughn
Joseph E. Stidham; Accident Reconstruction; Wootton, KY called by: Ronald E. Johnson Jr., Jay R. Vaughn
DEFENDANT(S): Darrin Carroll
Eaton Asphalt Paving Co., Inc.
DEFENSE ATTORNEY(S): Bradley A. Powell; The Law Firm of Droder & Miller; Cincinnati, OH for Eaton Asphalt Paving Co., Inc.
Richard J. Rinear; The Law Firm of Droder & Miller; Cincinnati, OH for Eaton Asphalt Paving Co., Inc.
Steven N. Howe; Law Offices of Steven N. Howe; Williamstown, KY for Darrin Carroll

DEFENDANT

EXPERT(S): Harry B. Plotnick Ph.D., J.D.; Toxicology; Cincinnati, OH called by: for Bradley A. Powell, Richard J. Rinear
Kenneth R. Agent P.E.; Traffic; Lexington, KY called by: for Bradley A. Powell, Richard J. Rinear

FACTS: On Jan. 9, 2019, plaintiffs' decedent Amy Skiba, 45, a retired school guidance counselor, was operating her midsize vehicle westbound on KY 338/Richmond Road, a two-lane road in Walton. Skiba's 12-year-old twins were backseat passengers in her vehicle. Skiba's vehicle was subsequently struck head-on by a chassis cab truck operated by Darrin Carroll, who was traveling eastbound on Richmond Road. The impact was directly at the driver's side, where Skiba was sitting. Skiba died as a result of her injuries.

Skiba's son, Nicholas Godwin, and ex-husband, Alton G. Godwin, as natural father and court-appointed legal guardian of Skiba's minor children, sued Carroll, as well as the company that was supposed to resurface the subject road, Eaton Asphalt Paving Co., Inc. The plaintiffs alleged that Carroll was negligent in the operation of his vehicle, and that Eaton Asphalt Paving Co. was grossly negligent in the road resurfacing.

Carroll was dismissed from the case prior to opening statements. The case proceeded to the jury on the claims against Eaton Asphalt.

A separate lawsuit was filed by Skiba's estate and her ex-husband for Skiba's wrongful death. That lawsuit was consolidated with this case, but the claim settled prior to trial.

Initially, the sheriff's department believed Carroll was to blame, as he allegedly had methamphetamine in his system. The department's investigation eventually found that the road edge was problematic. Per Carroll, he could not return his vehicle to the roadway after one of his tires fell off the road edge when he moved slightly right to allow room for another vehicle from the opposite direction to pass. Consequently, his back right side tires were off the road edge when his vehicle approached a driveway that connected with Richmond Road. His vehicle struck this driveway edge at a 90 degree angle, at almost 10 inches. Carroll's vehicle became partially uplifted, entered the roadway out of his control and then entered into the lane of Skiba's vehicle.

Plaintiffs' counsel contended that, prior to the events, Eaton Asphalt had won a contract from the state transportation cabinet to repave the subject road. Eaton Asphalt was supposed to mill the roadway, which would scrape off the old asphalt before repaving it with new asphalt, so that the roadway would not be higher. Plaintiffs' counsel contended that Eaton Asphalt asked for a deviation because it had not bid enough for the milling portion of the contract and, if it milled, it would lose money. Eaton Asphalt got permission from the state not to mill, but plaintiffs' counsel contended that the state required Eaton Asphalt to have a safety wedge at the roadway so the taper of the road edge would not cause a vertical drop-off. Plaintiffs' counsel contended that Eaton Asphalt did not include a safety wedge and, when Carroll's tires went off the road edge, the road edge was too high for his tires to return on the road.

Plaintiffs' accident reconstruction expert did a reconstruction which showed that the collision occurred because of the height of the road edge, which made it impossible for Carroll to get back on the roadway before his vehicle struck the driveway that intersected with the road. This expert testified that Carroll would

have regained control on the road if there was a safety wedge at the roadway. This expert further stated that Carroll's vehicle would have driven over the driveway if the road had been milled.

Though Carroll was dismissed from the case, Eaton Asphalt contended that he was to blame for the accident, as he was using his cell phone prior to the accident and also due to the amount of meth in his system. The defense noted that Carroll had used meth three days prior to the accident. However, plaintiffs' expert in pharmacology testified that the amount of meth in Carroll's system was not sufficient to cause the subject accident, as Carroll was not impaired.

Eaton Asphalt stated that there were 80 to 100 other paving projects that it performed where it neither milled nor included safety wedges, and there had never been a problem. In fact, Eaton Asphalt contended that it had never been previously reprimanded by the state transportation cabinet for not putting in safety wedges and, as such, it was reasonable for Eaton Asphalt to believe that not doing so was acceptable.

Eaton Asphalt's expert in accident reconstruction testified that the collision was not caused by the road edge. Further, Eaton Asphalt's expert in toxicology testified that the level of meth in Carroll's system was sufficient enough to make him impaired.

INJURY: Skiba did not die instantly, but the force of the impact killed her and she died in front of her twin children. Also, Nicholas Godwin was driving to school and came upon the scene before first responders arrived, and found his younger siblings and their mother dead. The children had divided their time equally between their father and mother. The children sought recovery for negligent infliction of emotional distress and loss of parental consortium.

The plaintiffs also sought punitive damages against Eaton Asphalt on the basis that the company was grossly negligent and showed reckless disregard for the lives or safety of others. Plaintiffs' counsel asserted to the jury that Eaton Asphalt had admitted that it had engaged in the same negligent actions 80 to 100 other times, so punitive damages were warranted.

RESULT: The jury found that Eaton Asphalt was negligent and violated its duty in performing the paving work, which was a substantial factor in causing the collision. The jury did not find that Carroll was negligent. It determined that the plaintiffs' damages totaled \$74 million, including \$50 million in punitive damages. Each of Skiba's three children was awarded \$3 million for emotional distress and \$5 million for the loss of parental consortium, plus punitive damages.

Alton Godwin
B. G.
M. G.
Nicholas Godwin
Estate of Amy Skiba

Trial Information:

JUDGE: James R. Schrand
TRIAL LENGTH: 0
TRIAL DELIBERATIONS: 0

EDITOR'S COMMENT: This report includes information that was gleaned from court documents and information that was provided by plaintiffs' counsel. Defense counsel did not respond to the reporter's phone calls.

Customer: Store clerk failed to protect him from assault

TYPE: Verdict-Plaintiff
AMOUNT: **\$91,000,000**
ACTUAL AWARD: **\$81,900,000**
STATE: Washington
VENUE: Pierce County
COURT: Pierce County Superior Court, WA
INJURY TYPE(S): *head* - headaches; fracture, skull
brain - epilepsy; brain damage; encephalomalacia; subdural hematoma; frontal lobe contusion; traumatic brain injury
other - seizure; grand mal seizure; seizure disorder
dental sensory/speech - tinnitus; vision, impairment
mental/psychological - anxiety; depression; cognition, impairment; memory, impairment; post-traumatic stress disorder
CASE TYPE: *Premises Liability* - Store; Failure to Warn; Inadequate or Negligent Security
Worker/Workplace Negligence - Negligent Training
CASE NAME: William Tisdale v. CF United Propco, LLC, a Delaware Limited Liability Corporation d/b/a “Union 76 Service Station and convenience store”; Pacific Convenience & Fuels, LLC, a Delaware Limited Liability Corporation d/b/a “Union 76 Service Station and convenience store”; Richard M. Baker, a Washington resident; John Does 1-10, No. 18-2-12279-7
DATE: June 17, 2021
PLAINTIFF(S): William Tisdale, (Male, 31 Years)
PLAINTIFF ATTORNEY(S): Eric Fong; Fong Law; Port Orchard WA for William Tisdale
 Emma L. Aubrey; Fong Law; Port Orchard WA for William Tisdale
 Ken McEwan; Fong Law; Port Orchard WA for William Tisdale
PLAINTIFF EXPERT(S): Jon D. Groussman; Security/Premises Liability; Miami, FL called by: Eric Fong, Emma L. Aubrey, Ken McEwan
 Allan J. Hamilton M.D.; Neurosurgery; Tucson, AZ called by: Eric Fong, Emma L. Aubrey, Ken McEwan
 Andrew K. Perry M.D.; Internal Medicine; Everett, WA called by: Eric Fong, Emma L. Aubrey, Ken McEwan
 Martha Glisky Ph.D.; Neuropsychology; Seattle, WA called by: Eric Fong, Emma L. Aubrey, Ken McEwan

Jeffrey M. Politsky M.D.; Epilepsy; Morristown, NJ called by: Eric Fong, Emma L. Aubrey, Ken McEwan

Rebecca Bellerive R.N.; Life Care Planning; Gig Harbor, WA called by: Eric Fong, Emma L. Aubrey, Ken McEwan

Christina P. Tapia Ph.D.; Economics; Seattle, WA called by: Eric Fong, Emma L. Aubrey, Ken McEwan

DEFENDANT(S): APRO LLC
 John Does 1-10
 Richard M. Baker
 CF United Propco LLC
 Pacific Convenience & Fuels LLC

DEFENSE ATTORNEY(S): Michael A. Jaeger; Lewis Brisbois Bisgaard & Smith LLP; Seattle, WA for Richard M. Baker, APRO LLC
 Geoffrey M. Hersch; Lewis Brisbois Bisgaard & Smith LLP; Seattle, TX for Richard M. Baker, APRO LLC
 None reported for CF United Propco LLC, Pacific Convenience & Fuels LLC, John Does 1-10

DEFENDANT EXPERT(S): Eric Knowles; Economics; Seattle, WA called by: for Michael A. Jaeger, Geoffrey M. Hersch
 Hal L. Rappaport M.D.; Neurology; Seattle, WA called by: for Michael A. Jaeger, Geoffrey M. Hersch
 Dean K. Shibata M.D.; Neuroradiology; Seattle, WA called by: for Michael A. Jaeger, Geoffrey M. Hersch
 James M. Blue M.D.; Neurosurgery; Seattle, WA called by: for Michael A. Jaeger, Geoffrey M. Hersch
 Laura Opson R.N.; Life Care Planning; Seattle, WA called by: for Michael A. Jaeger, Geoffrey M. Hersch
 Steven T. Baker; Security/Premises Liability; Las Vegas, NV called by: for Michael A. Jaeger, Geoffrey M. Hersch
 Elizabeth A. Ziegler Ph.D.; Neuropsychology; Seattle, WA called by: for Michael A. Jaeger, Geoffrey M. Hersch

FACTS: On Nov. 4, 2015, plaintiff William Tisdale, 31, a store clerk, entered a Union 76 convenience store in Tacoma as a customer. It was about 11 p.m. Richard M. Baker was the clerk on duty and the only employee present. Another man, who was unknown to Tisdale, was also in the store. This man had just attempted to rob the store of cash and cigarettes by threatening Baker’s life with a baseball bat. When Tisdale walked into the store, Baker told him to call 911. As Tisdale was calling 911, the would-be robber left the store and entered Tisdale’s unlocked car. As Tisdale left the store and approached his car, the man got out of the vehicle and repeatedly bashed Tisdale in the skull with the bat. Security cameras recorded the entire incident.

Tisdale sued the company that owned and operated the store, APRO, LLC. Tisdale alleged that APRO was liable in failing to

take mandatory safety precautions to make the store safe for customers and failed to train the store clerk properly in robbery and violence prevention. He also initial sued Baker.

Tisdale had initially sued CF United Propco, LLC doing business as Union 76 Service Station and Convenience Store, Pacific Convenience & Fuels, LLC doing business as Union 76 Service Station and Convenience. However, they were not the proper owners of the store. When it was determined that APRO was the correct owner and operator, United Propco and Pacific Convenience & Fuels were dismissed from the case and the complaint was amended to add APRO. Also, Baker was nonsuited before trial after APRO stipulated that he was in the course and scope of his employment with APRO at the time of the incident.

Tisdale alleged that Baker should have notified Tisdale of the robbery attempt after the would-be robber walked outside, and should have also warned him to stay inside until police arrived. By failing to do so, counsel argued, Baker failed to follow industry standards.

Baker's counsel did not concede that Tisdale was contributorily negligent, but suggested that, if the jury disagreed, a finding of 10 percent contributory negligence would be appropriate.

The defense denied negligence and argued that the would-be robber, not APRO or Baker, was responsible for Tisdale's injuries. The defense also argued that Tisdale should have known better than to approach his car while a stranger was in it.

INJURY: Tisdale was struck five times in the head with a baseball bat. He was transported by ambulance to a hospital, where he spent three days.

Tisdale was diagnosed with skull fractures, right holo-hemispheric bleeding, subdural hematomas, subarachnoid hematomas, intracranial bleeding, damage to the right frontal and right temporal lobes, and a midline shift of the brain. He developed encephalomalacia in the right temporal lobe, which his attorney described as "essentially a hole in his brain."

Tisdale developed a poorly controlled grand mal seizure disorder, anxiety, attention deficits, tinnitus, headaches, visual impairment, sleep impairment, post-traumatic stress disorder, depression, poor appetite, poor judgment, impulse-control problems, memory impairment and cognitive impairment. He further claimed that the seizures damaged his teeth.

Tisdale eventually came under doctors' care for his psychiatric issues, seizures, and visual and auditory disturbances. He claimed that these issues, along with his loss of appetite, sleep disturbances and dental problems, are all ongoing.

Testimony about Tisdale's life-care needs ranged from roughly \$3 million, if he lives in a group home, to \$12 million, if caregivers come to his house.

Tisdale sought compensatory damages only, consisting of future economic damages and past and future noneconomic damages. For noneconomic damages, Tisdale's attorneys asked the jury for \$91 million.

The defense argued that Tisdale had emotional and psychological problems before this incident and that other factors caused his ongoing problems. The defense pointed to Tisdale's use of alcohol and marijuana, spotty employment history, homelessness and arguments with his boyfriend. The defense also argued that, by not following his doctors' advice, he failed to mitigate his damages.

RESULT: The jury assigned 90 percent liability to APRO and 10 percent liability to Tisdale. It determined that Tisdale's damages totaled \$91 million. The verdict was reduced to \$81.9 million to reflect Tisdale's comparative negligence.

Tisdale's counsel said that this is the largest compensatory damages award for one person in the history of Washington State.

Trial Information:

JUDGE: Stephanie A. Arend
DEMAND: \$25 million
OFFER: \$25 million
TRIAL LENGTH: 3 weeks
TRIAL DELIBERATIONS: 5 hours

POST TRIAL: The court denied APRO's motions for remittitur and new trial. APRO has appealed.

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

PREMISES LIABILITY

Plaintiff claimed hotel's negligence led to alleged rape

TYPE: Verdict-Plaintiff
AMOUNT: **\$44,618,042**
ACTUAL AWARD: **\$40,156,238**
STATE: Texas
VENUE: Harris County
COURT: Harris County District Court, 189th, TX
INJURY TYPE(S): *other* - abrasions; sexual assault
epidermis - contusion
mental/psychological - anxiety; depression; post-traumatic stress disorder
CASE TYPE: *Intentional Torts* - Sexual Assault
Premises Liability - Hotel or Motel; Inadequate or Negligent Security
CASE NAME: Kathleen Ann Dawson v. Hilton Management LLC, Larry Joe Clowers, Jr., No. 2018-84453
DATE: November 17, 2021
PLAINTIFF(S): Kathleen Ann Dawson, (Female, 28 Years)
PLAINTIFF ATTORNEY(S): Ed Blizzard; Blizzard Law, PLLC; Houston TX for Kathleen Ann Dawson
Anna Greenberg; Blizzard Law, PLLC; Houston TX for Kathleen Ann Dawson
Michelle Simpson Tuegel; The Simpson Tuegel Law Firm; Dallas TX for Kathleen Ann Dawson
PLAINTIFF EXPERT(S): Jair Soraes M.D.; Psychiatry; , called by: Ed Blizzard, Anna Greenberg, Michelle Simpson Tuegel

Craig Bruno; Hotel/Motel; New Orleans, LA called by: Ed Blizzard, Anna Greenberg, Michelle Simpson Tuegel

Heidi Gilbert R.N.; Nursing; Stillwater, OK called by: Ed Blizzard, Anna Greenberg, Michelle Simpson Tuegel

Joela Sanchez; Vocational Rehabilitation; San Antonio, TX called by: Ed Blizzard, Anna Greenberg, Michelle Simpson Tuegel

Thomas Roney; Economics; , called by: Ed Blizzard, Anna Greenberg, Michelle Simpson Tuegel

DEFENDANT(S): Hilton Management LLC

Larry Joe Clowers Jr.

Park Hotels & Resorts Inc.

Hilton Worldwide Holdings Inc.

DEFENSE

ATTORNEY(S): Gregory A. Holloway; Taylor Book Allen & Morris; Houston, TX for Hilton Management LLC, Park Hotels & Resorts Inc., Hilton Worldwide Holdings Inc.

Meagan M. DeKeyzer; Taylor Book Allen & Morris; Houston, TX for Hilton Management LLC, Park Hotels & Resorts Inc., Hilton Worldwide Holdings Inc.

Andy Drumheller; Drumheller Hollingsworth & Monthly; Houston, TX for Larry Joe Clowers Jr. Derek Hollingsworth; Drumheller Hollingsworth & Monthly; Houston, TX for Larry Joe Clowers Jr. Angela Weltin; Angela Weltin Law PLLC for Larry Joe Clowers Jr.

DEFENDANT

EXPERT(S): Carrie Edwards R.N.; Nursing; Dallas, TX called by: for Gregory A. Holloway, Meagan M. DeKeyzer

FACTS: On March 12, 2017, plaintiff Kathleen Ann Dawson, 28, an inside salesperson in Ohio for a large corporation, was in Houston attending her employer's national convention. Her fiancé, who worked for the same company, was with her, and they had a room in Dawson's name at the Hilton-Americas Houston Hotel. That night, Dawson went out with coworkers and eventually became incapacitated by alcohol. At about 4 a.m., police and hotel security escorted Dawson to the room of a Houston coworker, Larry Joe Clowers Jr., 46, after Clowers told them, "she's with me." Dawson claimed that Clowers then sexually assaulted her in his room. Dawson had met Clowers just once before, but he and her fiancé had worked together in the past and were friends.

Clowers was indicted for sexual assault. The week before the criminal trial, the charge was dismissed without prejudice to refile.

Dawson sued Clowers and Hilton Management LLC. The lawsuit alleged that Clowers sexually assaulted her and that the hotel was negligent. Dawson also sued Hilton Worldwide Holdings Inc. and Park Hotels & Resorts Inc., formerly known as Hilton Worldwide Inc., but nonsuited them before trial.

Around 3 a.m. on the 12th, a passerby called 911 after seeing Dawson lying on the sidewalk in front of the hotel with Clowers

standing by her. Police had hotel security bring out a wheelchair for Dawson, and she and Clowers were escorted to Clowers' room. Dawson claimed that Clowers raped her after police and hotel security left.

Plaintiff's counsel emphasized that hotel security made no effort to ascertain whether Dawson was a registered, paying guest with her own room.

Dawson testified that, when she briefly regained consciousness in Clowers' room, he was raping her. When she later fully awoke, he was gone. She dressed, went back to her room and slept for a few more hours. She then got in the shower and noticed numerous bruises and abrasions to her vaginal area and other areas of the body, she said. Plaintiff's counsel also noted that, when Dawson's fiancé texted Clowers that morning to ask where Dawson was, Clowers did not respond.

Dawson and her fiancé were married by the time of trial. He testified that he stayed in on the night of the incident because he had to give a presentation early the next morning.

Plaintiff's counsel argued that the jury should find comparative responsibility of 80 percent on the hotel and 20 percent on Clowers.

Clowers contended that he and Dawson had consensual sex only. He testified that, after they got to his room, he went to sleep. At about 7:45 a.m., he woke up and went out, and when he returned a few hours later, he and Dawson had sex, he said. He then went out again for a while, and when he returned, Dawson was gone.

The defense called a Sexual Assault Nurse Examiner, who testified that Dawson's bodily injuries could have resulted from consensual sex or walking around in urine-soaked clothing, among other things.

The hotel further argued that the police officers, not hotel security, were in charge of the situation.

Hilton's counsel also argued that placing 80 percent responsibility on the hotel for an alleged rape by a guest would make no sense.

INJURY: Dawson claimed that she was raped. Her bodily injuries included bruises and vaginal pain. She followed up with her primary care doctor for trauma-related incontinence. She also treated with a psychologist and a psychiatrist, for post-traumatic stress disorder, depression, anxiety and panic attacks. She was still seeing the psychologist weekly and the psychiatrist monthly at the time of trial and was taking Xanax.

At the time of the incident, Dawson was making about \$192,000 a year. She claimed that, because of her psychological injuries, she could not return to a sales position or any stressful corporate work environment. She became a yoga instructor, making \$38,000 a year.

Plaintiff's counsel asked the jury to award \$921,200 for future medical expenses; \$667,860 for past loss of earning capacity; \$5,153,982 for future loss of earning capacity; \$750,000 for past physical pain; \$250,000 for future physical pain; \$7 million for past mental anguish; and \$20 million for future mental anguish.

The defense argued that Dawson could still work in a corporate sales position, possibly from home.

RESULT: The jury found that Clowers committed a sexual assault against Dawson; that Hilton's negligence proximately caused the occurrence in question; and that comparative

responsibility was 90 percent on Hilton and 10 percent on Clowers. The jury did not find that Dawson's negligence, if any, proximately caused the occurrence.

The jury awarded Dawson \$44,518,042, but the comparative-negligence reduction produced net damages of \$40,156,237.80.

Kathleen Dawson

\$ 921,200 Future Medical Cost
\$ 667,860 Past loss of earning capacity
\$ 5,153,982 Future loss of earning capacity
\$ 625,000 Past physical pain
\$ 250,000 Future physical pain
\$ 7,000,000 Past mental anguish
\$ 30,000,000 Future mental anguish

\$ 44,618,042 PLAINTIFF'S TOTAL AWARD

Trial Information:

JUDGE: Scot Dollinger
TRIAL LENGTH: 6 days
TRIAL DELIBERATIONS: 1 days
JURY VOTE: 10-2
JURY COMPOSITION: 9 male, 3 female

EDITOR'S COMMENT: This report is based on information that was provided by plaintiff's counsel. Clowers' counsel did not respond to the reporter's phone calls. Hilton's counsel declined to contribute.



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