



Road's dangerous condition led to altercation: plaintiff

Type: Verdict-Plaintiff

Amount: \$9,328,324

State: California

Venue: Fresno County

Court: Superior Court of Fresno County, Fresno, CA

Injury Type(s):

- *arm* - crush injury, arm
- *hip*
- *leg* - crush injury, leg
- *head*
- *knee* - medial meniscus, tear; lateral meniscus, tear
- *neck* - fracture, neck
- *brain* - brain damage; traumatic brain injury
- *other* - effusion; crush injury; fracture, glenoid labrum; heterotopic ossification
- *shoulder* - fracture, shoulder; fracture, scapula; fracture, shoulder; Hill-Sachs fracture; glenoid labrum, tear; dislocation
- *foot/heel* - crush injury, foot; foot drop (drop foot)
- *surgeries/treatment* - colostomy
- *mental/psychological* - depression; post-traumatic stress disorder

Case Type:

- *Government* - Municipalities
- *Motor Vehicle* - Single Vehicle; Tractor-Trailer
- *Intentional Torts* - Assault and Battery
- *Premises Liability* - Dangerous Condition; Negligent Repair and/or Maintenance
- *Dangerous Condition of Public Property*

Case Name: Daquan Jones v. Hiller Aircraft Corporation; Roadtex LTL, Inc.; Roadtex Transportation Corporation; David J. Carter as Trustee of the Raymond J. Carter Grantor Trust; Amy D. McBee as Trustee of the Raymond H. Carter Grantor Trust; Pacific Produce Distributors, Inc.; John Wayne McBee as Trustee of the John and Sheri McBee Revocable Trust; Sheri D. McBee as Trustee of the John and Sheri McBee Revocable Trust; City of Firebaugh; and Does 1-100, No. 18CECG04044

Date: May 04, 2021

Plaintiff(s): • Daquan Jones, (Male, 24 Years)

Plaintiff Attorney(s): • Richard C. Watters; Miles, Sears & Eanni; Fresno CA for Daquan Jones
• Lyndsie N. Russell; Miles, Sears, & Eanni; Fresno CA for Daquan Jones

Plaintiff Expert(s): • Amy L. Magnusson M.D.; Physical Medicine; San Diego, CA called by: Richard C. Watters, Lyndsie N. Russell
• Dean Delis Ph.D.; Neuropsychology; Encinitas, CA called by: Richard C. Watters, Lyndsie N. Russell
• Rene A. Castaneda P.E.; Accident Reconstruction; Fresno, CA called by: Richard C. Watters, Lyndsie N. Russell
• Rick A. Sarkisian Ph.D.; Vocational Rehabilitation; Fresno, CA called by: Richard C. Watters, Lyndsie N. Russell
• Dalene J. Whitlock P.E.; Traffic; Santa Rosa, CA called by: Richard C. Watters, Lyndsie N. Russell
• Robert B. Post Ph.D.; Ergonomics/Human Factors; Granite Bay, CA called by: Richard C. Watters, Lyndsie N. Russell
• Marianne Inouye M.B.A.; Economics; Pasadena, CA called by: Richard C. Watters, Lyndsie N. Russell

Defendant(s): • Steven Palm
• ATL Group, LLC
• City of Firebaugh
• Roadtex LTL, Inc.
• John Henry Cheatham
• Siam Hiller Holdings, Inc.
• Hiller Aircraft Corporation
• Pacific Produce Distributors Inc.
• Roadtex Transportation Corporation
• Amy D. McBee as Trustee of the Raymond H. Carter Grantor Trust
• David J. Carter as Trustee of the Raymond J. Carter Grantor Trust
• Sheri D. McBee as Trustee of the John and Sheri McBee Revocable Trust
• John Wayne McBee as Trustee of the John and Sheri McBee Revocable Trust

Defense Attorney(s): • David J. Frankenberger; Ericksen Arbuthnot.; Fresno, CA for Hiller Aircraft Corporation, Siam Hiller Holdings, Inc., Steven Palm
• Chester E. Walls; Overstreet & Associates; Fresno, CA for City of Firebaugh
• None reported for Roadtex LTL, Inc., David J. Carter as Trustee of the Raymond J. Carter Grantor Trust, Amy D. McBee as Trustee of the Raymond H. Carter Grantor Trust, Sheri D. McBee as Trustee of the John and Sheri McBee Revocable Trust, John Henry Cheatham, ATL Group, LLC, John Wayne McBee as Trustee of the John and Sheri McBee Revocable Trust, Pacific Produce Distributors Inc., Roadtex Transportation Corporation

Facts: On July 2, 2018, plaintiff Daquan Jones, 24, a long-haul trucker from Philadelphia,

traveled with his driving partner, John Cheatham, from New Jersey to Firebaugh, Calif., to pick up a load of tomatoes in their tractor-trailer. This was their first visit to Firebaugh. After picking up the tomatoes, they proceeded on M Street and crossed over the intersection with 12th Street. At around 11th Street, M Street turned into a dirt road. However, they found there were no signs indicating there was a dead end at the north end of the street.

M Street was a designated truck route. Trucks would often park on both sides of the street, even though there were signs restricting such parking. M Street also ended at an open gate for a property belonging to Hiller Aircraft Corp., a helicopter manufacturer.

Prior to the subject date, Steven Palm, the manager of Hiller Aircraft, became frustrated with the trucking problem and had installed, at Hiller Aircraft's expense, telephone poles and 10 cement barricades/blocks along M Street, with three blocks on the west side and seven on the east side of M Street, which partially blocked access to 10th Street and restricted U-turns by tractor-trailers. The sides of several cement barricades/blocks were stenciled with words informing motorists that a truck turn around would cost \$50.

When Jones and Cheatham reached the gate on the subject date, Cheatham got out of the truck to ask permission to turn around on the Hiller Aircraft property. Even though an employee agreed, and the tractor-trailer was in the process of making the U-turn, Palm approached the tractor-trailer in order to obtain the \$50. An altercation ensued. Cheatham re-entered the tractor-trailer and attempted to leave, but Jones was thrown to the ground during the altercation with Palm. The rear wheels of the loaded trailer went over Jones' body, causing injuries to his head, neck, left shoulder, left buttocks, left knee and left foot.

Jones sued Palm; Hiller Aircraft Corp.; Hiller Aircraft's parent company, Siam Hiller Holdings Inc.; the maintainer of M Street, the city of Firebaugh; the believed owners of Cheatham's trailer, Roadtex LTL, Inc. and Roadtex Transportation Corp.; the company believed to have supplied the load of tomatoes in Cheatham's truck, Pacific Produce Distributors Inc.; and the owners of the neighboring private properties, David J. Carter as Trustee of the Raymond J. Carter Grantor Trust, Amy D. McBee as Trustee of the Raymond H. Carter Grantor Trust, and John McBee and Sheri McBee as Trustees of the John and Sheri McBee Revocable Trust. Jones alleged that Palm was negligent for the altercation and that Hiller Aircraft and Siam Hiller Holdings were vicariously liable for his actions. Jones also alleged that the city was liable for creating a dangerous condition of public property and that the Carter and McBee defendants were also liable for the dangerous condition near their private property. In addition, Jones alleged that Cheatham was negligent in the operation of the tractor-trailer and that Roadtex and Pacific Produce were vicariously liable for Cheatham's actions.

The defendants filed cross-complaints against one another, during which Cheatham and Cheatham's employer, ATL Group, LLC, were added as third-party defendants.

Palm and the McBee defendants settled out of the case, while Siam Hiller Holdings was

let out of the case prior to trial for a waiver of costs. In addition, Pacific Produce Distributors was dismissed from the case after it was found to be an improperly named defendant, and several other of the first-party defendants were also dismissed from the case, as were Cheatham and ATL Group. Thus, Jones' claim only continued against Hiller Aircraft and the city of Firebaugh, while the remaining defendants' cross-complaints were mutually dismissed for cost waivers before the start of trial.

Jones' counsel argued that Palm negligently installed the cement barricades/blocks and that Palm negligently placed them on city property and without an encroachment permit. Counsel contended that the city had abandoned one-half of 10th Street, at the north end of M Street, in 1988, creating the dead end, and that the city had been on notice by letters from Palm in 2004 and 2006 regarding M Street and the trucking problem. Jones' counsel added that the city's fire chief regularly drove on M Street north, turned onto 10th Street and then, from the canal bank, went northbound in order to be assured that the city's 40,000-pound fire engines could take that route. However, counsel argued that the fire chief never reported any of the cement barricades/blocks, which were put in place approximately one year prior to the accident. Jones' counsel further contended that, 10 days before the subject accident, an employee of Palm's alleged that the city's fire chief told him to remove the telephone poles and that the city's fire chief may have also asked that the cement barricades/blocks be removed also. In addition, counsel contended that the fire chief went to the chief of police and the city manager/public works manger to inform them both of the problem with the cement barricades/blocks on June 20, 2018, and that the chief of police also sent out a code enforcement officer that same day, but that Palm told the code enforcement officer that the cement barricades/blocks were on Hiller property, which was not true. As a result, the code enforcement officer reported the discussion to the chief of police, who informed the city manager/public works director. Jones' counsel contended that as a result, the code enforcement officer, chief of police and city manager/public works director were going to see if a survey had been conducted by the city, but that, ultimately, they did nothing to remove the cement barricades/blocks.

Plaintiff's counsel noted that the city subpoenaed and spoke with the owner of the tomato packing facility, the Red Rooster, who was the owner since approximately 2004. At his deposition, the owner testified that he had made complaints regarding the condition of 12th Street to various public works directors since he purchased the business, but that nothing was ever done. Thus, plaintiff's counsel argued that the city's abandonment of the roads, caused it be unclear whether the dirt portion of the roads of 10th and 11th Streets actually intersected with the dirt road portion of M Street and that Palm/Hiller Aircraft negligently installed the cement barricades/blocks along M Street, partially blocking access to the city's abandoned 10th Street, creating the dead end. Counsel argued that as a result of the roadways' condition, the truck containing Jones and Cheatham was forced to make a U-turn, which led to the altercation.

Hiller Aircraft's counsel argued that Hiller Aircraft was not vicariously liable for Palm and that liability should be attributed to Jones, Cheatham and the city only.

The city's counsel noted that the city abandoned portions of M Street and 10th Avenue in 1988, by resolution of city council, in order to allow for private use of right-of-way

because those portions of the roadways were no longer needed for use as a public roadway. As a result, the abandoned areas allegedly formed part of the parcel upon which the Hiller Aircraft property was located. The city's counsel contended that there was no history of any accidents or injuries on M Street, or at the Hiller Aircraft property, but that there were complaints about the conditions of the pavement and roadway. However, counsel contended that the city never had the funds to be able to improve the pavement conditions, even though it sought grant funding on multiple occasions.

The city's counsel added that, in 2017, Hiller Aircraft commissioned a survey of its parcel and nearby parcels for a fence project, as the physical property lines in the area had never been established. The city's counsel contended that as a result of the survey, Palm believed that he had placed the concrete barricades/blocks on private property and with the permission of private property owners and that Palm never obtained an encroachment permit from the city, as his survey indicated that the barricades/blocks were not being placed within the city's right-of-way. However, counsel contended that it was later determined that at least nine of the concrete barricades/blocks were placed within the city's right-of-way, but that it was undisputed that tractor-trailers and other vehicles were able to turn and/or maneuver before encountering the concrete barricades/blocks, and even when they were between the concrete barricades/blocks, without any issue. In addition, counsel contended that on June 22, 2019, the city initiated a code enforcement investigation into the placement of the concrete barricades/blocks, which partially blocked access on 10th Street to a private road that was adjacent to the Helm Canal, but that as part of the investigation at that time, Palm advised the city of his survey and permission from the nearby private property owners. However, the city's counsel added that Palm did not provide the survey until after the subject incident and that the city did not conduct its own survey prior to the subject incident because it would have cost more than \$8,000 and taken more than two months to complete.

Regardless, the city's counsel denied that any condition of the public property was "hidden," as Jones testified that he was aware of the conditions and the concrete blocks on the side of the dirt roadway. Counsel also noted that Jones admitted that he came to a complete stop before choosing to go on to the Hiller Aircraft property. Counsel also denied that a "dead end" or "no outlet" sign was necessary on M Street, as the conditions of the roadway were obvious and that there were no issues prior to the subject incident. As a result, the city's counsel argued that Jones could have stopped or turned onto 11th Street, which was less than 500 feet in either direction between Red Rooster and Hiller Aircraft, but that Jones, instead, continued the tractor-trailer northbound toward the Hiller Aircraft property. Counsel contended that Jones ultimately stopped within 25 feet of the fence/gate at the Hiller Aircraft property, which crossed M Street and was clearly delineated an end of the public roadway. In addition, the city's counsel noted that Jones admitted that he stopped the tractor-trailer between the concrete blocks, that he chose not to turn before or between the concrete blocks, and that he allowed Cheatham to exit the vehicle to seek permission to use the Hiller Aircraft property to make a U-turn. Thus, the city's counsel argued that liability should only be attributed to Jones, Cheatham, Palm and Hiller Aircraft.

Injury:

Jones sustained crushing injuries to the left side of his body, including his left shoulder, left buttocks, left knee and left foot. He also Jones suffered a moderate traumatic brain injury, a neck fracture, and tears of the medial and lateral menisci. In addition, he sustained a glenoid fracture to his left shoulder, a glenoid labrum tear, a scapula fracture, a shoulder dislocation and a Hill-Sachs deformity, which is a compression injury to the posterolateral aspect of the humeral head. Jones was taken to Community Regional Medical Center, in Fresno, where he was hospitalized for four months. He then underwent two months of additional treatment at Magee Rehabilitation Center, in Philadelphia, where he continues to be seen as an outpatient. In total, Jones underwent 28 surgeries before trial.

Jones claimed that he is left with heterotrophic ossifications, the presence of bone in soft tissue where bone normally does not exist, as well as stiffness to his left shoulder and left knee as a result of his fractures. He also claimed he sustained a left drop foot, effusion of the left knee joint and calcifications and stiffness in the left knee as a result of the crush injury. He further claimed that he is left with degenerative changes from his knee injuries. In addition, Jones claimed that he suffers from depression and post-traumatic stress disorder.

Jones requires the use of a cane or wheelchair to move around. He also continues to undergo surgeries for skin expanders at Johns Hopkins Hospital, in Baltimore. He claimed that he may potentially undergo a reversal of a colostomy and that it is anticipated that he will have three more procedures to the left buttocks. He further claimed that it is anticipated that he will eventually require a total left knee replacement.

Jones and has not worked since the day of the accident, and he alleged that he will never work again.

Jones sought recovery of past and future medical costs, past and future loss of earnings, and damages for his past and future pain and suffering.

The city's counsel contended that the conduct of Jones, Palm and/or Cheatham were the causes of Jones' damages, and that Jones' injuries were not caused by any condition of public property.

Result:

The jury found that Palm was negligent and that Palm's negligence was a substantial factor in causing Jones' harm. It also found Palm was acting within the course and scope of his employment with Hiller Aircraft at the time he caused Jones' harm, that Hiller Aircraft was negligent in the use and/or maintenance of the roadway and that Hiller Aircraft's negligence was a substantial factor in causing Jones' harm. The jury further found that the city had control of the subject roadway, that the city's inspection system was deficient, that the city had both actual and constructive notice of the roadway's dangerous condition, that the city failed to address the dangerous condition and that the city's negligence was a substantial factor in causing Jones' harm. In addition, it found that Jones was negligent, but concluded that Jones' negligence was not a substantial factor in causing his own harm. The jury apportioned 45 percent liability to Palm, 25 percent liability to Hiller Aircraft, 25 percent liability to the city and 5 percent liability to Cheatham (as an empty chair defendant).

The jury determined that Jones' damages totaled \$9,328,323.69.

Trial Information:**Judge:**

Rosemary T. McGuire

Demand:

\$2,500,000 (from Hiller Aircraft)

Offer:

None (Hiller Aircraft)

Trial Length:

4 weeks

**Trial
Deliberations:**

8 hours

**Jury
Composition:**

5 male, 7 female

Post Trial:

Post-trial motions have not yet been filed, and the time to seek an appeal has not yet run out.

**Editor's
Comment:**

This report is based on information that was provided by plaintiff's counsel, the city of Firebaugh's counsel and Hiller Aircraft's counsel. The remaining defendants' counsel were not asked to contribute.

Writer

Priya Idiculla

Pedestrian claimed ongoing pain after being run over by truck

Type: Verdict-Plaintiff

Amount: \$5,000,000

State: California

Venue: San Bernardino County

Court: Superior Court of San Bernardino County, San Bernardino, CA

Injury Type(s):

- *leg* - crush injury, leg
- *knee* - lateral meniscus, tear; fracture, tibial plateau; scar and/or disfigurement, knee
- *other* - physical therapy
- *foot/heel* - crush injury, foot
- *neurological* - radiculopathy; reflex sympathetic dystrophy; complex regional pain syndrome

Case Type:

- *Motor Vehicle* - Truck; Pedestrian; Parking Lot; Single Vehicle

Case Name: Anita Sun Eisenberg, an Individual v. Alfredo Mesta; PV Holding Corp.; Amazon.com Services, Inc.; and Does 1 to 25, Inclusive, No. CIVDS1902556

Date: June 08, 2022

Plaintiff(s):

- Anita Eisenberg, (Female, 43 Years)

Plaintiff Attorney(s):

- Justin K. Strassburg; Strassburg, Gilmore & Wei, LLP; Pasadena CA for Anita Eisenberg
- William R. Gilmore; Strassburg, Gilmore & Wei, LLP; Pasadena CA for Anita Eisenberg

**Plaintiff Expert
(s):**

- Jon B. Landerville M.S., P.E.; Accident Reconstruction; Torrance, CA called by: Justin K. Strassburg
- John Brault; Biomechanics of Injury; Mission Viejo, CA called by: Justin K. Strassburg
- Babak Dadvand; Wound Analysis; Beverly Hills, CA called by: Justin K. Strassburg
- Rajan M. Patel M.D.; Orthopedic Surgery; Los Angeles, CA called by: Justin K. Strassburg
- Fardad Mobin M.D.; Neurosurgery; Beverly Hills, CA called by: Justin K. Strassburg
- Joshua A. Prager; Pain Management; Santa Monica, CA called by: Justin K. Strassburg
- Steven Richeimer; Workers' Compensation; Los Angeles, CA called by: Justin K. Strassburg
- Jennifer Cragmyle RN MSN; Life Care Planning; Oak Hills, CA called by: Justin K. Strassburg

Defendant(s):

- Alfredo Mesta
- PV Holding Corp.
- Amazon.com Services Inc.
- Felfam Limited Partnership

**Defense
Attorney(s):**

- Peter M. Hughes; Wilson Elser Moskowitz Edelman & Dicker LLP; San Diego, CA for Alfredo Mesta, Amazon.com Services Inc.
- Jessica R. K. Dorman; Wilson Elser Moskowitz Edelman & Dicker LLP; San Diego, CA for Alfredo Mesta, Amazon.com Services Inc.

**Defendant
Expert(s):**

- Jay S. Tsuruda M.D.; Neuroradiology; San Gabriel, CA called by: for Peter M. Hughes
- Mary E. Jesko Ed. D.; Life Care Planning; San Diego, CA called by: for Peter M. Hughes
- Anthony T. Fenison M.D.; Orthopedic Surgery; Redlands, CA called by: for Peter M. Hughes
- Michael F. Brones M.D.; Plastic Surgery/Reconstructive Surgery; Los Angeles, CA called by: for Peter M. Hughes

Insurers:

- Zurich North America

Facts:

On Nov. 15, 2018, plaintiff Anita Eisenberg, 43, a medical esthetician, was walking across a parking lot of a Wells Fargo bank, in Chino Hills, when she was struck by a truck operated by Alfredo Mesta. Eisenberg was knocked over and then Mesta stopped the truck on top of her left leg. After getting out to see what happened, Mesta got back in the truck and reversed off her leg.

Eisenberg sued Mesta; Mesta's employer, Amazon.com Services Inc.; and the owner of the truck, PV Holding Corp. Eisenberg alleged that Mesta was negligent in the operation of his vehicle and that PV Holding Corp. was vicariously liable for Mesta's actions. Eisenberg also alleged that Amazon.com Services was liable for Mesta's actions while in the course and scope of his employment.

Felfam Limited Partnership was later added as a defendant, but it was ultimately let out from the case.

Amazon.com Services stipulated to liability on behalf of itself and Mesta. The remaining defendants were let out of the case, and the matter proceeded to a trial on damages.

Injury:

Eisenberg sustained a crush injury to her left knee, which includes a fracture of her left tibial plateau and a tear of the left meniscus. She also sustained crash injuries to her right ankle and foot, as well as cervical radiculopathy. Eisenberg was taken by ambulance to a hospital, where she received wound care and medication. She did not require any surgeries, but she underwent approximately two months of physical therapy.

Eisenberg claimed that she continues to have pain in her left knee and is left with a knee scar. She also claimed she continues to suffer from complex regional pain syndrome, also known as reflex sympathetic dystrophy or causalgia, a chronic pain condition. In addition, Eisenberg alleged that she was able to keep working, but that she is limited in what she could do because of her ongoing pain and that as a result, she may need future injections.

Eisenberg sought recovery of \$20 million in non-economic damages for her past and future pain and suffering.

Defense counsel argued that all of Eisenberg's injuries had healed and that Eisenberg would not need any future medical treatment.

Result:

The jury determined that Eisenberg's damages totaled \$5 million.

Anita Eisenberg

\$ 900,000 Future Pain Suffering

\$ 4,100,000 Past Pain Suffering

\$ 5,000,000 Plaintiff's Total Award

Trial Information:

Judge: John Pacheco

Trial Length: 8 days

**Trial
Deliberations:** 1 days

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel. Additional information was gleaned from court documents. Defense counsel did not respond to the reporter's phone calls.

Writer Yawana Fields

Plaintiff alleged shoulder injury result of collision

Type: Verdict-Plaintiff

Amount: \$2,696,600

State: California

Venue: San Diego County

Court: Superior Court of San Diego County, San Diego, CA

Injury Type(s):

- *knee* - meniscus, tear
- *other* - labrum, tear
- *shoulder*
- *surgeries/treatment* - knee surgery; meniscectomy

Case Type:

- *Motor Vehicle* - Motorcycle; Intersection

Case Name: Matthew William Shapiro v. Otsuka America Pharmaceutical Inc. and Mary Catherine Carden, No. 37-2020-00017371-CU-PA-CTL

Date: August 30, 2023

Plaintiff(s):

- Matthew William Shapiro, (Male, 45 Years)

Plaintiff Attorney(s):

- Elliott H. Jung; Hepburn, Hernandez & Jung Trial Attorneys; Carlsbad CA for Matthew William Shapiro
- Michael P. Hernandez; Hepburn, Hernandez & Jung Trial Attorneys; La Jolla CA for Matthew William Shapiro

Plaintiff Expert (s):

- Will Valdez M.S.; ccident Investigation & Reconstruction/ Failure Analysis/Product Liability; Carlsbad, CA called by: Elliott H. Jung, Michael P. Hernandez
- William L. Tontz, Jr. M.D.; Orthopedic Surgery; Bradenton, FL called by: Elliott H. Jung, Michael P. Hernandez

Defendant(s):

- Mary Catherine Carden
- Otsuka America Pharmaceutical Inc.

**Defense
Attorney(s):**

- John A. Kaniewski; WFBM, LLP; Orange, CA for Otsuka America Pharmaceutical Inc., Mary Catherine Carden
- Raquel E. Howard; WFBM, LLP; Orange, CA for Otsuka America Pharmaceutical Inc., Mary Catherine Carden

**Defendant
Expert(s):**

- Brad S. Cohen M.D.; Orthopedic Surgery; Poway, CA called by: for John A. Kaniewski, Raquel E. Howard

Facts:

On Nov. 22, 2019, plaintiff Matthew Shapiro, 45, a business owner, was driving his motorcycle in San Diego and coming to a stop on Fourth Avenue at an intersection, when his vehicle collided with an SUV driven by Mary Carden. Shapiro fell off his motorcycle and allegedly landed on his left shoulder. Shapiro claimed injuries to his left shoulder and his knees.

Shapiro sued Carden, alleging negligence while operating a vehicle, as well as her employer and owner of her vehicle, Otsuka America Pharmaceutical Inc., alleging vicarious liability for Carden's actions.

Shapiro's counsel contended that Carden pulled out of a driveway into oncoming traffic on a one-way street, and that Carden was negligent for failing to see Shapiro.

Defendants' counsel argued that Carden was not at fault because she acted reasonably. Carden disputed liability, claiming she was waiting to pull out of a shopping center onto a one way road and she crept out of the driveway, just barely stepping off her brakes, before being struck by Shapiro's motorcycle. She testified that she looked to the right and did not see Shapiro because there was a line of cars parked on the side of the street. Defense argued that Carden did the reasonable thing, by creeping out of a driveway and that it was Shapiro who had run into her vehicle.

Injury:

Following the crash, Shapiro rode his motorcycle home and went to the emergency room later that night, complaining of shoulder pain.

Shapiro saw his primary care doctor after his ER visit, and then saw an orthopedic physician who ordered a left shoulder MRI, which revealed a torn labrum. For treatment, Shapiro received shoulder surgery about six months after the incident.

Seven months after the incident, Shapiro alleged pain in both knees. MRI imaging revealed meniscus tears to both knees. Shapiro underwent double knee surgery for a torn meniscus and received another revision shoulder surgery, as he was still reporting shoulder pain after his first surgery.

Shapiro claimed he will need ongoing physician visits, physical therapy and pain injections, in the future. Shapiro reported that prior to the incident, he would run, swim and bike for fun. He also claimed that he used to do triathlons and that by the time of the trial, he could no longer swim or run.

Shapiro waived past medical costs, but sought recovery for future medical costs, past pain and suffering and future pain and suffering.

Defense argued the impact was low speed at 1-to-3 mph, and that the motorcycle had minimal-to-no damage. Defense argued that the defendants were responsible for the first shoulder surgery, but not the second shoulder surgery, as they claimed Shapiro did not follow post-operative protocol. Specifically, medical records showed multiple notations where Shapiro's doctor stated that Shapiro was overly exerting himself, and overly aggressive after his surgery. Notations also included reports of Shapiro riding his motorcycle, after his first shoulder surgery, lifting weights and engaging in aggressive therapy.

Result:

The jury found that Carden's negligence was a substantial factor in causing harm to Shapiro. The jury awarded Shapiro \$2,696,600.

Matthew Shapiro

\$ 269,600 Future Medical Cost

\$ 2,000,000 Future Pain Suffering

\$ 400,000 Past Pain Suffering

\$ 2,669,600 Plaintiff's Total Award

Trial Information:

Judge: Richard S. Whitney

Demand: \$1 million (C.C.P. 998)

Offer: \$250,000

Trial Length: 6 days

**Trial
Deliberations:** 1.5 days

**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.

Writer Priya Idiculla

Plaintiff claimed ongoing knee pain after fall in store

Type: Mediated Settlement

Amount: \$1,250,000

State: California

Venue: Fresno County

Court: Superior Court of Fresno County, Fresno, CA

Injury Type(s):

- *leg*
- *knee* - patella; medial meniscus, tear
- *other* - dysplasia; physical therapy; decreased range of motion
- *neurological* - reflex sympathetic dystrophy; complex regional pain syndrome
- *surgeries/treatment* - arthroscopy; knee surgery; meniscectomy

Case Type:

- *Premises Liability* - Store; Dangerous Condition; Negligent Repair and/or Maintenance
- *Slips, Trips & Falls* - Trip and Fall

Case Name: Rosario Soto v. Garcia's Supermarket; and Does 1 to 25, inclusive, No. 19CECG01669

Date: May 19, 2021

Plaintiff(s):

- Rosario Soto, (Female, 48 Years)

Plaintiff Attorney(s):

- Warren R. Paboojian; Baradat & Paboojian, Inc.; Fresno CA for Rosario Soto
- Nolan C. Kane; Baradat & Paboojian, Inc.; Fresno CA for Rosario Soto

Plaintiff Expert(s):

- Kurt V. Miller M.D.; Neurology; Fresno, CA called by: Warren R. Paboojian, Nolan C. Kane
- James Flynn P.E.; Safety; Fresno, CA called by: Warren R. Paboojian, Nolan C. Kane
- Robert G. Salazar M.D.; Pain Management; Fresno, CA called by: Warren R. Paboojian, Nolan C. Kane
- Thomas J. O'Laughlin M.D.; Physical Medicine; Fresno, CA called by: Warren R. Paboojian, Nolan C. Kane

Defendant(s):

- Bertha Flores
- Guadalupe Flores

Defense Attorney(s):

- R. Marc Stamper; Law Office of Penny S. Moore; Fresno, CA for Guadalupe Flores, Bertha Flores

Defendant Expert(s):

- Michael A. Cerruti M.D.; Orthopedic Surgery; Sacramento, CA called by: for R. Marc Stamper

Insurers:

- Nationwide Mutual Insurance Co.

Facts:

On Jan. 4, 2019, plaintiff Rosario Soto, a 48-year-old unemployed woman, fell while she was shopping in the produce section of Garcia's Supermarket, in Kerman. Soto sustained injuries to her left knee.

Soto sued the supermarket's operators, Guadalupe Flores and Bertha Flores. Soto alleged that the defendants failed to properly maintain the premises, creating a dangerous condition.

Soto claimed she tripped on the corner of a square pallet that was sticking out from underneath an octagonal produce bin.

Defense counsel contended that the pallet/bin combination was open and obvious and that it was clearly visible to customers.

Injury:

Soto sustained a torn medial meniscus in her left knee, resulting in trochlea dysplasia (when a knee's trochlea becomes flat or dome-shaped, causing the patella to lose stability and track to the outside of the knee as the knee bends) and patellar maltracking (also known as patellar tracking disorder, which is when the movement of the kneecap is not aligned).

Soto was taken to a hospital, where she was treated and released. She later underwent a partial medial meniscectomy, which was performed arthroscopically, in June 2019. Soto then underwent injections and physical therapy for seven months, which was unsuccessful.

Soto claimed that the pain in her left knee and leg remains severe and that she was ultimately diagnosed with complex regional pain syndrome, also known as reflex sympathetic dystrophy or causalgia, a chronic pain condition. She also claimed that she has difficulty walking and requires the use of a cane.

Soto claimed that she will require future medical care, including a lumbar sympathetic injection at L2 and L3, to see if it will provide any relief before moving forward with more invasive procedures. She also claimed that future treatment could include Ketamine infusions, which would consist of one infusion a week for four weeks, and a surgically-implanted spinal cord stimulation delivery system, which would be performed on an outpatient basis. She alleged that if the prior treatments are unsuccessful, she would be a candidate for a surgical implantation of an intrathecal delivery system for the purpose of providing ziconotide intrathecally onto the spinal cord receptors.

Soto sought recovery of \$8,476.33 in past Howell medical costs and at least \$100,000 in estimated future medical costs. She also sought recovery of non-economic damages for her past and future pain and suffering.

Result:

The parties agreed to a \$1.25 million settlement, which was finalized via the guidance of mediator James Dilling.

Trial Information:

Judge: James A. Dilling

Trial Length: 0

Trial 0
Deliberations:

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

Writer Priya Idiculla

Employer knew of suspended license, claims plaintiff

Type: Settlement

Amount: \$1,000,000

State: California

Venue: Riverside County

Court: Superior Court of Riverside County, Riverside, CA

Injury Type(s):

- *head*
- *knee* - lateral meniscus, tear
- *brain* - traumatic brain injury
- *shoulder*

Case Type:

- *Motor Vehicle* - Broadside; Negligent Entrustment

Case Name: Shannon Castro v. Nick's Tire & Brake Service Inc., Nicanor Gonzalez and Aurelio Gonzalez-De La Torres, No. CVRI2000268

Date: June 26, 2023

Plaintiff(s):

- Shannon Castro, (Female, 48 Years)

Plaintiff Attorney(s):

- Christopher Montes de Oca; Law Offices of Christopher Montes de Oca; Whittier CA for Shannon Castro
- Artin Yadegarian; Law Offices of Artin Yadegarian; Glendale CA for Shannon Castro
- Gregory E. Nassar; Nassar Law; Brea CA for Shannon Castro

Plaintiff Expert(s):

- David M. Lechuga Ph.D.; Neuropsychology; Lake Forest, CA called by: Christopher Montes de Oca, Artin Yadegarian, Gregory E. Nassar
- Bradley A. Jabour M.D.; Neuroradiology; Santa Monica, CA called by: Christopher Montes de Oca, Artin Yadegarian, Gregory E. Nassar
- Michael A. Lobatz M.D.; Neurology; Carlsbad, CA called by: Christopher Montes de Oca, Artin Yadegarian, Gregory E. Nassar
- Michael A. Callahan B.S.M.E.; Accident Reconstruction; El Segundo, CA called by: Christopher Montes de Oca, Artin Yadegarian, Gregory E. Nassar

Defendant(s):

- Nicanor Gonzalez
- Aurelio Gonzalez-De La Torres
- Nick's Tire & Brake Service, Inc.

Defense Attorney(s):

- Lisa L. Renaud; Homan, Stone & Rossi; Redlands, CA for Nick's Tire & Brake Service, Inc., Nicanor Gonzalez, Aurelio Gonzalez-De La Torres

Defendant Expert(s):

- Dean C. Delis Ph.D.; Neuropsychology; San Diego, CA called by: for , Lisa L. Renaud
- Donald D. Kim M.D.; Orthopedic Surgery; Riverside, CA called by: for , Lisa L. Renaud
- Gabriel E. Hunt M.D.; Neurosurgery; Los Angeles, CA called by: for , Lisa L. Renaud
- Jeffrey A. Suway M.S., P.E.; Ergonomics/Human Factors; Long Beach, CA called by: for , Lisa L. Renaud

Insurers:

- Progressive Casualty Insurance Co.

Facts:

On Dec. 6, 2019, at 5:50 a.m., plaintiff Shannon Castro, 48, an accounting clerk, was driving her vehicle on Mission Boulevard and San Sevaine Way in Jurupa Valley, when her vehicle was broadsided by a truck driven by Aurelio Gonzalez-De La Torres. Following the accident Castro claimed injuries to her head, left shoulder and knee.

Castro sued Gonzalez-De La Torres, as well as Gonzalez-De La Torres' employers, Nick's Tire & Brake Service Inc. and the business' owner Nicanor Gonzalez.

Castro alleged that Gonzalez-De La Torres was negligent in the operation of his vehicle and that Nick's Tire & Brake Service Inc. and Nicanor Gonzalez were vicariously liable for Gonzalez-De La Torres' actions. Castro also alleged claims of negligent entrustment against Nick's Tire & Brake Service Inc. and Gonzalez.

Plaintiff's counsel contended that Gonzalez-De La Torres was driving on a suspended license and driving an illegally modified overweight truck in an intersection. Plaintiff's counsel further argued that Gonzalez-De La Torres' employer knew of his suspension and employed him to drive in conscious disregard of the public's safety.

The defense countered that Castro ran a red light and was therefore liable for the accident.

Injury:

Castro was immediately transported to the hospital following the accident. Castro was found to have suffered a traumatic brain injury, an incomplete rotator-cuff tear or rupture of her left shoulder and a complex tear of the lateral meniscus of her knee. She underwent surgery on her right knee and left shoulder. She also underwent rehabilitation for her traumatic brain injury. Castro claims she will need future medical care for her traumatic brain injury including further testing, therapy and rehabilitation.

Castro still works, but her boss and co-workers have reported that she is no longer the same employee as she had been prior to the accident. She has claimed difficulty with concentration and memory issues as well as difficulty staying on task.

Castro claimed past medical specials of \$34,371. She sought recovery for her past and future medical expenses and her past and future pain and suffering.

Defense counsel noted that plaintiff claimed past medical expenses at \$94,176.43 with an allegation of a future life care plan.

Result:

The parties agreed to settle prior to trial for Nick's Tire & Brake Service Inc.'s insurer agreeing to pay Castro its \$1 million policy limit.

Shannon Castro

Trial Information:

Judge: Daniel A. Ottolia

Trial Length: 0

**Trial
Deliberations:** 0

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.

Writer Priya Idiculla

Trail of liquid on restaurant floor caused slip and fall: plaintiff

Type: Verdict-Plaintiff

Amount: \$850,000

State: California

Venue: Los Angeles County

Court: Superior Court of Los Angeles County, Los Angeles, CA

Injury Type(s):

- *knee* - patella; fracture, knee; meniscus, tear; fracture, patella
- *other* - physical therapy; comminuted fracture
- *surgeries/treatment* - knee surgery; meniscectomy; open reduction; internal fixation

Case Type:

- *Premises Liability* - Restaurant; Dangerous Condition; Negligent Repair and/or Maintenance
- *Slips, Trips & Falls* - Slip and Fall

Case Name: Jorge Perez v. Hibachi Buffet and Does 1 through 50, No. BC659957

Date: October 07, 2019

Plaintiff(s):

- Jorge Perez (Male, 43 Years)

Plaintiff Attorney(s):

- Daniel K. Kramer; Kramer Holcomb Sheik, LLP; Los Angeles CA for Jorge Perez
- Teresa A. Johnson; Kramer Holcomb Sheik, LLP; Los Angeles CA for Jorge Perez

Plaintiff Expert(s):

- Brad P. Avrit P.E.; Safety; Marina del Rey, CA called by: Daniel K. Kramer, Teresa A. Johnson
- Rajan M. Patel M.D.; Orthopedic Surgery; Los Angeles, CA called by: Daniel K. Kramer, Teresa A. Johnson

Defendant(s):

- Hibachi Buffet

Defense Attorney(s):

- Frank T. Sabaitis; Yee & Associates; Pasadena, CA for Hibachi Buffet

**Defendant
Expert(s):**

- Kevin M. Ehrhart M.D.; Orthopedic Surgery; Los Angeles, CA called by: for Frank T. Sabaitis

Insurers:

- National Indemnity Co.

Facts:

On Jan. 7, 2017, plaintiff Jorge Perez, 43, a warehouse supervisor, was leaving a restroom at Hibachi Buffet, an Asian-style buffet restaurant in Inglewood, when he slipped and fell. He landed on his left knee, allegedly sustaining injuries to it.

Perez sued Hibachi Buffet, alleging that Hibachi Buffet failed to properly maintain the restaurant, creating a dangerous condition.

Perez claimed he slipped on a trail of liquid that was leading down the long hallway to the kitchen.

Plaintiff's counsel contended that the trail of liquid was created by one of the restaurant's employees, who used that hallway to access the kitchen, and that the floor was slippery when wet. Counsel also contended that there was no way to see the liquid before the fall, as it blended into the ground. Plaintiff's counsel based their argument on the restaurant's employees' testimony that they used the hallway to access the kitchen, photographs of the hallway, and discovery responses.

Defense counsel argued that there was no way to prove that the subject liquid came from one of the restaurant's employees or that a bussing cart created the liquid within the time that Perez was in the restroom.

Injury:

Perez sustained a comminuted fracture of his left patella, which fractured into multiple pieces. He was immediately taken to a hospital and underwent open reduction and internal fixation surgery six days later, on Jan. 13, 2017. He then underwent approximately nine months of physical therapy. However, Perez claimed his knee pain continued, so he underwent an MRI, which revealed a meniscus tear. He ultimately underwent a meniscectomy on Sept. 14, 2018, and he had one round of platelet rich plasma injections in the summer of 2019.

Perez claimed that he still suffers from knee pain and that he developed arthritis in his left knee. He alleged that as a result, he walks with a limp and suffers pain with each step. He also alleged that whenever he engages in activities such as walking, he has to always think about how long he will be able to walk before he needs to take a break and sit with his knee stretched out. Perez further claimed that he continues to receive care from an orthopedic surgeon, but that he must take pain medication when his pain gets bad and that he will eventually need a knee replacement in about 10 to 15 years due to the arthritis. However, he claimed that his arthritis is going to continue for the rest of his life.

Perez kept working after the incident, but he claimed he had to go back to work as a part-time driver/warehouse supervisor because he needs help with things such as bending or lifting heavy items.

Plaintiff's counsel asked the jury to award Perez \$4.5 million for Perez's past medical expenses, future medical expenses, and past and future pain and suffering.

Defense counsel contested Perez's past medical costs, and argued that Perez would not need any future treatment.

Result:

The jury found that Hibachi Buffet was negligent in the maintenance of its premises. It did not find Perez negligent. The jury determined that Perez's damages totaled \$850,000, which is less than Hibachi Buffet's \$1 million insurance policy limits.

Trial Information:

Judge: Holly E. Kendig

Demand: \$499,999.99 (C.C.P. § 998)

Offer: \$250,001 (C.C.P. § 998)

Trial Length: 8 days

**Trial
Deliberations:** 1 hours

Jury Vote: 12-0

Post Trial: Defense counsel's motion for judgment notwithstanding verdict is pending.

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.

Writer Priya Idiculla

Intersection crash caused back and knee injuries, plaintiff alleged

Type: Verdict-Plaintiff

Amount: \$513,500

State: California

Venue: Los Angeles County

Court: Superior Court of Los Angeles County, Los Angeles, CA

Injury Type(s):

- *back* - bulging disc, lumbar
- *knee* - meniscus, tear
- *neck*
- *other* - acupuncture; chiropractic; microdiscectomy; epidural injections
- *neurological* - radiculopathy
- *surgeries/treatment* - discectomy; knee surgery; meniscectomy

Case Type:

- *Motor Vehicle* - Broadside; Stop Sign; Intersection; Multiple Vehicle

Case Name: William Ochoa v. County of Los Angeles, Randy Keith Brown and Matthew Houston, No. BC688739

Date: October 29, 2019

Plaintiff(s):

- William Ochoa (Male, 61 Years)

Plaintiff Attorney(s):

- Jake Douglass; Panish, Shea & Boyle, LLP; Los Angeles CA for William Ochoa

Plaintiff Expert(s):

- P. Richard Emmanuel M.D.; Orthopedic Surgery; Culver City, CA called by: Jake Douglass
- Fardad Mobin M.D.; Neurosurgery; Los Angeles, CA called by: Jake Douglass

Defendant(s):

- Matthew Houston
- Randy Keith Brown
- Los Angeles County

**Defense
Attorney(s):**

- Brian K. Stewart; Collins Collins Muir + Stewart LLP; South Pasadena, CA for Los Angeles County, Randy Keith Brown
- Adam A. Ainslie; Collins Collins Muir + Stewart LLP; South Pasadena, CA for Los Angeles County, Randy Keith Brown
- None reported for Matthew Houston

**Defendant
Expert(s):**

- Marc Hammarstrom; Accident Reconstruction; Pasadena, CA called by: for Brian K. Stewart, Adam A. Ainslie
- Mark J. Spoonamore M.D.; Orthopedic Surgery; Los Angeles, CA called by: for Brian K. Stewart, Adam A. Ainslie
- Martin Cooper M.D.; Neurosurgery; Los Angeles, CA called by: for Brian K. Stewart, Adam A. Ainslie
- Stephen L.G. Rothman M.D.; Neuroradiology; Los Angeles, CA called by: for Brian K. Stewart, Adam A. Ainslie

Facts:

On Oct. 26, 2016, plaintiff William Ochoa, 61, a hairdresser, was driving through a four-way-stop intersection, in Los Angeles, when the front, passenger side of his vehicle was struck by a vehicle being driven by Randy Brown. Ochoa claimed that he suffered injuries of his back, a knee and his neck.

Ochoa sued Brown and Brown's employer, the county of Los Angeles. Ochoa alleged that Brown was negligent in the operation of his vehicle and that the county was liable for Brown's actions while in the course and scope of his employment.

Matthew Houston was also named as a defendant, but he was erroneously sued and ultimately let out of the case.

Ochoa's counsel contended that Brown was negligent for entering the intersection before it was clear.

The county admitted liability and sole responsibility.

Injury:

Ochoa claimed he sustained a partial meniscus tear of his right knee. He also claimed he suffered a soft tissue injury to his neck and bulging lumbar discs.

Ochoa did not immediately seek medical treatment, and he visited a chiropractor five days after the incident, when he complained of neck and lower back pain. He claimed his lower back pain resulted in radiculopathy. He also complained of knee pain at that time. An MRI taken several months after the accident revealed disc changes in the lumbar spine, including bulging lumbar discs. Ochoa treated with chiropractors and an acupuncturist for approximately eight months, and he received a series of epidural injections in mid-2017. After an MRI in May 2017 revealed a partial meniscus tear, Ochoa underwent a partial meniscectomy for the lateral meniscus in February 2019. He also underwent a lumbar microdiscectomy at the L4-5 level in April 2019.

Ochoa claimed he still continues to have variable lower back pain with radiculopathy and right knee pain. He alleged that as a result, he needs to eventually undergo a lumbar fusion with stabilization at the L4-5 level and a total right knee replacement.

Ochoa sought recovery of past and future medical costs, and damages for his past and future pain and suffering. The parties stipulated to Ochoa's property damage.

Defense counsel contended that the vehicles were traveling at 8 mph at the time of the crash. As a result, counsel argued that the low-speed collision did not cause any structural injuries to Ochoa. Counsel further argued that the MRI taken several months after the accident revealed only degenerative disc changes in the lumbar spine and that the May 2017 MRI only revealed a partial degenerative meniscus tear. As a result, defense counsel argued that Ochoa's knee and lower back injuries were pre-existing degenerative conditions and that the collision only caused a soft-tissue sprain to Ochoa's back.

Result:

The jury found that Brown's negligence was a substantial cause of Ochoa's injuries. It determined that Ochoa's injury-related damages totaled \$500,000, and it agreed with the additional \$13,485.22 in stipulated property damage. As a result, Brown's recovery totaled \$513,485.22.

William Ochoa

\$80,000 Personal Injury: Past Medical Cost

\$175,000 Personal Injury: Future Medical Cost

\$45,000 Personal Injury: Past Pain And Suffering

\$200,000 Personal Injury: Future Pain And Suffering

\$13,485 Personal Injury: property damage (stipulated)

Trial Information:

Judge: Mark A. Borenstein

Demand: \$900,000 (total, from Brown and Los Angeles County)

Offer: \$15,000 (total, by Brown and Los Angeles County)

Trial Length: 5 days

**Trial
Deliberations:** 1 days

Jury Vote: 12-0 (Brown's negligence was a substantial cause of Ochoa's injuries; damages for past medical expenses); 10-2 (damages for future medical expenses; damages for past pain and suffering); 9-3 (future pain and suffering)

**Jury
Composition:** 7 male, 5 female

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.

Writer Priya Idiculla

Defense claimed passenger was not injured in rear-ender

Type: Verdict-Defendant

Amount: \$0

State: California

Venue: Orange County

Court: Superior Court of Orange County, Orange, CA

Injury Type(s):

- *arm*
- *leg*
- *head* - headaches
- *knee* - medial meniscus, tear; lateral meniscus, tear
- *neck* - bulging disc, cervical
- *other* - acupuncture; synovectomy; chiropractic; epidural injections; cortisone injections; tendinitis/tendinosis; decreased range of motion; aggravation of pre-existing condition
- *shoulder* - shoulder impingement; derangement, shoulder; rotator cuff, injury (tear); supraspinatus muscle/tendon, tear
- *epidermis* - numbness
- *neurological* - radicular pain / radiculitis
- *surgeries/treatment* - arthroscopy; knee surgery; meniscectomy; decompression surgery
- *mental/psychological* - depression

Case Type:

- *Motor Vehicle* - Passenger; Rear-ender; Multiple Vehicle

Case Name: Ronald Arthur and Kayla Proctor v. Janet Serrano-Cordova, No. 30-2017-00961659-CU-PA-CJC

Date: November 18, 2019

Plaintiff(s):

- Kayla Proctor (Female, 28 Years)
- Ronald Arthur

Plaintiff Attorney(s):

- Benjamin G. Berkley; Carpenter, Zuckerman, & Rowley LLP; Beverly Hills CA for Ronald Arthur, Kayla Proctor

- Plaintiff Expert(s):**
- Khalid B. Ahmed M.D.; Orthopedic Surgery; Pico Rivera, CA called by: Benjamin G. Berkley
 - Stepan O. Kasimian M.D.; Orthopedic Surgery; Glendale, CA called by: Benjamin G. Berkley

- Defendant(s):**
- Janet Serrano-Cordova

- Defense Attorney(s):**
- K. Robert Gonter, Jr.; Gates, Gonter, Guy, Proudfoot & Muench LLP; Irvine, CA for Janet Serrano-Cordova

- Defendant Expert(s):**
- A. Nick Shamie M.D.; Orthopedic Surgery; Los Angeles, CA called by: for K. Robert Gonter, Jr.
 - Peter M. Burkhard Ph.D.; Accident Reconstruction; Laguna Hills, CA called by: for K. Robert Gonter, Jr.
 - Richard B. Rhee M.D.; Radiology; Corona del Mar, CA called by: for K. Robert Gonter, Jr.
 - Stephen P. Kay M.D.; Orthopedic Surgery; Los Angeles, CA called by: for K. Robert Gonter, Jr.

- Insurers:**
- State Farm Insurance Cos.

Facts:

On Nov. 23, 2016, plaintiff Kayla Proctor, 28, an administrative worker, was a front-seat passenger in a car driven by plaintiff Ronald Arthur. As they were stopped on northbound Walker Street, at the intersection with Lincoln Avenue, in Cypress, their vehicle was rear-ended by a sport utility vehicle operated by Janet Serrano-Cordova. Proctor claimed she sustained injuries to her left shoulder, left knee, and neck. Arthur claimed he sustained headaches, neck pain, bilateral swelling in his legs, and left thigh numbness.

Proctor and Arthur sued Serrano-Cordova, alleging that Serrano-Cordova was negligent in the operation of her vehicle.

Arthur settled out of the case.

Proctor's counsel contended that Serrano-Cordova was negligent for failing to stop in time and rear-ending Proctor's vehicle at a high rate of speed.

Serrano-Cordova admitted liability.

Injury:

Proctor was sitting with her left arm extended across the rear of the driver's seat, looking backward at Serrano-Cordova's vehicle, at the time of impact. She claimed that, as a result, her left arm was hyperextended in the accident, causing her to sustain a torn rotator cuff. She also claimed that she suffered pain to her neck and left knee after the crash.

Proctor was taken to a hospital in Lake Arrowhead, where she was treated and released. On Jan. 4, 2017, an MRI showed that she sustained a torn supraspinatus tendon with tendinosis, and internal derangement and impingement of her left shoulder. Proctor also claimed that she sustained bulging discs at the C4-5 and C5-6 levels, and tears of her left knee's lateral and medial menisci, causing numbness and tingling in her leg.

For treatment, Proctor underwent chiropractic care before being administered cortisone injections. She eventually underwent arthroscopic surgery, subacromial decompression, a synovectomy, and a Mumford procedure on her left shoulder on Sept. 12 2017. She also underwent a rotator cuff repair and debridement. For her left knee, Proctor underwent a meniscectomy. In addition, she received cervical epidural injections, acupuncture and bilateral facet injections at C4-5 and C5-6 to treat her neck pain.

Proctor claimed that the hyperextension of her left arm caused the need for shoulder surgery. She also claimed that despite treatment, she suffers from decreased range of motion in her left knee. She alleged that as a result, she will require a future surgery on her left knee. In addition, Proctor claimed that the accident aggravated her depression and anxiety, for which she was taking Lexapro to deal with the loss of her mother.

The plaintiff's treating orthopedic surgeon opined that Proctor was totally disabled.

Proctor alleged that as a result of her condition, she can no longer work.

Proctor sought recovery of \$68,707.04 in past medical costs and \$67,458 in future medical costs. She also sought recovery for her lost earnings, and past and future pain and suffering.

The defense's accident reconstruction expert opined that there was no mechanism to cause Proctor's injury.

The defense's orthopedic surgery experts opined that Proctor did not sustain injuries from the subject accident.

The defense's radiology expert opined that Proctor had no traumatic changes from the subject accident.

Result:

The jury rendered a defense verdict. It found that Serrano-Cordova's negligence was not a substantial factor in causing Proctor's harm.

Trial Information:**Judge:**

Melissa R. McCormick

Demand: \$519,697.04 (by Proctor)

Offer: \$20,000 (for Proctor)

Trial Length: 15 days

**Trial
Deliberations:** 15 minutes

Jury Vote: 12-0

**Jury
Composition:** 6 male, 6 female

**Editor's
Comment:** This report is based on information that was provided by defense counsel. Plaintiffs' counsel did not respond to the reporter's phone calls.

Writer Priya Idiculla