



## Motorist's hasty turn caused accident, motorcyclist claimed

**Type:** Verdict-Plaintiff

**Amount:** \$5,332,215

**Actual Award:** \$3,732,551

**State:** California

**Venue:** Santa Clara County

**Court:** Superior Court of Santa Clara County, Santa Clara, CA

**Injury Type(s):**

- *head*
- *brain* - brain damage; traumatic brain injury

**Case Type:**

- *Motor Vehicle* - Left Turn; Motorcycle

**Case Name:** Carlos Diaz v. Shemin Gau and TiVo Corporation, No. 17CV312555

**Date:** November 12, 2019

**Plaintiff(s):**

- Carlos Diaz (Male, 32 Years)

**Plaintiff Attorney(s):**

- H. Gavin Long; Bisnar | Chase LLP; Newport Beach CA for Carlos Diaz

**Plaintiff Expert  
(s):**

- Carol R. Hyland M.A.; Life Care Planning; Lafayette, CA called by: H. Gavin Long
- Ronald W. Morrell; Vocational Rehabilitation; Campbell, CA called by: H. Gavin Long
- Sharon P. Berry Psy.D.; Neuropsychology; Pleasanton, CA called by: H. Gavin Long
- Phillip H. Allman Ph.D.; Economics; San Francisco, CA called by: H. Gavin Long
- Raymond E. Merala M.S., P.E.; Accident Reconstruction; Hayward, CA called by: H. Gavin Long
- Fernando G. Miranda M.D.; Neurology; San Francisco, CA called by: H. Gavin Long

**Defendant(s):**

- Shemin Gau
- TiVo Corp.

**Defense  
Attorney(s):**

- Kevin K. Cholakian; Cholakian & Associates; South San Francisco, CA for Shemin Gau
- None reported for TiVo Corp.

**Defendant  
Expert(s):**

- Lisa M. Suhonos M.S.; Vocational Rehabilitation; Carmichael, CA called by: for Kevin K. Cholakian
- Tate Kubose Ph.D.; Ergonomics/Human Factors; Los Altos, CA called by: for Kevin K. Cholakian
- Jason Fries; Trial Exhibits; San Francisco, CA called by: for Kevin K. Cholakian
- William H. Woodruff Ph.D.; Accident Reconstruction; Mountain View, CA called by: for Kevin K. Cholakian

**Facts:**

On Nov. 18, 2016, plaintiff Carlos Diaz, 32, an information-technology manager, was motorcycling on Gold Street, in San Jose. He collided with a sport utility vehicle driven by Shemin Gau, who was executing a left turn out of an office driveway and across two lanes of traffic. The collision occurred as Gau was crossing the second lane. Diaz was ejected from his motorcycle, and he landed on the roadway. He suffered injuries of his head.

Diaz sued Gau and Gau's employer, TiVo Corp. Diaz alleged that Gau was negligent in the operation of his vehicle. Diaz further alleged that TiVo was liable because the accident occurred during the course of Gau's work functions.

Plaintiff's counsel noted that Gau's dashboard camera recorded that Gau failed to stop prior to exiting the driveway and entering traffic. Counsel also noted that the camera showed that Gau was traveling 7 mph before entering traffic and that Gau cut off Diaz's right of way. Plaintiff's counsel acknowledged that Diaz was traveling faster than the 35-mph speed limit, but Diaz's experts opined that Diaz was traveling 37 to 46 mph before he applied the brakes. Plaintiff's counsel argued that, regardless of Diaz's excessive speed, the accident would not have happened if Gau had stopped before proceeding into traffic.

Gau claimed that looked for a split second just before he entered traffic, but that Diaz was likely at least 300 feet away. He claimed that when he exited the driveway, he did not know that Diaz was traveling faster than the speed limit.

Gau's experts in accident reconstruction and trial exhibits estimated that Diaz was traveling 60 to 65 mph in a 35-mph zone before he applied his brakes to avoid Gau's vehicle, which was entering traffic.

Defense counsel argued that Diaz was at least partially to blame for the accident. Counsel contended that Diaz would have been difficult to see given the "looming" created by the headlights being cast by other vehicles traveling behind Diaz and the distance between Diaz and Gau. Counsel also contended that Diaz was ejected from his motorcycle prior to the impact with Gau's vehicle and that when Diaz's motorcycle crashed into the left, rear fender of Gau's vehicle, it caused Gau's vehicle to spin 130 degrees. Defense counsel argued that if Diaz was not traveling 60 to 65 mph, there would have been no crash, as Diaz would have missed impacting the left, rear driver's side of Gau's vehicle.

**Injury:** Diaz suffered a catastrophic brain injury. He was taken to a hospital, where he remained in a coma for several weeks.

Diaz can no longer perform information-technology work as a result of his injury. At the time of the accident, he was earning more than \$165,000 per year. Plaintiff's counsel contended that Diaz's past loss of earnings totaled \$438,000 and that his future lost earnings would total \$4,102,000.

The parties stipulated that Diaz's past medical expenses totaled \$738,215. Diaz sought recovery of that amount, \$54,000 for future medical treatment, damages for past and future loss of earnings, and damages for past and future pain and suffering.

Defense counsel agreed that Diaz suffered a serious brain injury and did not dispute the nature and extent of it. The defense's expert neuropsychologist opined that Diaz, a brilliant individual, had his IQ drop to 81 as a result of the injury.

The defense challenged the extent of Diaz's lost earnings but acknowledged that total lost earnings would be \$3 million to \$5 million.

**Result:** The jury apportioned 70 percent fault to Gau and 30 percent fault to Diaz. It determined that Diaz's damages totaled \$5,332,215. After apportionment, Diaz should recover \$3,732,550.50.

## **Carlos Diaz**

\$738,215 Personal Injury: Past Medical Cost

\$54,000 Personal Injury: Future Medical Cost

\$438,000 Personal Injury: Past Lost Earnings Capability

\$4,102,000 Personal Injury: FutureLostEarningsCapability

## **Trial Information:**

**Judge:** William J. Monahan

**Demand:** \$999,999.99 (C.C.P. § 998)

**Offer:** \$25,000 (policy limit; offer extended immediately after accident)

**Trial Length:** 2 weeks

**Trial  
Deliberations:** 4 hours

**Jury Vote:** 12-0 (negligence and damages); 11-1 (causation)

**Post Trial:** Plaintiff's counsel filed for recovery of costs (per C.C.P. § 998) and interest. Defense counsel filed an opposition on the ground that Diaz's C.C.P. § 998 demand could not be accepted given that Gau only had \$25,000 in insurance coverage. The court granted defense counsel's motion to tax costs, reducing plaintiff's claimed costs of \$887,576.67 to \$48,453.03.

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

**Writer** Priya Idiculla

## Plaintiffs: Trucker's speed and closeness caused crash

**Type:** Settlement

**Amount:** \$3,404,173

**State:** California

**Venue:** Santa Cruz County

**Court:** Superior Court of Santa Cruz County, Santa Cruz, CA

**Injury Type(s):**

- *back* - fracture, back; fracture, L1; fracture, back; fracture, L2; fusion, lumbar; strain, lumbar; fracture, vertebra; fracture, L1; fracture, vertebra; fracture, L2
- *head*
- *neck* - strain, cervical
- *brain* - traumatic brain injury
- *other* - seizure; physical therapy; aggravation of pre-existing condition
- *sensory/speech* - speech/language, impairment of
- *mental/psychological* - cognition, impairment; memory, impairment

**Case Type:**

- *Motor Vehicle* - Speeding; Passenger; Rear-ender; Multiple Impact; Tractor-Trailer; Multiple Vehicle

**Case Name:** Alfredo Perez-Fuentes and Alfredo Perez-Arguello v. Norman's Nursery, Inc., Luis Villagran-Rubio and Does 1 to 50, Inclusive, No. 19CV03279

**Date:** December 22, 2020

**Plaintiff(s):**

- Alfredo Perez-Fuentes, (Male, 53 Years)
- Alfredo Perez-Arguello, (Male, 31 Years)

**Plaintiff Attorney(s):**

- R. Lewis Van Blois; Van Blois & Associates; Oakland CA for Alfredo Perez-Fuentes,, Alfredo Perez-Arguello

**Plaintiff Expert (s):**

- Rene A. Castaneda P.E.; Accident Reconstruction; Fresno, CA called by: R. Lewis Van Blois
- Santi D. Rao M.D.; Orthopedic Surgery; Concord, CA called by: R. Lewis Van Blois
- Robert Perez Ph.D.; Neuropsychology; San Jose, CA called by: R. Lewis Van Blois
- Fernando G. Miranda M.D.; Neuropsychiatry; San Rafael, CA called by: R. Lewis Van Blois

**Defendant(s):**

- Luis Villabran-Rubio
- Norman's Nursery, Inc.

**Defense Attorney(s):**

- Craig D. Trippel; Law Offices of John A. Biard; Fresno, CA for Norman's Nursery, Inc., Luis Villabran-Rubio

**Insurers:**

- Travelers Property Casualty Corp
- Travelers Property Casualty Corp.

**Facts:**

On April 16, 2018, plaintiff Alfredo Perez-Fuentes, 53, a farm worker, was driving his subcompact vehicle in the number two, northbound lane of State Route 1, in Santa Cruz County, with plaintiff Alfredo Perez-Arguello, 31, unemployed, sitting in the front passenger seat. When traffic in front of them came to a stop, Perez-Fuentes stopped his vehicle 0.3 miles south of Larkin Valley Road. While stopped, his vehicle was rear-ended by a loaded tractor-trailer operated by Luis Villagran-Rubio. The impact crushed Perez-Fuentes' vehicle in an accordion fashion, causing the trunk of the vehicle to intrude into the back seat. The vehicle was then pushed into a truck trailer that was stopped in front of the vehicle containing Perez-Fuentes and Perez-Arguello, who were both wearing their lap belts and shoulder harnesses. Other vehicles received damage, as well. Perez-Fuentes claimed neck and back injuries. Perez-Arguello claimed head and back injuries.

Perez-Fuentes and Perez-Arguello sued Villagran-Rubio and the owner of Villagran-Rubio's truck, Norman's Nursery Inc. Perez-Fuentes and Perez-Arguello alleged that Villagran-Rubio was negligent in the operation of his truck and that Norman's Nursery was vicariously liable for Villagran-Rubio's actions.

Plaintiffs' counsel contended that Villagran-Rubio violated California Vehicle Code § 22350, which was for driving at a high speed that endangered the safety of persons, as well as CVC § 21703, which was for following too closely.

**Injury:**

Perez-Fuentes and Perez-Arguello were both taken to a hospital.

Perez-Fuentes was diagnosed with cervical strains, lumbar strains, and aggravations of his pre-existing cervical disc degeneration and pre-existing lumbar spine disability. He treated conservatively with a pain management physician and received physical therapy for six weeks.

Perez-Fuentes claimed he continues to suffer from cervical and lumbar pain. He further alleged that he will need future conservative treatment, including physical therapy and pain management.

Perez-Fuentes sought recovery of \$58,627 in past medical expenses, an estimated \$55,000 in future medical costs and an estimated \$55,000 in past wage loss. He additionally sought recovery of damages for his past and future pain and suffering.

Perez-Arguello was diagnosed with a traumatic brain injury. He was previously disabled from birth with epileptic seizures, and claimed his seizures increased after the collision. He was also diagnosed with lumbar fractures at L1 and L2, and claimed chronic back pain. He underwent surgery of his lumbar spine to stabilize the fractured vertebrae consisting of a lumbar fusion at T12-L1 and L1-2.

Perez-Arguello claimed he continued to experience memory problems and persistent back pain, which has been treated conservatively with physical therapy. He also alleged the need for future treatment for his brain injury, consisting of cognitive therapy and speech therapy, as well as treatment for his epilepsy.

Perez-Arguello sought recovery of \$880,382 in past medical expenses and an estimated \$547,000 in future medical expenses. He also sought recovery of damages for his past and future pain and suffering. It is further anticipated that he will need a protected living environment that may exceed \$5 million.

**Result:**

After payment of other claims that totaled \$2,453,023, the defendants' insurer agreed to pay \$3 million to Perez-Arguello and \$404,173 to Perez-Fuentes, for a total settlement of \$3,404,173.

**Trial Information:**



**Judge:** John M. Gallagher

**Trial Length:** 0

**Trial  
Deliberations:** 0

**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.

**Writer** Priya Idiculla

**Defense: Decedent's family stated he was normal prior to suicide**

**Type:** Verdict-Plaintiff

**Amount:** \$2,217,000

**State:** California

**Venue:** Ventura County

**Court:** Superior Court of Ventura County, Ventura, CA

**Injury Type(s):**

- *arm* - fracture, humerus
- *brain* - stroke
- *other* - death; gunshot wound
- *pelvis* - fracture, pelvis
- *shoulder* - rotator cuff, injury (tear)
- *sensory/speech* - communicative impairment; aphasia
- *mental/psychological* - emotional distress

**Case Type:**

- *Motor Vehicle* - Pedestrian; Parking Lot

**Case Name:** Sharon Davis, Edward Davis and Michael Davis, individuals and in their capacity as heirs and successors in interest to Decedent Jerry Davis v. Howard Arlan Skurka, No. 2023CUPP008725

**Date:** January 23, 2024

**Plaintiff(s):**

- Edward Davis, (Male, 0 Years)
- Sharon Davis, (Female, 82 Years)
- Michael Davis, (Male, 0 Years)
- Estate of Jerry Davis, (Male, 87 Years)

**Plaintiff Attorney(s):**

- P. Christopher Ardalan; Ardalan & Associates, PLC; Thousand Oaks CA for Estate of Jerry Davis,, Sharon Davis,, Edward Davis,, Michael Davis
- Christienne M. Papa; Ardalan & Associates, PLC; Thousand Oaks CA for Estate of Jerry Davis,, Sharon Davis,, Edward Davis,, Michael Davis

**Plaintiff Expert  
(s):**

- Gregg P. Hartman M.D.; Orthopedic Surgery; Ventura, CA called by: P. Christopher Ardalan, Christienne M. Papa
- Joseph P. Turk M.D.; Orthopedic Surgery; Thousand Oaks, CA called by: P. Christopher Ardalan, Christienne M. Papa
- Bennett Williamson Ph.D.; Clinical Psychology; Los Angeles, CA called by: P. Christopher Ardalan, Christienne M. Papa
- Fernando G. Miranda M.D.; Neurology Cognitive Disorders; Vero Beach, FL called by: P. Christopher Ardalan, Christienne M. Papa

**Defendant(s):**

- Howard Arlan Skurka

**Defense  
Attorney(s):**

- Kim Schumann; Schumann Arevalo LLP; Irvine, CA for Howard Arlan Skurka
- Michelle L. Arevalo; Schumann Arevalo LLP; Irvine, CA for Howard Arlan Skurka

**Defendant  
Expert(s):**

- Gregg Sobeck M.D.; Orthopedic Surgery; Sherman Oaks, CA called by: for Kim Schumann, Michelle L. Arevalo
- Nerses Sanossian M.D.; Neurology; Los Angeles, CA called by: for Kim Schumann, Michelle L. Arevalo
- Michelle Zeller Psy.D.; Neuropsychology; Los Angeles, CA called by: for Kim Schumann, Michelle L. Arevalo

**Insurers:**

- Chubb Group of Insurance Cos.

**Facts:**

On Jan. 23, 2023, plaintiff Sharon Davis, 82, had just exited a Harbor Freight in Camarillo and was walking in a crosswalk in the store's parking lot, when she was struck by a pick-up truck being driven by Howard Skurka. Sharon Davis was knocked to the ground. Her husband, Jerry Davis, 87, was present and witnessed the incident.

Prior to the incident, Jerry Davis had suffered a stroke, leaving him with aphasia. Subsequently, 17 days after the parking lot vehicle accident with Skurka, while Sharon Davis was in the hospital, Jerry Davis committed suicide by taking a gun he owned and shooting himself in the head. Plaintiff claimed due to Jerry Davis' pre-existing stroke and resulting permanent brain damage, Jerry Davis was susceptible to irresistible impulses and the parking lot incident triggered an irresistible impulse to commit suicide 17 days later.

Sharon Davis and her two sons, Edward Davis and Michael Davis, sued Skurka, alleging negligence in the operation of his vehicle.

Plaintiffs' counsel contended that Skurka made an unsafe left turn without yielding. Plaintiff claimed that Jerry Davis suffered serious emotional distress from witnessing the accident and being separated from his wife during a critical time in his recovery, and the accident led him to suffer from a mental condition that inspired in him an uncontrollable impulse to kill himself.

Skurka admitted liability for striking Sharon Davis in the parking lot accident, however the defense argued that the suicide was not because of any emotional distress from witnessing the accident, but was likely spurred on by his stroke and other medical conditions that led him to be depressed and want to die. Defense further contended that the suicide was not an impulsive act, but had been planned, due to the fact that Jerry Davis took a gun, loaded it, put towels under his head and killed himself at a time he knew his wife would not discover him.

Moreover, the defense claimed there was a discussion between Sharon Davis and Jerry Davis about Jerry Davis' intent to take his own life prior to the collision. Plaintiffs disputed these allegations.

**Injury:**

Sharon Davis was knocked to the ground during the parking lot collision. She was taken to Los Robles Regional Medical Center in Thousand Oaks, where it was determined that she had sustained a two-inch fracture to her iliac crest bone and fractures to her humerus bone in her right shoulder. Treatment for her iliac crest fracture was non-surgical, and her humerus fracture was not operated on due to significant bleeding risk due to Sharon Davis being on blood thinners and having blood loss. She waived all economic damages and only claimed non-economic damages at trial for her past pain and suffering of one year, future pain and suffering of eight years and 17 days of loss of consortium while in the hospital between the time of the accident and her husband's death.

Jerry Davis committed suicide by gunshot to the head in his home. Plaintiff brought a survival claim and asked for Jerry Davis's pain and suffering and emotional distress stemming from the negligent infliction of emotional distress he suffered during the 17 day period between the accident and his death as well as his loss of consortium for the same time for being separated from his wife.

Sharon Davis and her two sons, Edward Davis and Michael Davis, sought wrongful death damages for the loss of Jerry Davis for the past one year and the next 3.7 years of his life expectancy.

According to defense counsel, plaintiffs demanded \$32 million at trial.

Defense counsel contended the stroke and poor health condition of Jerry Davis was the main reason for the suicide and that the suicide was planned and not impulsive. Moreover, the defense claimed that Jerry Davis did not suffer serious emotional distress because he exhibited normal responses to the accident and aftermath. He was reportedly calmed down by a witness within four to five seconds after seeing his wife hit, and over the next 17 days, his family described him as appearing normal, not depressed, or in any kind of appreciable distress. There was no suicide note.

**Result:**

The jury did not find Jerry Davis suffered serious emotional distress from witnessing the accident, nor did they find that the suicide was caused by the accident, thereby not finding Skurka liable for Jerry Davis's negligent infliction of emotional distress claim or the wrongful death claim. The jury awarded a total verdict of \$2,217,000.

However, the parties entered into a high/low agreement where the defendant agreed during closing arguments to pay no less than \$6 million as a low, regardless of the jury verdict, so long as the plaintiff agreed to cap their recovery to the policy limits of \$10.5 million as the high. As such, the plaintiffs will receive an award of \$6 million from the defendant. As a result of the high/low agreement, the parties agreed to not enter judgment against the defendant provided the \$6 million low is paid within 30 days. There were no post-trial motions or appeals.

Michael Davis

\$ 1,000,000 Future Pain Suffering

\$ 1,000,000 Past Pain Suffering

**\$ 2,000,000 Plaintiff's Total Award**

Edward Davis

Sharon Davis

\$ 1,000,000 Future Pain Suffering

\$ 1,000,000 Past Pain Suffering

**\$ 2,000,000 Plaintiff's Total Award**

Estate of Jerry Davis

**Trial Information:**

**Judge:** Henry J. Walsh

**Trial Length:** 12 days

**Trial  
Deliberations:** 1 days

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

**Writer** Priya Idiculla

## Plaintiff claimed multiple vehicle crash caused brain injury

**Type:** Verdict-Plaintiff

**Amount:** \$1,687,500

**State:** California

**Venue:** Santa Barbara County

**Court:** Superior Court of Santa Barbara County, Santa Maria, CA

**Injury Type(s):**

- *leg* - limp
- *head* - headaches; fracture, skull
- *brain* - traumatic brain injury
- *sensory/speech* - speech/language, impairment of
- *mental/psychological* - anxiety; depression; cognition, impairment

**Case Type:**

- *Motor Vehicle* - Rear-ender; Multiple Impact; Multiple Vehicle; Alcohol Involvement; Negligent Entrustment

**Case Name:** Kara Flick v. Francisco Javier Reyes and Francisco Javier Reyes, Jr., No. 17CV03850

**Date:** March 18, 2020

**Plaintiff(s):**

- Kara Flick (Female, 38 Years)

**Plaintiff Attorney(s):**

- Don A. Ernst; Ernst Law Group, APC; San Luis Obispo CA for Kara Flick
- Taylor Ernst; Ernst Law Group, APC; San Luis Obispo CA for Kara Flick

**Plaintiff Expert  
(s):**

- Rick A. Sarkisian Ph.D.; Vocational Rehabilitation; Bakersfield, CA called by: Don A. Ernst, Taylor Ernst
- Edgar O. Angelone Ph.D.; Neuropsychology; San Rafael, CA called by: Don A. Ernst, Taylor Ernst
- Karen L. Aznavoorian M.A.; Life Care Planning; Fresno, CA called by: Don A. Ernst, Taylor Ernst
- Marna Scarry-Larkin M.A., C.C.C./S.L.P.; Speech Pathology; San Luis Obispo, CA called by: Don A. Ernst, Taylor Ernst
- Elaine R. Serina Ph.D.; Biomechanics; Hayward, CA called by: Don A. Ernst, Taylor Ernst
- Stephen Hamilton Ph.D.; Economics; San Luis Obispo, CA called by: Don A. Ernst, Taylor Ernst
- Fernando G. Miranda M.D.; Neurology; Vero Beach, FL called by: Don A. Ernst, Taylor Ernst

**Defendant(s):**

- Francisco Reyes Jr.
- Francisco Reyes Sr.

**Defense  
Attorney(s):**

- Erin O. Hallissy; Daniels, Fine, Israel, Schonbuch & Lebovits, LLP; Los Angeles, CA for Francisco Reyes Jr., Francisco Reyes Sr.
- Jonathan R. Gerber; Daniels, Fine, Israel, Schonbuch & Lebovits, LLP; Los Angeles, CA for Francisco Reyes Jr., Francisco Reyes Sr.

**Defendant  
Expert(s):**

- Ari Kalechstein Ph.D.; Neuropsychology; Los Angeles, CA called by: for Erin O. Hallissy, Jonathan R. Gerber
- Gail P. Ishiyama M.D.; Neurology; Los Angeles, CA called by: for Erin O. Hallissy, Jonathan R. Gerber
- Jeff Bruno M.A., P.V.E.; Life Care Planning; San Luis Obispo, CA called by: for Erin O. Hallissy, Jonathan R. Gerber
- Heather H. Xitco M.B.A., C.P.A., C.F.F.; Economics; San Diego, CA called by: for Erin O. Hallissy, Jonathan R. Gerber
- Michael N. Brant-Zawadzki M.D.; Neuroradiology; Newport Beach, CA called by: for Erin O. Hallissy, Jonathan R. Gerber

**Insurers:**

- USAA



**Facts:**

On Feb. 13, 2017, plaintiff Kara Flick, 38, a registered nurse, was driving on a freeway in Santa Maria when her vehicle was rear-ended by a vehicle operated by Francisco Reyes Jr. The impact caused Flick to lose control of her vehicle and collide with a third vehicle. Flick's vehicle was then struck a second time by Reyes' vehicle, that time on the driver's side door, before coming to a rest at the center median. Flick claimed injuries to her head.

Flick sued Francisco Reyes Jr. and the owner of Reyes' vehicle, Francisco Reyes Sr. Flick alleged that the younger Reyes was negligent in the operation of his vehicle and that the elder Reyes was vicariously liable for his son's actions.

Plaintiff's counsel contended that the younger Reyes borrowed his father's vehicle three months before the subject accident, while visiting his father in Colorado, and that Reyes' father allowed Reyes to drive home to California with the vehicle. Counsel contended that Reyes' father lent his son the vehicle with the intention of picking it up when he came to visit his son in California. However, plaintiff's counsel argued that on night in question, Reyes was under the influence of alcohol while driving on the freeway as a permissive user of the vehicle, traveling at a speed upwards of 102 mph, which ultimately resulted in the collision. Thus, counsel argued that Reyes' father should have known that his son was not competent to operate his vehicle and that Reyes' father was negligent in entrusting his vehicle to his son.

The younger Reyes admitted liability, but the elder Reyes denied being negligent in the entrustment of his vehicle to his son as he was over 1,000 miles away at the time of the accident and had no knowledge that his son had consumed five beers before driving the vehicle.

Defense counsel moved for nonsuit as to the elder Reyes, and the court granted the motion on the basis that there was no evidence produced of negligent entrustment.

**Injury:**

Flick claimed she sustained a basal skull fracture, resulting in a traumatic brain injury. She was taken to a hospital's emergency room, where she complained of pain to her left side. However, her treating emergency room doctors stated that she had a normal neurological exam and no sign of head trauma. Flick then underwent an MRI 10 days after the collision, but it was normal. Despite the negative findings, she claimed she had the ongoing symptoms of a TBI.

Flick claimed that she continues to experience a permanent stutter, a limp, headaches, cognitive impairment, depression, anxiety, and sensitivity to light and noise. She also claimed she suffers from social isolation and a change in her personality. Flick alleged that as a result of her condition, she will not be able to work for the rest of her life and that she will need a caregiver due to early onset of dementia.

Flick waived her claims of past medical costs and past lost earnings. However, she sought recovery of \$6,133,728 to \$7,817,810 in future medical costs and \$1,503,468 in future lost earnings. She also sought recovery of damages for her past and future pain and suffering.

Plaintiff's counsel asked the jury to award Flick \$500,000 to \$1 million per item of general damages.

Defense counsel moved to strike punitive damages, and the motion was granted.

Defense counsel challenged the nature and extent of Flick's alleged injuries. Counsel argued that Flick did not suffer any neurologic damage or brain injury, and contended that Flick's stuttering was psychogenic in nature, as opposed to neurogenic. Defense counsel also contended that Flick was experiencing a conversion disorder, not a brain injury, which could be treated with psychological counseling and speech therapy.

Defense counsel disputed Flick's contention that she was permanently disabled and would experience early onset of dementia. Counsel also challenged Flick's contention that she was unable to work for the rest of her life, noting that Flick had returned to work as an registered nurse eight months after the accident.

During closing arguments, defense counsel argued that Flick should only be awarded \$650,000 to \$1.7 million in total damages, if anything, and presented multiple scenarios in which Flick's damages would be below \$1 million.

**Result:**

During the last few weeks of trial, social distancing was observed, desks were wiped down, and closing arguments were given to a socially-distanced jury as a result of the COVID-19 pandemic, also known as the coronavirus pandemic.

The jury determined that Flick's damages totaled \$1,687,500.

**Kara Flick**

\$163,500 Personal Injury: Future Medical Cost

\$1,000,000 Personal Injury: Past Pain And Suffering

\$500,000 Personal Injury: Future Pain And Suffering

\$24,000 Personal Injury: future household services

**Trial Information:**

**Judge:** Jed Beebe

**Demand:** \$4,999,999.99 (C.C.P. § 998)

**Offer:** \$100,000

**Trial Length:** 17 days

**Trial  
Deliberations:** 4.5 hours

**Post Trial:** Plaintiff's counsel filed a memorandum of costs. Defense counsel will be filing a motion to tax costs.

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

**Writer** Priya Idiculla

## Bicyclist claimed driver caused crash by turning in front him

**Type:** Verdict-Plaintiff

**Amount:** \$688,754

**State:** California

**Venue:** Marin County

**Court:** Superior Court of Marin County, Marin, CA

**Injury Type(s):**

- *head*
- *brain* - traumatic brain injury
- *chest* - fracture, rib
- *other* - physical therapy; decreased range of motion
- *shoulder* - fracture, shoulder; fracture, scapula; fracture, shoulder; fracture, clavicle

**Case Type:**

- *Motor Vehicle* - Bicycle; Right Turn

**Case Name:** Henry Hodge v. Kenneth M. Fox, No. CIV1801644

**Date:** September 09, 2019

**Plaintiff(s):**

- Henry Hodge (Male, 53 Years)

**Plaintiff Attorney(s):**

- James D. Rush; Law Offices of James D. Rush; Novato CA for Henry Hodge

**Plaintiff Expert (s):**

- Edgar O. Angelone Ph.D.; Neuropsychology; San Rafael, CA called by: James D. Rush
- Daniel J. Solomon M.D.; Orthopedic Surgery; Larkspur, CA called by: James D. Rush
- Michael J. Mahoney P.I.; Accident Reconstruction; Walnut Creek, CA called by: James D. Rush
- Fernando G. Miranda M.D.; Neurology; San Francisco, CA called by: James D. Rush

**Defendant(s):**

- Kenneth M. Fox

**Defense Attorney(s):**

- Michael R. Chambers; Carbone, Smith & Koyama; Oakland, CA for Kenneth M. Fox

**Defendant Expert(s):**

- Mark A. Schrupf M.D.; Orthopedic Surgery; San Francisco, CA called by: for Michael R. Chambers
- Mark H. Strassberg M.D.; Neurology; San Francisco, CA called by: for Michael R. Chambers
- Tate Kubose Ph.D.; Ergonomics/Human Factors; Los Altos, CA called by: for Michael R. Chambers
- Ronald H. Roberts Ph.D.; Psychology/Counseling; San Francisco, CA called by: for Michael R. Chambers
- Katerina Blazek Ph.D., P.E.; Mechanical; Mountain View, CA called by: for Michael R. Chambers

**Facts:**

On March 31, 2018, plaintiff Henry Hodge, 53, a carpenter, was riding his bicycle in an unmarked bicycle lane in San Rafael when he collided into a truck operated by Kenneth Fox. Hodge, who was not wearing a helmet, was thrown headfirst into a tree by the curb, and sustained injuries to his head, chest and a shoulder.

Hodge sued Fox, alleging that Fox was negligent in the operation of his vehicle.

Hodge's counsel contended that Fox was traveling in the right lane when he turned in front of Hodge in an attempt to pull into a parking spot. Counsel argued that Fox caused the collision by making an unsafe turn in violation of Vehicle Code § 22017, and by failing to look or signal before changing lanes.

Defense counsel contended that Hodge was unlawfully passing on the right side and that Hodge was the sole cause of the collision and his injuries.

**Injury:**

Hodge sustained a traumatic brain injury, a clavicle fracture, a scapula fracture and multiple rib fractures. He was immediately taken to a hospital, where he was immobilized. He later underwent some physical therapy.

Hodge claimed that he continues to have some occasional dizziness and issues with his shoulder's range of motion. He also claimed that is able to perform some work, but that he fatigues more easily. Hodge claimed that as a result of his condition, he will require orthopedic and neurological treatment in the form of follow-up care and physical therapy.

Hodge sought recovery of \$230,779 in future medical costs. He also sought recovery of damages for his past and future pain and suffering.

Defense counsel contended that Hodge's brain injury was caused by a long, unrelated medical history and that Hodge was responsible for his own injuries by failing to wear a helmet.

**Result:** The jury found that Fox was negligent and that Fox's negligence was a substantial factor in causing harm to Hodge. It also determined that Hodge's damages totaled \$688,754.

## **Henry Hodge**

\$88,754 Personal Injury: Future Medical Cost

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

\$400,000 Personal Injury: Future Pain And Suffering

## **Trial Information:**

**Judge:** Andrew E. Sweet

**Demand:** \$299,000 (C.C.P. § 998)

**Offer:** \$150,000 (C.C.P. § 998)

**Trial Length:** 7 days

**Trial  
Deliberations:** 2 days

**Jury Vote:** 10-2

**Post Trial:** Defense counsel moved for a new trial and a stay of enforcement of the judgment. Plaintiff's counsel moved for recovery of costs of proof for the wrongful denial of requests for admission. The judgment was satisfied for \$850,000 with post-trial motions from both sides pending.

**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

## Hit-and-run accident caused multiple injuries to pedestrian

**Type:** Settlement

**Amount:** \$350,000

**State:** California

**Venue:** statewide

**Court:** Matter not filed, CA

**Injury Type(s):**

- *back* - fracture, vertebra; fracture, transverse process
- *head* - concussion
- *knee* - knee contusion
- *neck* - fracture, vertebra; fracture, transverse process
- *ankle*
- *other* - ossicle; abrasions; soft tissue; physical therapy; avulsion fracture
- *epidermis* - contusion
- *foot/heel* - foot

**Case Type:**

- *Motor Vehicle* - Pedestrian; Hit and Run; Underinsured Motorist

**Case Name:** Shelley Gallagher v. USAA, No.

**Date:** July 12, 2021

**Plaintiff(s):**

- Shelley Gallagher, (Female, 60 Years)

**Plaintiff Attorney(s):**

- Michele C. Kennedy; Swartz & Kennedy; Monterey CA for Shelley Gallagher

**Plaintiff Expert (s):**

- Gordon C. Lundy M.D.; Orthopedic Surgery; San Francisco, CA called by: Michele C. Kennedy
- Fernando G. Miranda M.D.; Neurology; San Rafael, CA called by: Michele C. Kennedy

**Defendant(s):**     •   USAA

**Defense Attorney(s):**     •   Analise Hiner; claims adjuster, USAA; San Antonio, TX for USAA

**Facts:**           On March 31, 2018, claimant Shelley Gallagher, 60, a retiree, was walking in a crosswalk, in Salinas, when she was struck by a vehicle, which then fled the scene. The driver was never identified. Gallagher claimed injuries to her head, back, ankles and right foot.

Gallagher sought recovery via the supplementary-uninsured-motorist provision of her own insurance policy, which was administered by USAA.

**Injury:**           Gallagher sustained blunt force trauma to her head, resulting in a concussion; a transverse process fracture to her lumbar spine at L1; and an avulsion fracture to her right ankle. She also sustained multiple abrasions, contusions and soft tissue injuries to her body, including her left ankle. Gallagher was transported to a hospital's emergency department, where she underwent multiple diagnostic studies. After undergoing wound care for the multiple abrasions, she was released from the hospital. She then followed up with an orthopedic specialist and a neurologist. She also underwent physical therapy and further diagnostic testing.

Gallagher claimed that she will possibly need future physical therapy, steroid injections to her left ankle, and medications. She also claimed that she might possibly require surgeries to her right knee and left ankle.

Gallagher sought recovery of approximately \$87,400 in past medical costs based on her adjusted medical bills for the ambulance, emergency room treatment, follow-up doctor visits, diagnostic testing, and physical therapy. She also sought recovery for her future medical costs, and past and future pain and suffering.

USAA initially disputed the amount of Gallagher's alleged damages, but did not dispute Gallagher's injuries or needed for future medical care.

**Result:**           The parties agreed to a \$350,000 settlement.

Shelley Gallagher

**Trial Information:**



**Trial Length:** 0

**Trial  
Deliberations:** 0

**Editor's  
Comment:** This report is based on information that was provided by the claimant's counsel. The respondent's claims adjuster did not respond to the reporter's phone calls.

**Writer** Priya Idiculla

## Intersection crash aggravated prior medical issues: plaintiff

**Type:** Mediated Settlement

**Amount:** \$175,000

**State:** California

**Venue:** Monterey County

**Court:** Superior Court of Monterey County, Monterey, CA

**Injury Type(s):**

- *head* - concussion
- *neck*
- *chest* - breast implant, damage
- *other* - soft tissue; physical therapy; aggravation of pre-existing condition
- *mental/psychological* - cognition, impairment; post-concussion syndrome

**Case Type:**

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

**Case Name:** Yung Kyung Gieser v. Anders Karl Dahlstrom, No. 19CV003736

**Date:** April 06, 2021

**Plaintiff(s):**

- Yung Gieser, (Female, 60 Years)

**Plaintiff Attorney(s):**

- Michele C. Kennedy; Swartz & Kennedy; Monterey CA for Yung Gieser

**Plaintiff Expert (s):**

- Fernando G. Miranda M.D.; Neurology; San Francisco, CA called by: Michele C. Kennedy

**Defendant(s):**

- Anders Karl Dahlstrom

**Defense Attorney(s):**

- Barbara H. Olsen; Carbone, Smith & Koyama; San Jose, CA for Anders Karl Dahlstrom

**Insurers:**

- American Automobile Association

**Facts:**

On May 16, 2019, plaintiff Yung Gieser, 60, a nanny, was driving on Sunridge Road, in Pebble Beach. As she entered an intersection, a compact vehicle operated by Anders Dahlstrom pulled out from a stop sign on a cross street. Gieser attempted to avoid a collision by steering to the left, but the front, passenger side of her sedan was struck by the front of Dahlstrom's sedan. After the impact, Gieser's car continued across the opposing lane of traffic and went off the roadway, where it struck a tree head-on. Gieser claimed injuries to her head and neck.

Gieser sued Dahlstrom, alleging that Dahlstrom was negligent in the operation of his vehicle.

Gieser's counsel contended that Dahlstrom failed to remain stopped at the stop sign until the Gieser's vehicle, which had the right of way, was through the intersection and that, instead, Dahlstrom pulled out directly into the Gieser's path.

Dahlstrom admitted liability for the collision.

**Injury:**

Gieser claimed she sustained a concussion and a soft tissue injury to her neck due to an aggravation of a previously ruptured breast implant. She was taken to a hospital, where she underwent X-rays and an MRI. Gieser then sought treatment from her primary care physician and underwent a course of physical therapy.

Gieser claimed that she suffers from symptoms related to post-concussion syndrome, including cognition impairment. She admitted that she had pre-existing cognitive issues and pre-existing breast implant damage, but alleged that the subject accident aggravated her pre-existing issues. She claimed that as a result, she would possibly need future medical treatment, including prescriptions and over-the-counter medications, as well as periodic visits to her primary care physician and a neurological office.

Gieser sought recovery of approximately over \$20,000 in past medical costs, based on her adjusted medical bills, and \$4,800 in lost wages. She also sought recovery of an unspecified amount of future medical costs, and unspecified amounts of damages for her past and future pain and suffering.

Defense counsel initially disputed the nature and severity of Gieser's alleged injuries and damages.

**Result:**

The parties agreed to a \$175,000 settlement, which was paid by Dahlstrom's insurer. The settlement was finalized via the guidance of mediator Charles Hawkins, of ADR Services Inc.

Yung Gieser

**Trial Information:**

**Judge:** Charles F. Hawkins

**Trial Length:** 0

**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.

**Writer** Priya Idiculla

## Complex: Management did not know of alleged misconduct

**Type:** Verdict-Defendant

**Amount:** \$0

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *brain* - brain damage; traumatic brain injury
- *face/nose* - fracture, jaw; fracture, mandible; fracture, facial bone; fracture, orbit; fracture, facial bone; fracture, mandible
- *arterial/vascular* - hemorrhage
- *mental/psychological* - anxiety; depression; cognition, impairment; memory, impairment

**Case Type:**

- *Premises Liability* - Inadequate or Negligent Security

**Case Name:** Guillermo C. Frayre v. Park Sycamore L.P., Jeffrey Gallegos and Does 1 to 50, No. BC683148

**Date:** February 20, 2020

**Plaintiff(s):**

- Guillermo Frayre (Male, 50 Years)

**Plaintiff Attorney(s):**

- Olivier A. Taillieu; The Dominguez Law Firm; Los Angeles CA for Guillermo Frayre
- Jennifer R. Bagosy; The Dominguez Law Firm; Los Angeles CA for Guillermo Frayre

**Plaintiff Expert  
(s):**

- Jan Roughan R.N., B.S.N.; Life Care Planning; Pasadena, CA called by: Olivier A. Taillieu, Jennifer R. Bagosy
- Moris Aynechi D.M.D., M.D.; Maxillofacial Surgery; Beverly Hills, CA called by: Olivier A. Taillieu, Jennifer R. Bagosy
- Steve Donnell; Property Management; Los Angeles, CA called by: Olivier A. Taillieu, Jennifer R. Bagosy
- Darryl R. Zengler M.A., C.E.A.; Economics; Pasadena, CA called by: Olivier A. Taillieu, Jennifer R. Bagosy
- Lester M. Zackler M.D.; Psychiatry; Sherman Oaks, CA called by: Olivier A. Taillieu, Jennifer R. Bagosy
- Steven D. Colquhoun M.D.; Surgery; Los Angeles, CA called by: Olivier A. Taillieu, Jennifer R. Bagosy
- Xavier E. Cagigas Ph.D.; Neuropsychology; Los Angeles, CA called by: Olivier A. Taillieu, Jennifer R. Bagosy
- Enrique N. Vega M.S.; Vocational Rehabilitation; Woodland Hills, CA called by: Olivier A. Taillieu, Jennifer R. Bagosy
- Fernando G. Miranda M.D.; Neurology; San Francisco, CA called by: Olivier A. Taillieu, Jennifer R. Bagosy
- Lawrence Miller M.D.; Physical Medicine; Los Angeles, CA called by: Olivier A. Taillieu, Jennifer R. Bagosy

**Defendant(s):**

- Jeffrey Gallegos
- Park Sycamore L.P.
- Barrio Management Inc.

**Defense  
Attorney(s):**

- Golnar J. Fozi; Meyers Fozi & Dwork, LLP; Carlsbad, CA for Park Sycamore L.P.
- Jeremy M. Dwork; Meyers Fozi & Dwork, LLP; Carlsbad, CA for Park Sycamore L.P.
- None reported; Carlsbad, CA for Jeffrey Gallegos, Barrio Management Inc.

**Defendant  
Expert(s):**

- Mary E. Jesko Ed.D., M.S.; Life Care Planning; San Diego, CA called by: for Golnar J. Fozi, Jeremy M. Dwork
- David J. Weiner M.B.A.; Economics; Los Angeles, CA called by: for Golnar J. Fozi, Jeremy M. Dwork
- Andrew Zimbaldi; Property Management; Costa Mesa, CA called by: for Golnar J. Fozi, Jeremy M. Dwork
- Michael E. Gold M.D.; Neurology; Santa Monica, CA called by: for Golnar J. Fozi, Jeremy M. Dwork
- Praveen R. Kambam M.D.; Psychiatry; Los Angeles, CA called by: for Golnar J. Fozi, Jeremy M. Dwork
- Alexander Kuo M.D.; Hepatology; Los Angeles, CA called by: for Golnar J. Fozi, Jeremy M. Dwork

**Insurers:**

- Nonprofits Insurance Alliance of California

**Facts:**

On Sept. 9, 2016, plaintiff Guillermo Frayre, 50, an on-site maintenance worker for Park Sycamore L.P.'s 59-unit apartment complex, in the Highland Park area of Los Angeles, was attacked by Jeffrey Gallegos, a homeless man.

Prior to the attack, a domestic dispute arose in one of the apartment units involving two tenants and Gallegos, a relative of theirs who had unexpectedly visited. The tenants eventually contacted the police after Gallegos threatened them with a knife. Gallegos fled the unit, but before the police arrived, he ran into Frayre, who also lived at the complex, and attacked him. Another tenant of the complex, who was driving into the secured parking lot on his way home from work, observed Frayre on the ground with alleged injuries to his head and face. The tenant arriving home also contacted law enforcement. However, Gallegos fled the scene by the time the police arrived and could not be located by law enforcement.

Frayre sued Gallegos; the owner of the complex, Park Sycamore L.P.; and the believed maintainer of the complex, Barrio Management Inc. Frayre alleged that Gallegos' actions constituted assault and that Park Sycamore and Barrio Management were negligent in their failure to provide adequate security at the complex.

Park Sycamore brought a cross-complaint against Gallegos, but the cross-complaint was dismissed before trial.

Gallegos and Barrio Management were also dismissed from the case prior to trial, and the matter continued against Park Sycamore only.

Plaintiff's counsel contended that Park Sycamore was aware that the attacker had visited the property on countless occasions over the years, in violation of residency rules, and that the attacker had previously assaulted someone else near the property, as well as engaged in vandalism of the property. Counsel argued that the knowledge of Gallegos' prior incidents required Park Sycamore to take action to prevent the assailant from entering the property or to evict the tenant relatives so that there would be no incentive for Gallegos to visit.

There was substantial evidence at trial on the issue of notice. Multiple tenant witnesses were called to testify about their knowledge of the assailant's presence on the property and whether management was aware of his presence or conduct.

Defense counsel argued that Park Sycamore was not aware of Gallegos' alleged misconduct. Counsel also argued that there was reasonable security at the complex, in that the complex was secured by a perimeter gate, as well as a locking pedestrian and vehicle gate. Counsel further argued that the complex had on-site management to address property- or tenant-related issues as they arose.

**Injury:**

Frayre sustained orbital and mandibular fractures. He also claimed he sustained a moderate/severe brain injury with a hemorrhage. He was subsequently transported by ambulance to a hospital for treatment of his injuries. Frayre ultimately underwent surgery to treat his facial fractures.

Frayre claimed that he suffers from ongoing major neurocognitive disorder, memory loss and diminished executive functioning. He also claimed that his psychiatric diagnosis is that of adjustment disorder with features of anxiety and depression. Frayre alleged that as a result, he suffers a total loss of independence and requires around-the-clock attendant care.

Frayre was responsible for maintaining, among other things, the operation of the perimeter security fencing and gates. Owing to his injuries, Frayre alleged that he would never be able to return to the workforce.

Frayre sought recovery of approximately \$400,000 in past paid medical expenses, \$450,000 in past and future loss of earnings, and \$9 million in future medical costs for his medical care/life care plan. He also sought recovery of damages for his past and future pain and suffering. In total, plaintiff's counsel asked the jury to award Frayre \$40 million.

It was undisputed that Frayre sustained orbital and mandibular fractures, which required surgery. Frayre's psychiatric diagnosis was also undisputed. However, defense counsel argued that Frayre's brain injury was of the mild form with the bleeding not occurring within the brain. Counsel also argued that while Frayre does meet the criteria for a neurocognitive disorder, it is a mild form with limited impact on memory, executive function and independence. In addition, defense counsel argued that the findings on Frayre's MRI were largely due to pre-existing medical conditions, such as mini-strokes arising from hypertension.

**Result:**

The jury rendered a defense verdict. It found that Park Sycamore was not responsible for the assault.

**Trial Information:****Judge:**

Stephen M. Moloney

**Demand:**

\$8,000,000 (from Park Sycamore; C.C.P. § 998)

**Offer:**

\$1,000,000 (by Park Sycamore; C.C.P. § 998)

**Trial Length:**

15 days

**Trial  
Deliberations:**

1 days



**Jury Vote:** 11-1

**Editor's Comment:** This report is based on information that was provided by Park Sycamore's counsel. Plaintiff's counsel did not respond to the reporter's phone calls, and the remaining defendants' counsel were not asked to contribute.

**Writer** Priya Idiculla

## Seasoned motorcyclist: Crash caused by slick spot, not speed

**Type:** Verdict-Defendant

**Amount:** \$0

**State:** California

**Venue:** San Francisco County

**Court:** Superior Court of San Francisco County, San Francisco, CA

**Injury Type(s):**

- *arm* - fracture, arm; fracture, humerus
- *head*
- *brain* - brain damage; traumatic brain injury
- *other* - unconsciousness; physical therapy
- *foot/heel* - fracture, foot; fracture, metatarsal
- *neurological* - nerve damage/neuropathy; nerve damage, radial nerve
- *sensory/speech* - speech/language, impairment of
- *surgeries/treatment* - open reduction; internal fixation
- *mental/psychological* - cognition, impairment; memory, impairment

**Case Type:**

- *Recreation*
- *Gross Negligence*
- *Motor Vehicle* - Motorcycle

**Case Name:** Jennifer Barrett v. Cory Call, Keigwins@TheTrack, Inc., Szymon Dziadzia, Jesse Carter, Kevin Norton, Leah Carter, and Does 1 to 50 Inclusive, No. CGC-16-551980

**Date:** May 03, 2019

**Plaintiff(s):**

- Jennifer Barrett (Female, 32 Years)

**Plaintiff Attorney(s):**

- George V. Choulos; Choulos, Choulos & Wyle, LLP; San Francisco CA for Jennifer Barrett
- Claude A. Wyle; Choulos, Choulos & Wyle, LLP; San Francisco CA for Jennifer Barrett

**Plaintiff Expert  
(s):**

- Rick Becker; Motorcycles; Santa Paula, CA called by: George V. Choulos, Claude A. Wyle
- Carol R. Hyland M.A.; Vocational Rehabilitation; Lafayette, CA called by: George V. Choulos, Claude A. Wyle
- Edgar O. Angelone Ph.D.; Neuropsychology; San Rafael, CA called by: George V. Choulos, Claude A. Wyle
- Piers A. Barry M.D.; Orthopedic Surgery; San Francisco, CA called by: George V. Choulos, Claude A. Wyle
- Phillip H. Allman, III Ph.D.; Economics; Oakland, CA called by: George V. Choulos, Claude A. Wyle
- Fernando G. Miranda M.D.; Neurology; San Francisco, CA called by: George V. Choulos, Claude A. Wyle

**Defendant(s):**

- Cory Call
- Leah Carter
- Jesse Carter
- Kevin Norton
- Szymon Dziadzia
- Keigwins@TheTrack Inc.

**Defense  
Attorney(s):**

- Stephen L. Hewitt; Hewitt & Truszkowski; Woodland Hills, CA for Cory Call, Keigwins@TheTrack Inc.
- Stacy L. Raphael; Hewitt & Truszkowski; Woodland Hills, CA for Cory Call, Keigwins@TheTrack Inc.
- None reported for Szymon Dziadzia, Jesse Carter, Kevin Norton, Leah Carter

**Defendant  
Expert(s):**

- R. Trigg McClellan M.D.; Orthopedic Surgery; San Francisco, CA called by: for Stephen L. Hewitt, Stacy L. Raphael
- John J. Panagotacos M.D.; Neurology; Kentfield, CA called by: for Stephen L. Hewitt, Stacy L. Raphael
- Kyle B. Boone Ph.D.; Neuropsychology; Torrance, CA called by: for Stephen L. Hewitt, Stacy L. Raphael
- Lance Keigwin; Motorcycles; Los Altos Hills, CA called by: for Stephen L. Hewitt, Stacy L. Raphael
- Maria Brady M.S., C.R.C., C.L.C.P.; Vocational Rehabilitation; Walnut Creek, CA called by: for Stephen L. Hewitt, Stacy L. Raphael
- Kenneth D. Laxer M.D.; Neurology; San Francisco, CA called by: for Stephen L. Hewitt, Stacy L. Raphael
- Constantine M. Boukidis M.A.; Economics; Los Angeles, CA called by: for Stephen L. Hewitt, Stacy L. Raphael

**Facts:**

On Oct. 18, 2015, plaintiff Jennifer Barrett, 32, a professional in the banking and finance industry, was participating in a high-speed motorcycle ride at Thunderhill Raceway Park, in Willows. Barrett was an experienced motorcyclist who had previously ridden at Thunderhill Raceway during high-performance motorcycle track days, which were organized by Keigwins@TheTrack Inc. On this day, Barrett was participating in a high-speed, "two-up" ride with Cory Call, a professional motorcycle racer who provided individualized instruction and coaching for Keigwins. During the third lap, Barrett and Call slid into the grassy outfield at high speed and crashed. A second motorcycle, which was operated by Kevin Norton, then crashed in the same area and slammed into them. Call tried to shield Barrett from Norton's motorcycle, as Barrett remained on her hands and knees while trying to catch her breath, but Barrett sustained injuries of her head, her arms and a foot.

Barrett sued Call; Norton; Keigwins@TheTrack; Keigwins' instructor and vice president of operations, Jesse Carter; Carter's wife, the chief financial officer and events coordinator, Leah Carter; and the subsequent purchaser and operator of the track, Szymon Dziadzia.

Norton's counsel moved for summary judgment based on a waiver and release. The motion was granted, and Norton was dismissed from the case. Barrett also voluntarily dismissed the case against Dziadzia and the Carters. In addition, claims of ordinary negligence were barred based on a waiver and release signed by Barrett. As a result, the matter only continued against Call and Keigwins on the claim of gross negligence.

Plaintiff's counsel contended that Call, who wore the nickname "Booty Call" on his leathers, was a "hooligan" who tried to impress women with dangerous, two-up thrill rides and that Keigwins condoned Call's conduct for years. Counsel also contended that the subject two-up ride was "crazy fast" with deep lean angles, knee dragging, wheelies and unsafe passing, which was not requested or expected. Plaintiff's counsel further contended that the crash was due to Call's recklessness and disregard of impending rain.

Defense counsel argued that Call was a seasoned, talented rider and that the two-up ride was instructional. Counsel contended that Call offered high speed, two-up rides to help participants improve their riding skills by providing them an instructional, controlled experience with deep lean angles and knee dragging to demonstrate the correct lines, throttle and brake control. Defense counsel argued that Barrett embellished events and vilified Call to work around the waiver and release by claiming gross negligence. Counsel also argued that the crash was caused by an unexpected slick spot on the track and not by excessive speed or lack of care. Counsel further argued that Norton and the race track were comparatively at fault for the accident.

**Injury:**

First responders found Barrett unconscious with a head injury and sonorous breathing. Barrett claimed that she was unconscious for 30 minutes. Call also sustained multiple serious fractures. Both Barrett and Call were airlifted to a level one trauma center.

Barrett was diagnosed with a traumatic brain injury. She was also diagnosed with a closed, displaced, traumatic fracture of the right and left humerus with a left radial nerve injury, and a fracture of the fifth metatarsal on the right foot. Barrett was hospitalized for one week, during which time she underwent an open reduction and internal fixation of the left and right humerus bones. Her right foot was casted. Barrett was then transferred to a rehabilitation center for two weeks, during which she underwent physical therapy and cognitive treatment for her memory, speech and language disorders as a result of the brain injury. She continued undergoing therapy for an additional eight months as an outpatient, and she did not return to full-time work until 14 months after the accident.

Barrett claimed that she suffered progressive cognitive deterioration as a result of her brain injury. She also claimed that she suffers residual orthopedic limitations, which permanently reduce her quality of life.

Barrett claimed that she was a high wage earner and that she will eventually suffer a 40 to 60 percent loss of earning capacity as a result of her limitations and deteriorating condition.

Barrett sought recovery of \$2,480,160 in past and future loss of earnings; \$364,000 in past and future medical expenses; and \$3 million to \$5 million in damages for her past and future pain and suffering.

Defense counsel disputed Barrett's claims regarding her alleged unconsciousness and contended that Barrett was only unconscious for three to four minutes. Counsel also argued that Barrett overstated the extent and effect of her injuries, and presented supporting social media evidence. Counsel further argued that the degree of Barrett's TBI was grossly exaggerated.

**Result:**

The jury rendered a defense verdict. It found that Call and Keigwins@TheTrack were not grossly negligent.

**Trial Information:****Judge:**

Harold E. Kahn

**Demand:**

\$2,000,000 (total, from from Call and Keigwins [C.C.P. § 998])

**Offer:**

\$375,000 (total, by Call and Keigwins [C.C.P. § 998])

**Trial  
Deliberations:**

5.5 hours

**Jury Vote:** 10-2

**Post Trial:** Plaintiff's counsel's motion for new trial was denied. On Nov. 18, 2019, Judge Harold Kahn confirmed a cost award of \$116,000 in the defendants' favor.

**Editor's Comment:** This report is based on information that was provided by counsel of Call and Keigwins@TheTrack. Plaintiff's counsel did not respond to the reporter's phone calls, and the remaining defendants' counsel were not asked to contribute.

**Writer** Priya Idiculla