



## Teen shot by off-duty cop while fleeing house he'd broken into

**Type:** Verdict-Plaintiff

**Amount:** \$5,007,841

**Actual Award:** \$4,006,273

**State:** Illinois

**Venue:** Cook County

**Court:** Cook County Circuit Court, IL

**Injury Type(s):**

- *other* - death; gunshot wound; conscious pain and suffering

**Case Type:**

- *Wrongful Death*
- *Government* - Excessive Force
- *Negligence* - Police as Defendant

**Case Name:** Laura Salazar, independent administrator of the estate of Juan Salazar, deceased v. City of Chicago, a municipal corporation, and Officer Rafael Balbontin, No. 03 L 11638

**Date:** October 04, 2007

**Plaintiff(s):**

- Laura Salazar (Female)
- Juan Salazar (deceased) (Male, 14 Years)

**Plaintiff Attorney(s):**

- Donald A. Shapiro; Donald A. Shapiro, Ltd.; Chicago IL for Laura Salazar, Juan Salazar (deceased)
- Charles A. Wallace; Donald A. Shapiro Ltd.; Chicago IL for Laura Salazar, Juan Salazar (deceased)
- Matthew R. Basinger; Donald A. Shapiro Ltd.; Chicago IL for Laura Salazar, Juan Salazar (deceased)

**Plaintiff Expert  
(s):**

- Tom Givens; Firearms; Memphis, TN called by: Donald A. Shapiro, Charles A. Wallace, Matthew R. Basinger
- Dr. James O'Keefe; Police Practices & Procedures; Jamaica, NY called by: Donald A. Shapiro, Charles A. Wallace, Matthew R. Basinger
- Michael M. Baden M.D.; Forensic Pathology; New York, NY called by: Donald A. Shapiro, Charles A. Wallace, Matthew R. Basinger

**Defendant(s):**

- City of Chicago
- Officer Rafael Balbontin

**Defense  
Attorney(s):**

- Dawn Eileen Bode; City of Chicago Law Department for City of Chicago, Officer Rafael Balbontin
- Matthew A. Hurd; Corporation Counsel's Office; Chicago, IL for City of Chicago, Officer Rafael Balbontin
- Alec McAusland; City of Chicago Law Department; Chicago, IL for City of Chicago, Officer Rafael Balbontin
- Mara S. Georges; City of Chicago Law Department; Chicago, IL for City of Chicago, Officer Rafael Balbontin
- Michael T. Donovan; City of Chicago Law Department; Chicago, IL for City of Chicago, Officer Rafael Balbontin

**Defendant  
Expert(s):**

- Susan E. Pearlson MD; Forensic Psychiatry; Kankakee, IL called by: for Dawn Eileen Bode, Matthew A. Hurd, Alec McAusland, Mara S. Georges, Michael T. Donovan
- William J. Lewinski PhD; Behavioral Psychology; Mankato, MN called by: for Dawn Eileen Bode, Matthew A. Hurd, Alec McAusland, Mara S. Georges, Michael T. Donovan

**Facts:**

At about 10 a.m. one morning in October 2004, plaintiff's decedent Juan Salazar, 14, and Edgar Naranjo, 26, entered the home of Mr. and Mrs. Juan Balbontin in the 3000 block of N. New England Ave. in Chicago. Rafael, the Balbontins' son and a Chicago police officer, was downstairs in the basement where he lived with his wife and baby. Naranjo apparently tried to frighten Rafael's mother with an unloaded BB gun. Mrs. Balbontin screamed and her husband, Juan, proceeded to chase the pair away waving a mop handle.

As Salazar and Naranjo fled the scene, Rafael reportedly bolted up the stairs, ran outside and chased the pair with his police pistol in hand. Rafael shouted that he was a Chicago police officer and fired eight shots. One bullet struck and wounded Naranjo in the hand while another wounded Rafael's father, Juan. Another bullet reportedly struck Salazar in the back and shoulder, allegedly resulting in his death.

Laura Salazar, independent administrator of her deceased son's estate, sued the city of Chicago and Rafael for wrongful death, alleging that Rafael failed to refrain from acting with wanton and willful misconduct, and used excessive, unjustified force upon the decedent. The plaintiff's complaint also included a survival action.

The city of Chicago denied any wrongdoing. Rafael claimed Salazar and Naranjo entered the residence by force and without consent and that his father used a mop against the plaintiffs to defend his wife and his home. Rafael admitted he fired his pistol eight times, hitting Salazar in the back and wounding his father and Naranjo.

Rafael asserted, as an affirmative defense, that he was acting in the capacity of a police officer and public employee and therefore was immune from liability. The officer also argued he was justified in his actions because the use of force was necessary to defend his home and to prevent death or great bodily harm to himself or others.

Both the city of Chicago and Rafael asserted that Salazar was comparatively negligent in entering the home without consent to steal the father's cologne; bringing or conspiring to bring a gun into the home; initiating an attempted robbery; wearing a mask to disguise his identity; brandishing a gun during the course of an attempted robbery and failing to obey Rafael's orders to freeze after running out of the house.

**Injury:**

The plaintiff sought financial compensation for her son's wrongful death on behalf of herself and his five surviving sisters.

**Result:**

The jury found that the decedent was 20 percent at fault and Rafael and the city 80 percent. The jury's gross award to the plaintiff of \$5,007,841 was reduced to \$4,006,273 pursuant to the finding of comparative fault.

When completing a special interrogatory, the jury responded in the negative when asked if Rafael reasonably believed it was necessary to use deadly force to defend himself or others from death or great bodily harm.

**Laura Salazar**

\$4,889,675 Wrongful Death: pecuniary loss

**Juan Salazar (deceased)**

\$118,166 Wrongful Death: conscious pain and suffering

**Trial Information:**

**Judge:** Donald J. Suriano

**Writer:** Patti Walsh

**Pltf: city cop inflicted rectal trauma with screwdriver**

**Type:** Settlement

**Amount:** \$4,675,000

**State:** Illinois

**Venue:** Federal

**Court:** U.S. District Court for the Northern District, Chicago, IL

**Injury Type(s):**

- *urological* - rectum
- *mental/psychological* - emotional distress

**Case Type:**

- *Negligence* - Police as Defendant
- *Constitutional Law* - Search and Seizure

**Case Name:** Coprez Coffie v. City of Chicago, Officer Scott Korhonen and Officer Geralld Lowich, No. 05 C 6745

**Date:** October 12, 2007

**Plaintiff(s):**

- Coprez Coffie (Male, 20 Years)

**Plaintiff Attorney(s):**

- Michael I. Kanovitz; Loevy & Loevy; Chicago IL for Coprez Coffie
- Jon Loevy; Loevy & Loevy; Chicago IL for Coprez Coffie
- Samantha Liskow; Loevy & Loevy; Chicago IL for Coprez Coffie

**Plaintiff Expert(s):**

- David Canal M.D.; General Surgery; Indianapolis, IN called by: Michael I. Kanovitz, Jon Loevy, Samantha Liskow
- Christopher Bommarito; Forensic Analysis; Williamston, MI called by: Michael I. Kanovitz, Jon Loevy, Samantha Liskow

**Defendant(s):**

- Geralld Lowich
- Scott Korhonen
- City of Chicago

**Defense  
Attorney(s):**

- Alec McAusland; City of Chicago Law Department; Chicago, IL for City of Chicago, Scott Korhonen, Geralld Lowich
- Thomas Joseph Platt; City of Chicago Law Department; Chicago, IL for City of Chicago, Scott Korhonen, Geralld Lowich
- Patricia Kendall; City of Chicago Law Department; Chicago, IL for City of Chicago, Scott Korhonen, Geralld Lowich
- Andrew M. Hale; Rock Fusco, LLC; Chicago, IL for City of Chicago, Scott Korhonen, Geralld Lowich

**Defendant  
Expert(s):**

- Gary Merlotti M.D.; Trauma; Olympia Fields, IL called by: for , Alec McAusland, Thomas Joseph Platt, Patricia Kendall, Andrew M. Hale
- Keith Inman; Forensic Analysis; Hayward, CA called by: for , Alec McAusland, Thomas Joseph Platt, Patricia Kendall, Andrew M. Hale
- Kenneth Pfoser; Forensic Analysis; Vernon Hills, IL called by: for , Alec McAusland, Thomas Joseph Platt, Patricia Kendall, Andrew M. Hale

**Facts:**

On Aug. 28, 2004, plaintiff Coprez Coffie, 20, a grocery clerk, was in a van with his friends in an alleyway near the west side of Chicago when he was pulled over by Chicago Police Officers Scott Korhonen and Gerald Lodwich.

Coffie, his friends and the vehicle were searched by the officers. After waiting for a female officer to arrive to search one of Coffie's female friends, the officers let his friends leave with the exception of Coffie.

Coffie alleged that the officers cuffed him, put him in the police cruiser and drove him to a nearby alley. He claimed that the officers took him out of the car, still handcuffed, and Korhonen retrieved a screwdriver from his glove compartment. He then pulled down Coffie's pants and inserted the screwdriver into Coffie's rectum. Lodwich stood next to Korhonen during the act, according to Coffie.

Coffie was arrested on drug charges, and he spent a night at Cook County jail.

Coffie sued Korhonen, Lodwich and the city of Chicago for failure to intervene and unreasonable search. The trial was bifurcated. An agreement was entered by both parties that if the jury found for the plaintiff on liability, the parties would settle for \$4 million plus \$675,000 in attorney fees.

Plaintiff's counsel argued that the defendants were negligent for assaulting Coffie.

The plaintiff's forensics science expert, testified that he tested the three screwdrivers that were recovered as part of the police department's internal investigation. One of the screwdrivers matched Coffie's description (yellow handle, flathead) and it tested presumptively positive for fecal matter.

The plaintiff's general surgery expert, opined that Coffie's rectal trauma was consistent with that of the insertion of a screwdriver.

The defendants denied the allegations. Defense counsel contended that the officers did not assault Coffie with a screwdriver, and that a screwdriver was never in the officers' glove compartment.

Keith Inman, the defense forensics science expert testified that the test performed by the plaintiff's forensics expert was not completely accurate. This opinion was shared by Kenneth Pfoser, the other defense forensics expert, who also discussed DNA testing.

Gary Merlotti, the defense trauma surgery expert, attempted to discredit the plaintiff's surgery expert by saying that the plaintiff's rectal injury was not consistent with that of a screwdriver.

**Injury:**

Upon his release from jail the next day, Coffie's mother took him to an emergency room at a local hospital and was treated for a tear in his rectum. Chicago police investigators were summoned to the hospital, where they took Coffie's statement. Coffie was released with pain medication and received no further treatment. He would have sought an unspecified amount for past and future emotional distress.

**Result:** The jury found for Coffie and the defendants settled for \$4,675,000.

**Trial Information:**

**Judge:** James Holderman

**Demand:** \$1,450,000

**Offer:** \$200,000

**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** Aaron Jenkins



## Public Transportation - Gate Smashes Through Windshield - Death

**Type:** Verdict-Plaintiff

**Amount:** \$4,398,780

**State:** Massachusetts

**Venue:** Suffolk County

**Court:** Suffolk County, Superior Court, MA

**Injury Type(s):**

- *hand/finger* - finger, laceration

**Case Type:**

- *Worker/Workplace Negligence*
- *Wrongful Death* - Survival Damages

**Case Name:** Janice Kelly, Individually and as Executrix of the Estate of Thomas Kelly v. APCOA/Standard Parking, Inc., Foxboro Realty Associates, LLC, et al.; Robert Dixon v. Arrow Lines Acquisition, LLC, et al., No. SUCV2005-02031; SUCV2006-05312

**Date:** December 18, 2007

**Plaintiff(s):**

- Janice Kelly
- Thomas Kelly (Male, 64 Years)

**Plaintiff Attorney(s):**

- Andrew C. Meyer Jr.; ; Boston MA for Thomas Kelly
- Alec G. Sohmer; ; Brockton MA for Thomas Kelly
- William J. Thompson; ; Boston MA for Thomas Kelly

**Plaintiff Expert(s):**

- Kim Hazarvartian Ph.D. P.E.; Traffic; Boston, MA called by: Andrew C. Meyer Jr., Alec G. Sohmer, William J. Thompson
- Stephen Benanti; Accident Investigation & Reconstruction/ Failure Analysis/Product Liability; Groveland, MA called by: Andrew C. Meyer Jr., Alec G. Sohmer, William J. Thompson

**Defendant(s):**

- APCOA/Standard Parking, Inc., Foxboro Realty Associates, LLC, et al.; Robert Dixon v. Arrow Lines Acquisition, LLC, et al.

**Defense  
Attorney(s):**

- Anthony M. Campo; Boston, MA for APCOA/Standard Parking, Inc., Foxboro Realty Associates, LLC, et al.; Robert Dixon v. Arrow Lines Acquisition, LLC, et al.
- Lawrence J. Kenney Jr.; Boston, MA for APCOA/Standard Parking, Inc., Foxboro Realty Associates, LLC, et al.; Robert Dixon v. Arrow Lines Acquisition, LLC, et al.
- Scott M. Carroll; Boston, MA for APCOA/Standard Parking, Inc., Foxboro Realty Associates, LLC, et al.; Robert Dixon v. Arrow Lines Acquisition, LLC, et al.
- Thomas M. Neville; Waltham, MA for APCOA/Standard Parking, Inc., Foxboro Realty Associates, LLC, et al.; Robert Dixon v. Arrow Lines Acquisition, LLC, et al.
- Joseph R. Valle Jr.; Boston, MA for APCOA/Standard Parking, Inc., Foxboro Realty Associates, LLC, et al.; Robert Dixon v. Arrow Lines Acquisition, LLC, et al.

**Facts:**

A Suffolk County jury awarded \$4,398,780 plus interest to the widow of a man who died as a result of injuries he sustained in a freak accident at Gillette Stadium. Another individual injured in the accident was awarded \$45,000. The verdicts were against the stadium owner, a parking contractor and a security contractor. A bus company and its driver were also named as defendants, but received defense verdicts.

On August 29, 2003, plaintiff's decedent, Thomas Kelly, and Plaintiff Robert Dixon were passengers on a shuttle bus. They had attended the Deutsche Bank Championship golf tournament and had parked at Gillette Stadium. Kelly, Dixon and other shuttle bus passengers were being transported back to their vehicles. Just as the bus was entering a gate on the west side of the stadium, the security gate was blown open by the wind and struck the shuttle bus, penetrating into the third row of passengers. The metal security gate weighed 350 pounds. Decedent and several other passengers were pinned by the gate. One woman underwent a leg amputation as a result of injuries she sustained in the accident. Another passenger was impaled by the gate and sustained a fractured pelvis. A total of 16 passengers were injured. Decedent, who suffered a serious leg injury, required five surgeries over the course of eight days. However, approximately 25 days after the accident, he died. It is believed he suffered either a heart attack or blood clot. Plaintiff Dixon sustained a finger laceration in the accident, as well as some bruises. Gillette Stadium was owned by Defendant Foxboro Realty Associates, LLC. Defendant Apollo Security, Inc. provided security at the stadium and Defendant APCOA/Standard Parking, Inc. managed the stadium's parking lot. Defendant Arrow Line Acquisition, LLC, a wholly owned subsidiary of Peter Pan Bus Lines, Inc., owned and operated the shuttle bus. Defendant Rebecca Valentin was the bus driver. This case went to trial on the claims of Plaintiffs Kelly and Dixon only. All other injured passengers had previously settled their claims.

Plaintiffs alleged Defendants Foxboro Realty, Apollo Security and Standard Parking were negligent in failing to properly secure the gate. Plaintiff also alleged Defendant Valentin was negligent in operating the shuttle bus and Defendant Arrow Line was vicariously liable for her actions. According to plaintiffs, the driver was speeding and inattentive when the bus was entering the gate, which contributed to the severity of the accident.

Defendants Foxboro Realty, Apollo Security and Standard Parking all denied liability and contended there was no proof the gate blowing open was due to any negligence on their part. Defendants Arrow Line and Valentin denied Valentin was speeding or that Valentin contributed to the accident in any way. Arrow Line and Valentin argued that Valentin had no time to respond to the gate blowing open and any reasonable person could not have avoided the accident. Defendants disputed the value of the case with regard to the Kelly claim, noting that decedent was retired, had only been married to his current wife for 1.5 years at the time of his death and had no minor children.

Plaintiff's decedent, Thomas Kelly, was a 64 year old married male. He was a retired basketball coach and English teacher. Plaintiff Dixon was a male in his 60's.

**Injury:**

Decedent Thomas Kelly sustained a serious leg injury that necessitated multiple surgeries. He died approximately 25 days after the subject accident. Decedent was survived by his wife and two adult sons. Plaintiff Dixon sustained bruises and a finger laceration that required stitches.

**Result:** \$4,398,780 for Plaintiff Kelly and \$45,000 for Plaintiff Dixon against Defendants Foxboro, Apollo and APCOA. Plaintiff Kelly was awarded \$1,720,947 in interest and Plaintiff Dixon was awarded \$7,353 in interest. Defense verdicts for Defendants Valentin and Arrow.

**Trial Information:**

**Judge:** Raymond J. Brassard

**Trial  
Deliberations:** 1.5 days

**Editor's  
Comment:** Per Attorney Thompson, there were several mediation attempts, but the parties could not agree on the fair value of the case. Attorney Thompson further stated that he believed the jury recognized this was an avoidable accident and gave fair value in awarding the verdict.

**Writer** Margi Banner

## Inmate put on life support after altercation with prison guards

**Type:** Mediated Settlement

**Amount:** \$1,100,000

**State:** Pennsylvania

**Venue:** Federal

**Court:** U.S. District Court, Western District of Pennsylvania, Erie, PA

**Injury Type(s):**

- *eye*
- *back* - fracture, vertebra
- *head* - closed head injury
- *neck* - fracture, vertebra
- *brain* - stroke; brain damage; brain abnormalities
- *chest* - fracture, rib
- *other* - abrasions; orbital socket; unconsciousness
- *cardiac* - heart
- *epidermis* - contusion
- *face/nose* - face; face, bruise
- *urological* - renal failure; kidney failure
- *arterial/vascular* - artery, severed/tear
- *surgeries/treatment* - tracheostomy/tracheotomy
- *mental/psychological* - cognition, impairment; memory, impairment
- *pulmonary/respiratory* - respiratory; collapsed lung

**Case Type:**

- *Civil Rights* - ADA; Prisoners' Rights
- *Government* - Counties; Prisoner Suit; Excessive Force
- *Worker/Workplace Negligence* - Negligent Training

**Case Name:** Patrick Haight v. Erie County, No. 1:18-cv-00068-SPB

**Date:** July 30, 2018

**Plaintiff(s):**

- Patrick Haight (Male, 52 Years)

- Plaintiff Attorney(s):**
- Timothy P. O'Brien; The Law Offices of Timothy P. O'Brien; Pittsburgh PA for Patrick Haight
  - Alec B. Wright; The Law Offices of Timothy P. O'Brien; Pittsburgh PA for Patrick Haight
- Defendant(s):**
- Erie County
- Defense Attorney(s):**
- Paul D. Krepps; Marshall Dennehey Warner Coleman & Goggin, P.C.; Pittsburgh, PA for Erie County
  - Patrick M. Carey; Marshall Dennehey Warner Coleman & Goggin, P.C.; Erie, PA for Erie County

**Facts:** On May 12, 2017, plaintiff Patrick Haight, 52, was placed on a ventilator at a hospital, in Erie, after having suffered multiple injuries. Haight was an inmate at Erie County Prison. He asserted that his injuries resulted from being severely beaten by the prison's corrections officers.

Haight sued Erie County, alleging excessive force and violations of his constitutional rights, including the Americans with Disabilities Act. Haight had been diagnosed with bipolar and anxiety disorders. On May 10, 2017, while attempting to climb to the top bunk in his cell, Haight fell and injured his toe. He then requested medical treatment, and corrections officers escorted him to the medical office.

After receiving treatment for his toe, one or more corrections officers returned to the medical office to escort him back to general population. Haight alleged that the corrections officers were immediately aggressive toward him, with one officer striking him in the face with a closed fist after he was in handcuffs.

According to Haight, the corrections officers then violently escorted him through the hallway from the medical office where additional corrections officers converged upon him and began to strike him in the face and body with closed fists. One officer pepper sprayed him in the eyes.

Haight was then brought to an isolated shower area where he was taken to the floor and allegedly assaulted with closed fists and kicks by numerous corrections officers. Haight's counsel maintained that Haight was ultimately dragged to an empty gym where video surveillance captured six to 10 corrections officers forming a circle or semi-circle around him, as three to five other officers kneeled on, strangled and beat Haight with closed fists and kicks. Haight was then placed into a cell in the restrictive housing unit, which serves as the prison's solitary confinement. Haight alleged that he was not provided any medical treatment even though he had been pepper sprayed, lost consciousness, had severe bruising, was bleeding and was in an obvious state of declining health.

According to his counsel, Haight's medical condition declined while in solitary confinement. In the early morning on May 11, he was taken to the hospital for treatment of his injuries. For unknown reasons, Haight was discharged only a few hours later, according to his counsel. Upon returning to the county prison, Haight complained to corrections officers and medical staff about rib and chest pain and shortness of breath. At that time, the medical staff noted that Haight's eyes were swollen shut and he had bruises all over his face and extremities. Haight returned to the hospital on May 12.

Haight alleged that he had been compliant and non-resisting when the officers began to attack him, which was confirmed by an investigation by the district attorney's office. Haight's counsel argued that the corrections officers violated Haight's rights for using excessive force and, indeed, various officers involved in the assault admitted to detectives that the use of force in this case was unjustified. His counsel maintained that the prison was aware that many of the corrections officers involved in assaulting Haight previously had numerous complaints and grievances filed against them for similar allegations. Despite these instances of excessive force against other inmates, they were not reprimanded, disciplined and/or retrained, Haight's counsel argued.

Haight's counsel maintained that the corrections officers violated the ADA because they were aware that he had a disability resulting from bipolar and anxiety disorders. His counsel faulted the prison for its failure to train its corrections officers in handling mentally disabled persons, like Haight, even though such training would not impose an undue burden on Erie County.

Erie County denied the allegations and any liability.

**Injury:**

On May 12, after returning to the hospital, Haight was immediately placed on life support using dialysis, a feeding tube and a ventilator. He was diagnosed with kidney failure, a closed-head injury, multiple bilateral rib fractures, multiple broken vertebrae in his lumbar spine, a collapsed lung and multiple abrasions and contusions. He further suffered tears and/or restrictions to his carotid arteries which resulted in strokes.

Haight remained hospitalized through May 27. He then moved in with his son and underwent a significant period of inpatient physical and cognitive therapy. Haight later moved to Kentucky to live with his daughter, where he continued to receive neurological treatment related to his impaired cognition.

According to his counsel, Haight continues to suffer from memory loss and other cognitive deficits. He has difficulty formulating sentences and holding more than one thought in his mind. Haight sought damages for past and future pain and suffering.

**Result:**

The parties negotiated a pretrial settlement. Erie County agreed to pay a total of \$1.1 million. The settlement's negotiations were mediated by Judge Kenneth Benson.

**Trial Information:**

**Judge:** Kenneth J. Benson

**Editor's  
Comment:**

This report is based on information that was provided by plaintiff's counsel. Defense counsel declined to contribute.

**Writer**

Aaron Jenkins



## Employment - Race/Gender Discrimination - Promotions

**Type:** Verdict-Plaintiff

**Amount:** \$760,000

**State:** Michigan

**Venue:** Wayne County

**Court:** Wayne County, Circuit Court, Detroit, MI

**Case Type:**

- *Employment*
- *Discrimination*

**Case Name:** Verladia Reed v. Detroit Edison Company, Don J. Brett, James Graves, No. 94-402506-NZ

**Date:** July 09, 1996

**Plaintiff(s):**

- Verladia Reed (Female, 46 Years)

**Plaintiff Attorney(s):**

- Alice B. Jennings; ; Detroit MI for Verladia Reed

**Plaintiff Expert (s):**

- Barry Grant; Accounting; Southfield, MI called by:
- Nitán Paranipe Ph.D.; Statistics; Southfield, MI called by:

**Defendant(s):**

- Detroit Edison Company, Don J. Brett, James Graves

**Defense Attorney(s):**

- Walter B. Connolly; Detroit, MI for Detroit Edison Company, Don J. Brett, James Graves
- Alec J. McLeod; Detroit, MI for Detroit Edison Company, Don J. Brett, James Graves
- Frederic E. Champnella II; Detroit, MI for Detroit Edison Company, Don J. Brett, James Graves

**Insurers:**                   • Detroit Edison

**Facts:**                   Plaintiff, a black woman with an M.S. in engineering, had been employed by Defendant Detroit Edison for 20 years. Plaintiff claimed she was paid less than white male counterparts and that defendant supervisor Graves discriminated against women and blacks, and had made hostile comments regarding her chances of being promoted. White male employees without college degrees had been promoted. Defendant reorganized in 1992 and demoted plaintiff. Defendant Brett was assistant vice president of defendant company.

Plaintiff alleged that: (1) defendants maintained a hostile work environment; (2) defendants discriminated against her because of her race and gender; and (3) defendants demoted her in retaliation.

Defendants contended that: (1) 80% of the time plaintiff received higher percentage increases in pay than did her white male counterparts; (2) plaintiff was demoted because her job classification, which was also held by 13 other employees of both sexes, was eliminated; and (3) plaintiff suffered no corresponding loss in pay as a result of her demotion.

**Injury:**                   Denial of promotions resulting in wage differential and emotional distress. Plaintiff claimed \$1,000,000 in lost income.

**Result:**                   \$760,000 joint and several against Detroit Edison, Brett and Graves on plaintiff's disparate treatment claim only. Breakdown: \$300,000 economic damages and \$460,000 non-economic damages. See Editor's Note.

**Trial Information:**

**Judge:**                   Cynthia D. Stephens

**Trial  
Deliberations:**       1.5 days

**Writer**

## Condominium - Unfenced Pond - Drowning - Minor

|                               |  |
|-------------------------------|--|
| <b>Type:</b>                  | Verdict-Plaintiff  |
| <b>Amount:</b>                | \$627,250  |
| <b>State:</b>                 | Ohio   |
| <b>Venue:</b>                 | Lake County  |
| <b>Court:</b>                 | Lake County, Court of Common Pleas, Painesville, OH  |
| <b>Case Type:</b>             | <ul style="list-style-type: none"><li>• <i>Wrongful Death</i></li><li>• <i>Domestic Relations</i></li><li>• <i>Premises Liability</i></li></ul>  |
| <b>Case Name:</b>             | Estate of Jeremy Spiker, and Diane and Keith Spiker v. Peppertree Condominium Association, No. 91CV1457  |
| <b>Date:</b>                  | December 22, 1992  |
| <b>Plaintiff(s):</b>          | <ul style="list-style-type: none"><li>• Estate of Jeremy Spiker, and Diane and Keith Spiker (Male, 4 Years)</li></ul>  |
| <b>Plaintiff Attorney(s):</b> | <ul style="list-style-type: none"><li>• Alec C. Berezin; ; Cleveland OH for Estate of Jeremy Spiker, and Diane and Keith Spiker</li><li>• Patrick T. Murphy; ; Cleveland OH for Estate of Jeremy Spiker, and Diane and Keith Spiker</li></ul>          |
| <b>Plaintiff Expert (s):</b>  | <ul style="list-style-type: none"><li>• Daniel Sprehe M.D.; Psychiatry; Tampa, FL called by:</li><li>• Richard Frank Ph.D.; Psychology/Counseling; Clearwater, FL called by:</li><li>• William Gould; Architecture; Cleveland, OH called by:</li></ul> |
| <b>Defendant(s):</b>          | <ul style="list-style-type: none"><li>• Peppertree Condominium Association</li></ul>   |
| <b>Defense Attorney(s):</b>   | <ul style="list-style-type: none"><li>• John M. Cronquist; Cleveland, OH for Peppertree Condominium Association</li><li>• Brian D. Kerns; Cleveland, OH for Peppertree Condominium Association</li></ul>   |
| <b>Insurers:</b>              | <ul style="list-style-type: none"><li>• American States Insurance Co. of Texas</li></ul>   |

**Facts:** Plaintiff's decedent, a 3.5-year-old boy, and his family resided in Peppertree Condominiums. He drowned in a pond which was located approximately 25 feet from the unit in which he resided. Six months prior to decedent's death, defendant condominium association had received notice from an insurance risk analysis that it should fence or otherwise control access to the pond to prevent "wandering toddlers" from drowning.

Plaintiff alleged that: (1) defendant had notice and knowledge of the dangerous condition of the pond; (2) it was foreseeable that an unsupervised child would wander to the pond site; and (3) defendant had responsibility to control access to the pond to protect children residing in the condominiums.

Defendant contended that decedent's parents were negligent in failing to supervise decedent and that it did not have responsibility to fence the pond because the hazard was open and obvious.

**Injury:** Conscious pain and suffering, and wrongful death resulting in mental anguish and loss of society. Decedent was survived by his mother and 10-year-old brother.

**Result:** \$627,250 less 40% comparative negligence yielded a net verdict of \$376,350.

### **Trial Information:**

**Judge:** Paul H. Mitrovich

**Trial  
Deliberations:** 6 hours

**Writer**

## Police chief's terminated out of retaliation, plaintiff claimed

|                               |   |
|-------------------------------|---|
| <b>Type:</b>                  | Settlement  |
| <b>Amount:</b>                | \$600,000   |
| <b>State:</b>                 | Pennsylvania  |
| <b>Venue:</b>                 | Federal   |
| <b>Court:</b>                 | U.S. District Court, Western District of Pennsylvania, Pittsburgh, PA   |
| <b>Case Type:</b>             | <ul style="list-style-type: none"><li>• <i>Government</i></li><li>• <i>Employment</i> - Retaliation; Wrongful Termination</li><li>• <i>Constitutional Law</i> - Due Process; Fourteenth Amendment</li></ul>                             |
| <b>Case Name:</b>             | Andrew Lisiecki v. North Huntingdon Township, David Herold, Tony Martino, Darryl Bertani and Michael Faccenda Jr., No. 2:16-cv-01861-YK   |
| <b>Date:</b>                  | September 06, 2018  |
| <b>Plaintiff(s):</b>          | <ul style="list-style-type: none"><li>• Andrew Lisiecki (Male, 50 Years)</li></ul>  |
| <b>Plaintiff Attorney(s):</b> | <ul style="list-style-type: none"><li>• Timothy P. O'Brien; Law Office of Timothy P. O'Brien; Pittsburgh PA for Andrew Lisiecki</li><li>• Alec B. Wright; Law Office of Timothy P. O'Brien; Pittsburgh PA for Andrew Lisiecki</li></ul> |
| <b>Defendant(s):</b>          | <ul style="list-style-type: none"><li>• David Herold</li><li>• Tony Martino</li><li>• Darryl Bertani</li><li>• Michael Faccenda Jr.</li><li>• North Huntingdon Township</li></ul>   |
| <b>Defense Attorney(s):</b>   | <ul style="list-style-type: none"><li>• Mark R. Hamilton; Thomas, Thomas &amp; Hafer LLP; Pittsburgh, PA for North Huntingdon Township, David Herold, Tony Martino, Darryl Bertani, Michael Faccenda Jr.</li></ul>                      |
| <b>Insurers:</b>              | <ul style="list-style-type: none"><li>• National Casualty Co.</li></ul>   |

**Facts:**

On Sept. 23, 2016, plaintiff Andrew Lisiecki, in his 50s, was terminated as chief of police of North Huntingdon Township. He had been in the position since May 2012.

Lisiecki sued the township and its four commissioners, David Herold, Tony Martino, Darryl Bertani and Michael Faccenda Jr. Lisiecki alleged that his termination was out of retaliation and in violation of due process under the Fourteenth Amendment. Lisiecki contended that he was fired for testifying truthfully in hearings that led an arbitrator to uphold the firing of an officer allied with those commissioners. That officer, William Sombo, allegedly tried to keep another officer from charging Herold in an October 2013 road-rage incident.

An investigation was conducted by third-party independent investigators, who found no impropriety in connection with the charges filed against Herold. They found that Sombo had improperly attempted to dissuade the arresting officer from pursuing the charges against Herold, and also found that Sombo had made false accusations against Lisiecki. Based upon the investigator's findings, Lisiecki initiated disciplinary action against Sombo, who was suspended subject to termination. Sombo was formally terminated in April 2014.

Sombo then pursued a grievance challenging the termination of his employment. Evidentiary hearings took place in October and November 2014; Lisiecki was present for each hearing and testified under oath. In March 2015, an arbitrator upheld Sombo's termination.

In April, Lisiecki received information that Martino and Herold had prepared a "hit list" of the officers who testified against Sombo, including Lisiecki. Lisiecki alleged that, from May through November 2015, Herold and Martino engaged in a pattern of retaliation against him. This allegedly included unwarranted threats to discipline Lisiecki, making false accusations about his performance intended to undermine his authority, initiating unwarranted investigations and asserting privately and publicly that Lisiecki should be terminated from his position as chief of police.

According to Lisiecki, in January 2016, Commissioners Martino, Herold, Faccenda and Bertani began a more concerted effort to retaliate against Lisiecki. This allegedly included excessive scrutiny, making false accusations, initiating unwarranted investigations, publicly demeaning, ridiculing and making false and defamatory statements about Lisiecki, and stating privately and in public that Lisiecki was not competent to perform his duties as police chief.

In May 2016, when Lisiecki intended to return to his position after a non-work-related injury, he was ordered to undergo a drug test. According to Lisiecki, other officers with similar injuries, who were away from work for longer time periods, had not been similarly required to undergo such testing.

At a meeting on Sept. 23, 2016, the Board of Commissioners, without any formal advance notice to Lisiecki, voted to terminate his employment as the North Huntingdon Township Chief of Police.

Lisiecki's counsel maintained that the defendants violated his constitutional rights by not affording Lisiecki notice and an opportunity to speak at the meeting.

The defense maintained that Lisiecki's termination had been in accordance with constitutional law.

**Injury:** Lisiecki alleged that he sustained lost wages and benefits, and will continue to do so into the future. He sought to recover damages pursuant to his claims.

**Result:** The parties negotiated a pretrial settlement. North Huntingdon Township's insurer agreed to pay \$600,000, from a policy that provided a substantially greater amount of coverage.

**Trial Information:**

**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** Aaron Jenkins

## Man kicked off plane because he looks Middle Eastern: pltf

**Type:** Verdict-Plaintiff

**Amount:** \$400,000

**State:** Massachusetts

**Venue:** Federal

**Court:** U.S. District Court for District of Massachusetts, MA

**Injury Type(s):** • *mental/psychological* - emotional distress

**Case Type:** • *Aviation*  
• *Civil Rights* - 42 USC 1981  
• *Discrimination* - Racial Profiling

**Case Name:** John Cerqueira v. American Airlines, Inc., No. 1:05-cv-11652-WGY

**Date:** January 15, 2007

**Plaintiff(s):** • John Cerqueira (Male, 36 Years)

**Plaintiff Attorney(s):** • Michael A. Fitzhugh; ; Boston MA for John Cerqueira  
• Darleen F. Cantelo; Birnbaum & Godkin, LLP; Boston MA for John Cerqueira  
• David S. Godkin; Birnbaum & Godkin, LLP; Boston MA for John Cerqueira  
• Erica B. Abate-Recht; Birnbaum & Godkin, LLP; Boston MA for John Cerqueira  
• Michael T. Kirkpatrick; Public Citizen Litigation Group; Washington D.C for John Cerqueira

**Defendant(s):** • American Airlines Inc.



**Defense Attorney(s):**

- Amy C. Mariani; Fitzhugh, Parker & Alvaro, L.L.P.; Boston, MA for American Airlines Inc.
- Anne-Marie H. Gerber; Fitzhugh, Parker & Alvaro, L.L.P.; Boston, MA for American Airlines Inc.
- Alec Bramlett; Legal Department, American Airlines; Fort Worth, TX for American Airlines Inc.

**Facts:**

On Dec. 28, 2003, plaintiff John Cerqueira, 36, was seated on an American Airlines flight bound to Florida from Massachusetts, when two men sat down beside him and began wishing other passengers a happy new year and speaking in a foreign language. While the men carried on, Cerqueira remained silent.

After passengers and crew members became unnerved by the actions of the two men, they and Cerqueira were asked to leave the plane and were questioned for two hours, while the plane and luggage were rechecked. All three men were released by local authorities and told they could return to their flight. American Airlines refused to put the passengers back on the same plane, or any of its other flights.

Claiming racial profiling, Cerqueira sued American Airlines for violation of his civil rights.

Cerqueira, who was born in the U.S. and is of Portuguese descent, claimed that he was pulled from the flight because he looked as if he was of Middle Eastern descent.

Defense counsel contended that the captain of the plane was acting in the interest of security when he asked the men to leave the plane.

**Injury:**

As a result of the defendant's actions, the plaintiff was delayed on his return home and was forced to buy another plane ticket. Cerqueira later tried to get a refund on a prepaid American Airlines ticket and was denied and lost the money he paid for the ticket. Cerqueira also claimed emotional distress.

**Result:**

A jury found in favor of the plaintiff, awarding him \$400,000.

**John Cerqueira**

\$270,000 Commercial: Punitive Exemplary Damages

\$130,000 Commercial: compensatory damages

**Trial Information:**

**Judge:** William G. Young

**Jury Vote:** Unanimous

**Writer** Matthew Rabin

## Discrimination - American Airlines - Racial Profiling

**Type:** Verdict-Plaintiff

**Amount:** \$400,000

**State:** Massachusetts

**Venue:** Suffolk County

**Court:** Suffolk County, United States District Court, Boston, MA

**Case Type:**

- *Civil Rights*
- *Discrimination*

**Case Name:** John D. Cerqueira v. American Airlines, No. 1:05-CV-11652-WGY

**Date:** January 12, 2007

**Plaintiff(s):**

- John D. Cerqueira (Male, 39 Years)

**Plaintiff Attorney(s):**

- Darleen F. Cantelo; ; Boston MA for John D. Cerqueira
- David S. Godkin; ; Boston MA for John D. Cerqueira
- Michael T. Kirkpatrick; ; Washington DC for John D. Cerqueira

**Defendant(s):**

- American Airlines

**Defense Attorney(s):**

- Michael A. Fitzhugh; Boston, MA for American Airlines
- Alec Bramlett; Fort Worth, TX for American Airlines
- Amy Cashore Mariani; Boston, MA for American Airlines
- Anne-Marie H. Gerber; Boston, MA for American Airlines

**Facts:**

A computer consultant who was forced to deplane an American Airlines flight in Boston sued the airline for discrimination. A federal jury returned a verdict in favor of the plaintiff for \$400,000 which included \$270,000 in punitive damages.

Plaintiff John D. Cerqueira was flying from Logan International Airport to Florida on December 28, 2003. Plaintiff, a 39 year old male, grew up in Fall River, but was born in Portugal. Upon boarding Defendant American Airlines' plane, he was seated with two Israeli males. Before the plane departed, plaintiff and his seat mates were removed from the plane due to alleged security concerns. Plaintiff was questioned for two hours and released. However, defendant refused to serve plaintiff even after he was cleared for travel.

Plaintiff alleged that he did not know the two men with whom he was seated and he boarded the plane when his assigned group was called. He denied engaging in any disruptive or suspicious behavior and claimed he was removed from the plane because of his physical appearance. He claimed defendant used racial profiling in determining him to be a threat, in violation of his civil rights.

Defendant contended that plaintiff approached a uniformed crew member and acted hostilely toward her, boarded at a time when he should not have been on the plane and reacted in a laughing manner to inappropriate comments and behavior by his seat mates during an important exit row safety briefing. Defendant claimed it had valid security concerns about plaintiff. Also, defendant argued that plaintiff proceeded immediately to a lavatory upon boarding the flight, even though lavatory facilities were available to him in close proximity in the airport. According to defendant, plaintiff then remained in the lavatory for an unusual period of time. In response, plaintiff noted that, after he left the lavatory, the First Officer inspected it and found nothing amiss.

Plaintiff was a 39 year old male who worked as a computer consultant.

**Injury:**

Discrimination and racial profiling resulting in a violation of plaintiff's civil rights.

**Result:**

\$400,000. Breakdown: \$270,000 in punitive damages and \$130,000 in compensatory damages.

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

William G. Young

**Writer**

**Defendant breached employment contract: doctor claimed**

**Type:** Decision-Plaintiff

**Amount:** \$168,563

**State:** Florida

**Venue:** Brevard County

**Court:** Brevard County Circuit Court, 18th, FL

**Case Type:**

- *Contracts - Breach of Contract*

**Case Name:** Michael W. Chancellor, M.D. v. Wasfi A. Maker, M.D., P.A., No. 05-2007-CA-024852

**Date:** July 21, 2009

**Plaintiff(s):**

- Michael W. Chanellor (Male)

**Plaintiff Attorney(s):**

- Alec D. Russell; Gray Robinson, P.A.; Melbourne FL for Michael W. Chanellor
- Christina Marie Sanchez; Gray Robinson, P.A.; Melbourne FL for Michael W. Chanellor

**Plaintiff Expert(s):**

- Rob Motty C.P.A.; CPAs; , called by: Alec D. Russell, Christina Marie Sanchez

**Defendant(s):**

- Wasfi A. Makar, M.D., P.A.

**Defense Attorney(s):**

- G. Philip J. Zies; Zies Widerman & Malek; Melbourne, FL for Wasfi A. Makar, M.D., P.A.
- Christopher C. Martin; Zies Widerman & Malek; Melbourne, FL for Wasfi A. Makar, M.D., P.A.

**Facts:** In 2004, plaintiff Michael Chancellor started work as a doctor under an employment contract with Rockledge oncology doctors, Wasfia A. Makar, P.A. Chancellor claimed that the P.A. breach his employment contract.

Chancellor sued Wasfi A. Makar, P.A. for breach of contract.

Chancellor stated that he did not receive late fees on his checks that were paid more than five days after their due date. Chancellor also stated that he was not paid vacation time he was due upon leaving in 2006. Chancellor also contended that the defendant did not provide him with the appropriate amount of medical malpractice insurance. Chancellor stated that the contract also would not pay for his continued medical education expenses and also professional dues.

Defense counsel stated that the plaintiff was unharmed by the failure to procure the claimed appropriate amount of medical liability insurance coverage. The plaintiff was never used during his employment with Makar and the coverage never used, stated defense counsel.

Defense counsel contended that the plaintiff without the defendant's knowledge altered the contract before the defendant signed it. Defense counsel stated that the defendant did not learn of the alteration until six months in to the employment.

Defense counsel also stated that the employment contract stated that late fees do not relate to items paid on or before the 28th of each month.

**Injury:** Chancellor sought damages related to lost vacation time, late fees on checks, fees paid for education and professional dues and damages for failing to procure the appropriate amount of malpractice insurance.

**Result:** The court found that the contract was breached and awarded Chancellor \$168,563.28 . This sum included medical education expenses, late fees on checks issue before the 28th of each month, professional society memberships and lost vacation time. There was no award for checks issued after the 28, and no award for the failure to procure the appropriate levels of malpractice coverage.

### **Trial Information:**

**Judge:** John Dean Moxley Jr.

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

**Writer** Stephen DiPerte

## Plaintiffs claimed town hall arrests violated their First Amendment rights

|                        |   |
|------------------------|---|
| <b>Type:</b>           | Settlement  |
| <b>Amount:</b>         | \$150,000   |
| <b>State:</b>          | Michigan  |
| <b>Venue:</b>          | Federal   |
| <b>Court:</b>          | U.S. District Court for the Eastern District of Michigan, Southern Division, MI   |
| <b>Injury Type(s):</b> | <ul style="list-style-type: none"><li>• <i>arm</i> - bruise</li><li>• <i>mental/psychological</i> - emotional distress</li></ul>  |
| <b>Case Type:</b>      | <ul style="list-style-type: none"><li>• <i>Government</i> - Police; Municipalities</li><li>• <i>Civil Rights</i> - Unlawful Arrest; Police as Defendant</li><li>• <i>Intentional Torts</i> - False Arrest</li><li>• <i>Constitutional Law</i> - Freedom of Speech; Search and Seizure</li></ul>   |
| <b>Case Name:</b>      | Leah Palladeno, Anthony Palladeno Jr., Susan Whalen and Abel Delgado v. City of Flint; Timothy Johnson, Chief of Flint Police Department, in his official and individual capacities; Kristopher Jones, a Flint police officer, in his individual capacity; Bobby Fowlkes, a Flint police officer, in his individual capacity; Scott Watson, a Flint police officer, in his individual capacity; Flint Police Officer #768, a Flint police officer, in his individual capacity; and Unnamed Flint Police Officers, in their individual capacities, No. 2:18-cv-11165-PDB-DRG |
| <b>Date:</b>           | March 05, 2020  |
| <b>Plaintiff(s):</b>   | <ul style="list-style-type: none"><li>• Abel Delgado (Male)</li><li>• Susan Whalen (Female)</li><li>• Leah Palladeno (Female)</li><li>• Anthony Palladeno, Jr. (Male)</li></ul>   |

**Plaintiff  
Attorney(s):**

- Glenn M. Simmington; Law Office of Glenn M. Simmington; Flint MI for Leah Palladeno, Anthony Palladeno, Jr., Susan Whalen, Abel Delgado
- Gregory T. Gibbs; Law Office of Gregory T. Gibbs; Flint MI for Leah Palladeno, Anthony Palladeno, Jr., Susan Whalen, Abel Delgado
- Bonsitu Kitaba-Gaviglio; American Civil Liberties Union Fund of Michigan; Detroit MI for Leah Palladeno, Anthony Palladeno, Jr., Susan Whalen, Abel Delgado
- Alec S. Gibbs; Law Office of Gregory T. Gibbs; Flint MI for Leah Palladeno, Anthony Palladeno, Jr., Susan Whalen, Abel Delgado
- Ann A. Lerche; Law Office of Gregory T. Gibbs; Flint MI for Leah Palladeno, Anthony Palladeno, Jr., Susan Whalen, Abel Delgado
- Muna Jondy; Law Office of Muna Jondy; Flint MI for Leah Palladeno, Anthony Palladeno, Jr., Susan Whalen, Abel Delgado

**Defendant(s):**

- Scott Watson
- Tyrone Booth
- Bobby Fowlkes
- City of Flint
- James Guerrero
- Chester Claxton
- Timothy Johnson
- Kristopher Jones
- Terry Vankueren Jr.

**Defense  
Attorney(s):**

- Michael W. Edmunds; Gault Davison, P.C.; Grand Blanc, MI for Kristopher Jones, Bobby Fowlkes, Scott Watson, James Guerrero, Terry Vankueren Jr., Chester Claxton, Tyrone Booth
- Reed Eriksson; City of Flint Law Department; Flint, MI for City of Flint, Timothy Johnson
- Angela Wheeler; City of Flint Law Department; Flint, MI for City of Flint, Timothy Johnson

**Facts:**

On April 20, 2017, plaintiffs Leah Palladeno, Anthony Palladeno Jr., Susan Whalen and Abel Delgado were arrested at a town hall meeting. The meeting was being held at a church sanctuary on the northwest side of Flint. The plaintiffs remained in jail overnight after their arrests. However, they were never charged with a crime.

The plaintiffs sued the city of Flint, Flint police chief Timothy Johnson and numerous officers involved in the arrests, including Kristopher Jones, Bobby Fowlkes, Chester Claxton, James Guerrero, Scott Watson, Terry Vankueren Jr. and Tyrone Booth. The plaintiffs claimed that their arrests violated their civil rights guaranteed by the First and Fourth Amendments.

Officer Watson was dismissed prior to the resolution of the lawsuit. The case proceeded against the remaining defendants.

Because the meeting was in a church sanctuary, attendees were told they had to follow certain dress code guidelines. The men, in particular, were instructed to take off their hats prior to entering the sanctuary. At the start of the meeting, Chief Johnson informed the crowd that anyone who misbehaved would be sent to jail. Plaintiffs' counsel alleged that several of the male attendees at the meeting were threatened with arrest if they continued



any refusal to remove their hats. Leah Palladeno claimed that she then yelled an expletive as she objected to the police's actions.

Following Leah Palladeno's interjection, officers arrested her and attempted to escort her out of the building. Palladeno claimed that she was slammed onto a desk during the arrest. Her husband, Anthony Palladeno Jr., supposedly complained that the arrests were akin to fascism, which led to additional unrest inside the church.

Delgado said he was standing outside the church when he was arrested. He claimed that he was also just comparing the police's actions to fascism when he was taken into custody. Whalen had taken some photos at the scene. She also verbally expressed her displeasure at the situation.

Plaintiffs' counsel maintained that the plaintiffs' statements and actions were protected free speech pursuant to the First Amendment. Plaintiffs' counsel claimed that the officers thus violated the First and Fourth Amendments when they arrested and seized the plaintiffs.

All of the officers testified that the plaintiffs were arrested because of their behavior, not because of anything they said. The defense maintained that the officers at the church had been tasked with enforcing the public meeting rules, and that the plaintiffs were familiar with these rules because they regularly attended town halls. The defense claimed that the plaintiffs violated these rules by yelling and shouting when other speakers were at the podium, and by crinkling their water bottles whenever someone at the podium expressed opinions with which the plaintiffs disagreed.

The defense specifically alleged that Palladeno Jr., who is white, provoked the audience when he took his turn at the podium. The defense contended that Palladeno Jr. referred to the panel of African-American speakers in a derogatory manner. The defense noted that the meeting had taken place in an African-American church, and that most of the attendees and officers were black.

The defense claimed that when Leah Palladeno took a turn at the podium, she went over her allotted time and refused to leave. Jones maintained that he took Palladeno by the arm and removed her from the meeting without arresting her. The defense contended that Palladeno then yelled out the expletive as she left. The defense claimed that it was only then that Palladeno was arrested for disturbing the peace. The defense contended that Palladeno Jr. responded by shoving Jones in the back, which was the reason he was arrested for assaulting a police officer.

The defense claimed that Whalen had been removed from the building previously for attempting to disrupt the meeting. The defense said that Whalen immediately tried to come back in through another door. Per defense counsel, when Fowlkes saw her, he put his hand on the door to prevent her from coming back into the building. Fowlkes claimed that Whalen then slammed the door open, smashing him with it in the process. The defense said that Whalen was then arrested for assaulting a police officer.

Plaintiffs' counsel maintained that video of the arrests did not support Fowlkes' contention. Per plaintiffs' counsel, there was some shoving between Whalen and the officers, but this only occurred when the officers tried to search Whalen's purse.

The defense further alleged that Delgado was outside the church and screaming at Officer Watson. Watson said that he asked Delgado multiple times to quiet down or leave the premises because he was disturbing the meeting inside. Watson said he also feared Delgado would spark a fight. Per defense counsel, Vankueren came outside just in time to hear Watson tell Delgado to leave. Vankueren said that when he saw Delgado refuse this command, the officer arrested Delgado for disorderly conduct.

**Injury:**

The four plaintiffs each spent a night in the jail's holding area before being released.

Leah Palladeno suffered bruising to her arm due to the handcuffs and an officer's grip. The injury healed, and she did not seek any medical treatment.

The plaintiffs claimed that their stint in jail caused emotional distress. They noted that they had to sit alongside scary people, including drug abusers, alleged murderers and mentally ill individuals, in the holding cell. None of the plaintiffs received formal psychological treatment. However, they claimed they are afraid to leave their homes because the defendant officers are still out on patrol. The plaintiffs also said that they are fearful of authority.

The plaintiffs sought damages for their past and future pain and suffering. They also sought unspecified economic damages.

**Result:**

The parties negotiated a pretrial settlement. The city of Flint agreed to pay the plaintiffs \$150,000 on behalf of all the defendants. (The plaintiffs were to work out division of the settlement proceeds themselves.) As part of the settlement, all Flint police officers must complete de-escalation and First Amendment training. The city also agreed not to seek warrants for any of the plaintiffs.

The settlement additionally included a city ordinance amendment. The new rule stated that all town hall meetings are governed by the same rules, whether those meetings are in churches, at City Hall or in other locations. This ensures that church officials cannot enforce different rules, including dress codes, for such meetings.

**Trial Information:**

**Editor's  
Comment:**

This report is based on information that was provided by plaintiffs' counsel and the individual officers' counsel. Additional information was gleaned from court documents. Counsel of Johnson and the city of Flint declined to contribute.

**Writer**

Melissa Siegel

## Auto Accident - Pedestrian - Alcohol

**Type:** Settlement

**Amount:** \$100,000

**State:** North Carolina

**Venue:** Cabarrus County

**Court:** Cabarrus County, Superior Court, Concord, NC

**Injury Type(s):**

- *head* - closed head injury
- *chest* - fracture, rib
- *sensory/speech* - deafness, total

**Case Type:**

- *Motor Vehicle* - Alcohol Involvement
- *Domestic Relations*

**Case Name:** Keedra Shields, individually and as Guardian ad Litem of Shayland Tyrque Shields, a minor v. Jerry Christopher White, No. 10CVS4383

**Date:** August 15, 2011

**Plaintiff(s):**

- Keedra Shields
- Shayland Tyrque Shields (Male, 15 Years)

**Plaintiff Attorney(s):**

- Charles Everage; ; Charlotte NC for Shayland Tyrque Shields

**Defendant(s):**

- Jerry Christopher White

**Defense Attorney(s):**

- Alec D. Rogers; Charlotte, NC for Jerry Christopher White

**Insurers:**

- Nationwide

**Facts:** A teen pedestrian was struck by a vehicle while walking across the road. The at-fault driver was reportedly under the influence of alcohol at the time of the accident. Liability was conceded and the case settled for \$100,000.

Plaintiff Shayland Tyrque Shields, age 15, was walking across a street. He was struck by a car driven by Defendant Jerry Christopher White. This lawsuit was filed on Shayland's behalf by his mother and Guardian ad Litem, Keedra Shields.

Plaintiff alleged that defendant was under the influence of alcohol when he ran a red light and struck Shayland. The teen reportedly sustained multiple fractures, hearing loss and permanent scarring as a direct result of this accident. Defendant admitted liability, but disputed the extent of damages.

Shayland Shields was a 15-year-old male.

**Injury:** Fractured ribs, broken jaw, mild closed head injury with hearing loss, and permanent scarring. Plaintiff claimed approximately \$60,000 in past medical expenses.

**Result:** \$100,000

**Trial Information:**

**Judge:** David Lee

**Writer**

## Auto Accident - Rear-End - Red Light

**Type:** Verdict-Plaintiff

**Amount:** \$49,100

**State:** North Carolina

**Venue:** Gaston County

**Court:** Gaston County, Superior Court, Gastonia, NC

**Case Type:**

- *Motor Vehicle*

**Case Name:** Jeffrey Plaisted v. Haley Anderson and Cynthia Anderson, No. 11CVS2936

**Date:** January 31, 2013

**Plaintiff(s):**

- Jeffrey Plaisted (Male, 50 Years)

**Plaintiff Attorney(s):**

- Lauren O. Newton; ; Charlotte NC for Jeffrey Plaisted

**Plaintiff Expert (s):**

- John Welschofer M.D.; Neurosurgery; Charlotte, NC called by:

**Defendant(s):**

- Haley Anderson and Cynthia Anderson

**Defense Attorney(s):**

- Alec D. Rogers; Charlotte, NC for Haley Anderson and Cynthia Anderson

**Insurers:**

- State Farm

**Facts:** A motorist who was rear-ended at a traffic light sought damages from the driver who struck him, as well as the owner of the other vehicle. A Gaston County jury awarded a \$49,100 verdict in the case.

Plaintiff Jeffrey Pliasted was operating his work vehicle in Gastonia. He stopped for a red light and was rear-ended by a Range Rover driven by Defendant Haley Anderson and owned by Haley's mother, Defendant Cynthia Anderson.

Plaintiff alleged that Haley Anderson failed to keep a proper lookout and was negligent in rear-ending his vehicle. Plaintiff claimed he initially believed he had suffered whiplash, but was later diagnosed with a thoracic disc bulge, which was non-surgical. He also suffered a rotator cuff tear, which was treated with injections and physical therapy. Defendants admitted liability, but contended that plaintiff had pre-existing conditions he suffered while on the job as a technician and that his injuries were not related to the crash.

Plaintiff was a male who worked as a technician. He was approximately 50 years old.

**Injury:** Thoracic disc bulge, which was non-surgical, and a rotator cuff tear. Plaintiff sought \$42,000 in lost wages.

**Result:** \$49,100

### **Trial Information:**

**Judge:** Yvonne Mims Evans

**Trial  
Deliberations:** 4 hours

**Editor's  
Comment:** Per plaintiff's counsel, the verdict was impacted by testimony from plaintiff's expert and the fact there was no evidence of these injuries prior to the accident.

**Writer**

## Employment - Wrongful Discharge - Alcohol

**Type:** Verdict-Plaintiff

**Amount:** \$37,000

**State:** Ohio

**Venue:** Cuyahoga County

**Court:** Cuyahoga County, Court of Common Pleas, Cleveland, OH

**Case Type:**

- *Contracts*
- *Employment - Wrongful Termination*
- *Worker/Workplace Negligence - Labor Law*

**Case Name:** Virginia Greathouse, et al. v. Children's Services, No. 104545

**Date:** July 21, 1988

**Plaintiff(s):**

- Virginia Greathouse, et al. (Female, 48 Years)

**Plaintiff Attorney(s):**

- Alec C. Berezin; ; Cleveland OH for Virginia Greathouse, et al.
- Suzanne M. Nigro; ; Cleveland OH for Virginia Greathouse, et al.

**Defendant(s):**

- Children's Services

**Defense Attorney(s):**

- Albert E. Fowerbaugh; Cleveland, OH for Children's Services

**Facts:** Plaintiff was a child care worker at the Jones Home in Cleveland, Ohio for nine years. Defendant Children's Services operates the Jones Home, a residential treatment center for socially and emotionally disturbed children. The defendant terminated the plaintiff for allegedly drinking on the job.

Plaintiff alleged: (1) she had exceptional performance reviews for each year of her employment; (2) she and witnesses who knew and observed her claimed she was not drinking; and (3) the termination was unreasonable and not in good faith.

Defendant contended the proper procedure was followed and their termination of her employment was reasonable.

**Injury:** Breach of implied contract of employment. Plaintiff claimed 3 years lost wages in the amount of \$56,551.21 which included averaged merit increase.

**Result:** \$37,000

**Trial Information:**

**Judge:** Harry Jaffe

**Trial  
Deliberations:** 2.5 hours

**Writer**



## Auto Accident - Head-On Collision - Soft Tissue Injuries

**Type:** Verdict-Plaintiff

**Amount:** \$32,415

**State:** North Carolina

**Venue:** Mecklenburg County

**Court:** Mecklenburg County, Superior Court, NC

**Injury Type(s):**

- *back* - herniated disc, lumbar
- *neck* - herniated disc, lumbar
- *foot/heel* - foot

**Case Type:**

- *Motor Vehicle*

**Case Name:** Daly v. Davis, No. 99CVS9099

**Date:** October 01, 2000

**Plaintiff(s):**

- Daly (Female)

**Plaintiff Attorney(s):**

- Lloyd Thomas Kelso; ; Gastonia NC for Daly

**Plaintiff Expert (s):**

- David Kulth M.D.; Orthopedics; Gastonia, NC called by:

**Defendant(s):**

- Davis

**Defense Attorney(s):**

- Alec D. Rogers; Charlotte, NC for Davis

**Facts:** A woman who claimed multiple soft tissue injuries and a permanent impairment was awarded \$32,415 following a head-on collision.

Plaintiff Daly and Defendant Davis were operating their respective vehicles on the same road, but in opposite directions. Defendant crossed the center line and struck plaintiff's vehicle head-on. The accident occurred in December 1998.

Plaintiff alleged that defendant failed to keep a proper lookout and failed to stay right of center. Also, plaintiff claimed that defendant was operating his vehicle at an excessive rate of speed. Plaintiff alleged that she suffered a variety of injuries as a direct result of this accident, resulting in a permanent impairment.

Defendant disputed the nature and extent of plaintiff's injuries.

Plaintiff was a female.

**Injury:** Subluxation of thoracic vertebra, soft tissue foot, neck and back (lumbar) injuries, headaches, toe injuries and a permanent impairment. Plaintiff claimed special damages of \$22,415, including future medical expenses of \$4,375.

**Result:** \$32,415

**Trial Information:**

**Writer**

## Police handcuffed man while searching his house

**Type:** Settlement

**Amount:** \$22,000

**Actual Award:** \$22,000

**State:** Illinois

**Venue:** Federal

**Court:** U.S. District Court, Northern District of Illinois, IL

**Injury Type(s):** • *mental/psychological* - emotional distress

**Case Type:** • *Civil Rights* - 42 USC 1983; Police as Defendant  
• *Government* - Excessive Force  
• *Constitutional Law* - Search and Seizure

**Case Name:** Dwayne Cox v. The City of Chicago, James Triantafillo, and Joseph Wagner, No. 04-CV-2997

**Date:** November 03, 2004

**Plaintiff(s):** • Dwayne Cox (Male, 35 Years)

**Plaintiff Attorney(s):** • Amanda Antholt; Loevy & Loevy; Chicago IL for Dwayne Cox  
• Jonathan L. Loevy; Loevy & Loevy; Chicago IL for Dwayne Cox  
• Arthur R. Loevy; Loevy & Loevy; Chicago IL for Dwayne Cox  
• Michael I. Kanovitz; Loevy & Loevy; Chicago IL for Dwayne Cox

**Defendant(s):** • Joseph Wagner  
• City of Chicago  
• James Triantafillo

**Defense  
Attorney(s):**

- Alec McAusland; City of Chicago Law Department; Chicago, IL for City of Chicago, James Triantrafillo, Joseph Wagner
- Arnold H. Park; City of Chicago Law Department; Chicago, IL for City of Chicago, James Triantrafillo, Joseph Wagner
- Mara S. Georges; City of Chicago Law Department; Chicago, IL for City of Chicago, James Triantrafillo, Joseph Wagner

**Facts:**

On April 12, 2004, plaintiff Dwayne Cox, 34, an airport security screener, was met by police while leaving his home. The officers questioned Cox regarding a man whom they believed was living in Cox's house. Cox said that the man did not live in his house, but the officers requested permission to enter the house and search for the man. Cox refused, but the officers said that they would enter the house anyway. Cox returned to his house and attempted to lock the door, but the officers pulled him off the front steps, handcuffed him and led him into the house. One officer searched the house while another officer retrieved a man who had arrived in a white unmarked pickup truck. After searching the house, the man told the officers, "It's not here."

As the officers began to leave, Cox asked for their names and badge numbers. The officers gave him the information, which Cox wrote on paper. Several moments later, the officers returned, took the paper, and ripped off the portion containing their names and badge numbers.

Cox sued the city of Chicago and the officers he was able to identify, James Triantrafillo and Joseph Wagner. He claimed that the officers used excessive force, thus violating his rights pursuant to 42 U.S.C. 1983, and that they performed an illegal search, thus violating his Fourth Amendment rights.

The defense contended that it did not have sufficient information to affirm or deny Cox's claims.

**Injury:**

Cox sought recovery of damages for emotional distress stemming from the search and use of excessive force.

**Result:**

The parties agreed to a \$22,000 settlement.

**Trial Information:**

**Judge:**

John W. Darrah

**Editor's  
Comment:**

Defense counsel did not respond to a faxed draft of this report or a phone call.

**Writer**

David Wenger

## Motorcycle Accident - Single Vehicle - Passenger Injured

**Type:** Settlement

**Amount:** \$20,000

**State:** North Carolina

**Venue:** Gaston County

**Court:** Gaston County, Superior Court, Gastonia, NC

**Injury Type(s):**

- *knee*

**Case Type:**

- *Motor Vehicle - Motorcycle*

**Case Name:** Rachel H. Broome v. Ralph Ledford, No. 04CVS2896

**Date:** July 25, 2005

**Plaintiff(s):**

- Rachel H. Broome (Female, 60 Years)

**Plaintiff Attorney(s):**

- Steve Bland Dolley Jr.; ; Gastonia NC for Rachel H. Broome

**Defendant(s):**

- Ralph Ledford

**Defense Attorney(s):**

- Alec D. Rodgers; Charlotte, NC for Ralph Ledford

**Facts:** The passenger on a motorcycle sued the driver for injuries she sustained in an accident. Although defendant had argued contributory negligence, he agreed to settle plaintiff's claim for \$20,000 prior to the start of trial.

Plaintiff Rachel Broome was a passenger on a motorcycle operated by Defendant Ralph Ledford, who she was dating at the time of the accident and with whom she maintained a relationship with throughout the course of the litigation. They were riding on a rural mountain road when the motorcycle slid on sand and gravel. Plaintiff and defendant both fell from the bike. Plaintiff claimed knee and thigh injuries which required hospitalization for an infection that developed at the site of her injuries.

Plaintiff alleged defendant was speeding, failed to properly control the motorcycle and was careless by not reducing his speed on the rural winding road. She claimed she suffered a serious injury as a result of the accident and that she had a residual scar on her knee.

Defendant initially disputed he was speeding or careless and argued that plaintiff was contributorily negligent for recognizing the manner in which the motorcycle was being operated and failing to remonstrate from the motorcycle. Defendant also disputed the nature and extent of plaintiff's residual complaints.

Plaintiff was a 60 year old widowed female who was retired.

**Injury:** Knee and thigh abrasions which developed into an infection and required a three day hospital stay. Plaintiff claimed a residual scar on her knee.

**Result:** \$20,000

**Trial Information:**

**Judge:** J. Gentry Caudill

**Writer**



## Auto Accident - Improper Lane Change - Loss of Control

**Type:** Verdict-Plaintiff

**Amount:** \$20,000

**State:** Ohio

**Venue:** Cuyahoga County

**Court:** Cuyahoga County, Court of Common Pleas, Cleveland, OH

**Injury Type(s):** • *head - closed head injury*

**Case Type:** • *Motor Vehicle*

**Case Name:** Warren M. and Karen Watanabe v. Melinda Keith, No. 172587

**Date:** April 10, 1990

**Plaintiff(s):** • Karen Watanabe  
• Warren M. Watanabe (Male, 45 Years)

**Plaintiff Attorney(s):** • Alec C. Berezin; ; Cleveland OH for Warren M. Watanabe

**Plaintiff Expert (s):** • John Gardner M.D.; Neurology; Cleveland, OH called by:

**Defendant(s):** • Melinda Keith

**Defense Attorney(s):** • Patrick F. Roche; Cleveland, OH for Melinda Keith

**Defendant Expert(s):** • Melvin Shafron M.D.; Neurosurgery; Beachwood, OH called by: for

**Insurers:**           • State Farm

**Facts:**             Plaintiff was driving north in the far left lane of I-271. Defendant was traveling in the same direction in the middle lane. Defendant changed lanes into the lane of travel occupied by plaintiff. Plaintiff swerved to avoid striking defendant's truck, whereupon his truck rolled over. There was no contact between the two vehicles.

Plaintiff alleged that defendant was negligent in making an improper lane change.

Defendant contended that plaintiff was contributorily negligent in failing to maintain an assured clear distance.

**Injury:**            Closed head injury and concussion with subsequent migraine headaches. Plaintiff claimed \$3,000 in medical specials and \$2,849 in lost income.

**Result:**            \$20,000 Breakdown: \$12,000 Warren  
8,000 Karen (consortium)

**Trial Information:**

**Judge:**            James J. Sweeney

**Trial  
Deliberations:**    3 hours

**Writer**



## Tenants claimed landlord promised to repair house

|                               |  |
|-------------------------------|--|
| <b>Type:</b>                  | Settlement   |
| <b>Amount:</b>                | \$15,000   |
| <b>State:</b>                 | California   |
| <b>Venue:</b>                 | Alameda County   |
| <b>Court:</b>                 | Superior Court of Alameda County, Oakland, CA  |
| <b>Case Type:</b>             | <ul style="list-style-type: none"><li>• <i>Contracts</i> - Breach of Contract</li><li>• <i>Landlord and Tenant</i> - Warranty of Habitability; Interference with Quiet Use</li></ul>   |
| <b>Case Name:</b>             | Cathy Rodriguez v. Ruth Wilson, Trust of Rose B. Rivera, Rose M. Rivera, Edwardo Xavier, and Does 1 to 30, No. RG04167849  |
| <b>Date:</b>                  | April 10, 2006   |
| <b>Plaintiff(s):</b>          | <ul style="list-style-type: none"><li>• Dulce Martinez (Female, 20 Years)</li><li>• Cathy Rodriguez (Female, 40 Years)</li></ul>   |
| <b>Plaintiff Attorney(s):</b> | <ul style="list-style-type: none"><li>• Richard W. Meier; Law Offices of Meier &amp; Wolff; Oakland CA for Cathy Rodriguez, Dulce Martinez</li><li>• Andrew Wolf; ; Oakland CA for Cathy Rodriguez, Dulce Martinez</li></ul>   |
| <b>Defendant(s):</b>          | <ul style="list-style-type: none"><li>• Ruth Wilson</li><li>• Edwardo Xavier</li><li>• Rose M. Rivera</li><li>• Trust of Rose B. Rivera</li></ul>  |
| <b>Defense Attorney(s):</b>   | <ul style="list-style-type: none"><li>• William F. Burns; Law Offices of William F. Burns; Pleasanton, CA for Edwardo Xavier</li><li>• Jay W. Brown; Clapp, Moroney, Bellagamba &amp; Vucinich; Pleasanton, CA for Trust of Rose B. Rivera, Rose M. Rivera</li><li>• Alec E. Adams; Clapp, Moroney, Bellagamba &amp; Vucinich; Hayward, CA for Ruth Wilson</li></ul> |

**Facts:**

In March 2003 plaintiffs Cathy Rodriguez, 40s, and her daughter-in-law, Dulce Martinez, 20s, moved into a house located at 22644 Northview Ave. in Hayward. Prior to moving in, they took a walk-through with Rose M. Rivera, the daughter of the property's late owner, Rose B. Rivera. They alleged that during this walk-through, Rivera promised that certain repairs would be made and certain unfinished work would be completed prior to the move-in date. However, the Rodriguez and Martinez alleged, almost none this work was finished when they moved in. They claimed that they repeatedly complained about the problems but the landlord failed to address them. In early-to-mid 2004, Eduardo Xavier, the trustee of the trust of Rose B. Rivera, which funded the care of the property, notified the plaintiffs that they were being evicted because the estate was selling the property. Rodriguez sought to purchase the property herself, but she was outbid by another buyer.

Rodriguez and Martinez sued Rose B. Rivera's estate and the trust, Rose M. Rivera, Eduardo Xavier, and Ruth Wilson, who had a 27% share in the property, alleging breach of contract, breach of the implied warranty of habitability and breach of the covenant of quiet use and enjoyment.

Rose M. Rivera and her mother's estate and trust denied that any promises were made to the plaintiffs regarding repairs to be made or remodeling to be done on the premises prior to their move-in date, nor were such repairs a requirement of the lease. Defense counsel claimed that the plaintiffs chose to move in with full notice of the property's imperfections and even fought eviction and sought to buy the house. Thus, the property could not have been uninhabitable.

Xavier's attorney argued that all fault lay with Rose M. Rivera, who, he alleged, improperly exerted control over the property in the months following her mother's 2002 death. Xavier wasn't appointed trustee until June 2003 and thus had no involvement with any promises made to the plaintiffs of work to be performed on the house prior to their move-in date.

**Injury:**

Rodriguez and Martinez did not specify their damages prior to settlement.

**Result:**

The defendants settled for \$15,000, including \$13,500 to Rodriguez and \$1,500 to Martinez. The estate and trust of Rose B. Rivera will pay \$13,500 and Rose M. Rivera will pay \$1,500.

**Trial Information:****Editor's  
Comment:**

Counsel for defendant Xavier did not repond to a faxed draft of this report and a phone call.

**Writer**

Lisa Braunstein

## Auto Accident - Icy Patch - Turnpike

**Type:** Verdict-Plaintiff

**Amount:** \$15,000

**State:** Ohio

**Venue:** Cuyahoga County

**Court:** Cuyahoga County, Court of Common Pleas, Cleveland, OH

**Injury Type(s):**

- *back* - herniated disc, lumbar
- *neck* - herniated disc, lumbar

**Case Type:**

- *Motor Vehicle*

**Case Name:** Robert Lister and Kristina Lister v. Matthew Dagostino, No. 580142

**Date:** October 22, 2007

**Plaintiff(s):**

- Robert Lister (Male, 52 Years)
- Kristina Lister (Female, 57 Years)

**Plaintiff Attorney(s):**

- Alec C. Berezin; ; Painesville OH for Kristina Lister

**Defendant(s):**

- Matthew Dagostino

**Defense Attorney(s):**

- Joseph R. Tira; Brooklyn, OH for Matthew Dagostino

**Defendant Expert(s):**

- Timothy Gordon M.D.; Orthopedics; Willoughby Hills, OH called by: for

**Insurers:**

- Progressive Insurance Co.

**Facts:** A husband and wife who were on their way home following the death of a family member were injured in an auto accident. Defendant admitted losing control of his vehicle on the icy Ohio Turnpike. Plaintiffs were awarded \$18,600 collectively by a Cuyahoga County jury after a 2 hour deliberation.

Plaintiffs Robert and Kristina Lister were returning to their home from Michigan in the daylight hours of January 4, 2004. Kristina's mother had passed that morning and both plaintiffs wanted to retrieve their belongings and return to Michigan for the wake and funeral. Defendant Matthew Dagostino was traveling in the same direction as plaintiffs when defendant admittedly hit a patch of ice and lost control of his car. Defendant's vehicle pushed plaintiffs' vehicle into the center median.

Plaintiff Kristina alleged she sustained aggravation of preexisting degenerative conditions in her neck and back and claimed she developed fibromyalgia as a result of this accident. She claimed she had to undergo multiple nerve blocks, chiropractic care and physical therapy to treat her injuries. Plaintiff Robert alleged he sustained an aggravation of preexisting degenerative arthritis as a result of the collision.

Defendant disputed the nature and extent of plaintiffs' injuries. Defendant's medical expert testified that Kristina had preexisting symptoms and only experienced a temporary aggravation of degenerative disc disease in her neck. The expert also testified that Robert had a temporary aggravation of his degenerative conditions that resolved within two months. Defendant's lawyer asked the jury to award \$12,500 to Kristina and \$3,600 to Robert.

Plaintiff Robert was a 52 year old married male who owned a construction business. Plaintiff Kristina was a 57 year old married female employed as a licensed practical nurse.

**Injury:** Plaintiff Kristina sustained aggravation of preexisting conditions of degenerative arthritis, degenerative disc disease and spondylosis that caused a bulging disc at L4 with radicular complaints in both legs and cervical and thoracic sprains. She also claimed she developed fibromyalgia as a direct result of this accident. Kristina claimed \$50,000 in medicals. Plaintiff Robert sustained an aggravation of preexisting cervical and lumbar degenerative disc disease. He claimed \$35,000 in medicals.

**Result:** \$18,600. Breakdown: \$15,000 in compensatory damages for Kristina and \$3,600 in compensatory damages for Robert.

### **Trial Information:**

**Judge:** Joan Synenberg

**Trial Deliberations:** 2 hours

**Editor's  
Comment:**

Per defense counsel, much of plaintiffs' medical records contradicted their own testimony. Also, counsel said Plaintiff Kristina had an aura of self-importance that was not well-received by the jury. She was also kicked in the back by a co-worker after this motor vehicle accident and filed a workers' compensation claim.

**Writer**

## Auto Accident - Icy Roadway - Settlement

**Type:** Settlement

**Amount:** \$8,000

**State:** North Carolina

**Venue:** Gaston County

**Court:** Gaston County, Superior Court, Gastonia, NC

**Injury Type(s):**

- *back*
- *neck*

**Case Type:**

- *Motor Vehicle*

**Case Name:** Willie J. Foster v. Quenton M. Hogue, No. 11-CVS-3959

**Date:** August 27, 2012

**Plaintiff(s):**

- Willie J. Foster (Male, 69 Years)

**Plaintiff Attorney(s):**

- Mark L. Simpson; ; Charlotte NC for Willie J. Foster

**Defendant(s):**

- Quenton M. Hogue

**Defense Attorney(s):**

- Alec D. Rogers; Charlotte, NC for Quenton M. Hogue

**Insurers:**

- Nationwide

**Facts:** Icy roadway conditions contributed to this motor vehicle accident and the parties disputed whether the defendant was negligent or whether the accident was unavoidable due to a sudden emergency. The plaintiff's alleged injuries were also disputed, but the parties reached an \$8,000 settlement prior to trial.

Plaintiff Willie Foster was a tow truck driver. On the day in question, he was sitting in his parked truck on the side of State Route 2075 in Cleveland County near Waco. Another vehicle spun out of control on the icy roadway and struck plaintiff's tow truck head-on. The driver of the other vehicle was Defendant Quenton Hogue.

Plaintiff alleged that defendant was negligent in driving too fast for conditions. Plaintiff claimed he sustained neck and back injuries as a direct result of this accident. Plaintiff sought economic and non-economic damages.

Defendant admitted he struck plaintiff's vehicle, but argued that he was faced with a sudden emergency due to the icy road conditions. Defendant contended that plaintiff had significant pre-existing degenerative spinal disease and that his complaints were unrelated to this accident.

Plaintiff was a 69-year-old male who was a tow truck driver.

**Injury:** Soft tissue cervical and lumbar injuries, which required medical treatment. Plaintiff recovered from his injuries after a period of time. He sought \$6,000 in medicals, plus damages for pain and suffering.

**Result:** \$8,000

**Trial Information:**

**Judge:** Robert C. Ervin

**Writer**

## Auto Accident - Rear-End - Minor Impact

**Type:** Verdict-Plaintiff

**Amount:** \$5,976

**State:** Ohio

**Venue:** Lake County

**Court:** Lake County, Court of Common Pleas, Painesville, OH

**Injury Type(s):**

- *neck - fusion, cervical*

**Case Type:**

- *Motor Vehicle*

**Case Name:** Vladimer Kosenko and Jacqueline L. Kosenko v. Sherry A. Ebbert, No. 05CV001160

**Date:** February 06, 2006

**Plaintiff(s):**

- Vladimer Kosenko (Male, 59 Years)
- Jacqueline L. Kosenko (Female, 55 Years)

**Plaintiff Attorney(s):**

- Alec C. Berezin; ; Painesville OH for Jacqueline L. Kosenko

**Plaintiff Expert (s):**

- Samuel Rosenberg M.D.; Pain Management; Cleveland, OH called by:
- Christopher Furey M.D.; Orthopedics; Cleveland, OH called by:

**Defendant(s):**

- Sherry A. Ebbert

**Defense Attorney(s):**

- Terrence J. Kenneally; Fairview Park, OH for Sherry A. Ebbert

**Defendant Expert(s):**

- Susan Stephens M.D.; General Surgery; Cleveland Heights, OH called by: for



**Insurers:**           • Allstate Insurance Co.

**Facts:**           A rear-end auto accident case in which injury causation was disputed resulted in a total verdict of \$7,043 for two plaintiffs claiming injuries from the crash. The jury returned the verdict after 1.5 hours of deliberation.

Plaintiffs Vladimer and Jacqueline Kosenko were traveling in their vehicle. Defendant Sherry Ebbert was operating her own vehicle on the same road and in the same direction as the plaintiffs. The plaintiffs came to a stop and were rear-ended by defendant.

Plaintiffs alleged defendant was negligent in failing to keep a proper lookout and maintain an assured clear distance ahead. Plaintiff Vladimer claimed a soft tissue injury. Plaintiff Jacqueline claimed a cervical disc herniation as a direct result of this accident. Plaintiffs' medical experts testified that Jacqueline's injury was caused by the accident.

Defendant admitted liability, but disputed the cause of Jacqueline's injury. Defendant's medical expert testified that the accident did not cause the herniation.

Plaintiff Vladimer was a 59 year old white male employed as an insurance agent. Plaintiff Jacqueline was a 55 year old white female who was unemployed.

**Injury:**           Plaintiff Vladimer sustained a cervical strain. He claimed \$1,034 in past medical expenses. Plaintiff Jacqueline sustained a cervical disc herniation at C5-C6 necessitating anterior cervical decompression and fusion and resulting in surgical scarring and decreased range of motion in the neck. She claimed \$48,638 in past medical expenses.

**Result:**           \$7,043. Breakdown: \$1,067 for Vladimer Kosenko and \$5,976 for Jacqueline Kosenko.

**Trial Information:**

**Judge:**           Paul H. Mitrovich

**Trial Deliberations:**   1.5 hours

**Editor's Comment:**   Per defendant's counsel, photos of the cars showing no damage impacted the outcome of this case.

**Writer**

## Auto Accident - Rear-End - Liability Admitted

**Type:** Verdict-Plaintiff

**Amount:** \$5,000

**State:** North Carolina

**Venue:** Cabarrus County

**Court:** Cabarrus County, Superior Court, Concord, NC

**Injury Type(s):**

- *back*
- *neck*
- *shoulder*
- *hand/finger* - hand

**Case Type:**

- *Motor Vehicle*

**Case Name:** Sybill Richards v. Amanda R. Nance and Amy S. Williams, No. 2009CVS000459

**Date:** March 15, 2010

**Plaintiff(s):**

- Sybill Richards (Female, 48 Years)

**Plaintiff Attorney(s):**

- Sally M. Waters; ; Salisbury NC for Sybill Richards

**Plaintiff Expert (s):**

- William Furr M.D.; Orthopedics; Salisbury, NC called by:
- Bradford Burgess D.C.; Chiropractic; Salisbury, NC called by:

**Defendant(s):**

- Amanda R. Nance and Amy S. Williams

**Defense Attorney(s):**

- Alec D. Rogers; Charlotte, NC for Amanda R. Nance and Amy S. Williams

**Insurers:**           • State Farm

**Facts:**           The parties to this automobile accident did not dispute liability. Causation and damages were the major issues before this Cabarrus County Superior Court jury. Plaintiff was awarded \$5,000 in damages.

Plaintiff Sybil Richards was driving her vehicle in the business district of Salisbury. She claimed she stopped at an intersection controlled by a traffic signal and was struck in the rear by a vehicle driven by Defendant Amanda Nance. This was a moderate speed impact which caused \$2,000 in property damage to plaintiff's vehicle. Plaintiff struck her hand on the dashboard as a result of the impact, causing a serious knuckle injury. She also claimed soft tissue neck, back and shoulder injuries. Defendant Nance's vehicle was owned by Defendant Amy Williams.

Plaintiff alleged that Defendant Nance failed to stop in time to avoid this accident and was following too close to be able to stop. Plaintiff claimed serious new soft tissue injuries which were unrelated to the chiropractic maintenance she underwent from time to time in the years prior to this accident. Plaintiff claimed her chiropractic treatment was both reasonable and necessary and her injuries were a direct result of this impact.

Defendants did not dispute liability, but argued that plaintiff did not suffer soft tissue injuries in this accident. Defendants argued that plaintiff had a history of chiropractic treatment dating back 10 years before this accident and her complaints were likely related to a preexisting condition.

Plaintiff was a female in her late 40's who was a private investigator.

**Injury:**           Soft tissue cervical, lumbar and shoulder injuries. Plaintiff also claimed a left mid-knuckle injury to the middle finger of her non-dominant hand. The injury resulted in significant swelling for several months post-accident. Plaintiff required chiropractic treatment and was able to return to work. She sought \$7,800 in past medicals, \$1,500 in past lost wages, and damages for pain and suffering.

**Result:**           \$5,000 plus interest for a total judgment of \$6,109.

### **Trial Information:**

**Judge:**           Colleen P. Broome

**Trial  
Deliberations:**   4 hours

**Editor's  
Comment:**       There was no appeal and this case is closed.

**Writer**

## **Animals - Dog Bite - Vicious Propensities**

**Type:** Verdict-Plaintiff

**Amount:** \$3,500

**State:** Ohio

**Venue:** Cuyahoga County

**Court:** Cuyahoga County, Court of Common Pleas, Cleveland, OH

**Injury Type(s):** • *face/nose* - face; scar and/or disfigurement, face

**Case Type:** • *Animals - Dog Bite*  
• *Premises Liability*

**Case Name:** James Zelenek, Jr., et al. v. Guy Lutz, No. 46CV0102

**Date:** January 09, 2004

**Plaintiff(s):** • James Zelenek, Jr. (Male, 5 Years)

**Plaintiff Attorney(s):** • Alec C. Berezin; ; Painesville OH for James Zelenek, Jr.

**Defendant(s):** • Guy Lutz

**Defense Attorney(s):** • William T. Zaffiro; Lyndhurst, OH for Guy Lutz

**Facts:**

A young boy who sustained injuries from a dog bite received a \$3,500 verdict from a Cuyahoga County Court of Common Pleas jury. The case had involved a dispute over the ownership of the dog in question.

Plaintiff James Zelenek lived next door to Defendant Guy Lutz. Plaintiff, a 5 year old male, was bitten by a dog which he encountered in defendant's yard. Plaintiff sustained a dog bite to the face which required surgical repair due to the fact that the bite removed a portion of the plaintiff's lip. The dog which bit the plaintiff was previously owned by the defendant. However, prior to the incident, defendant had allegedly relinquished ownership of the dog to the plaintiff's father.

Plaintiff maintained that plaintiff's father had agreed to take care of the dog because defendant had indicated he could no longer provide care for the dog. It was the plaintiff's argument that, when plaintiff's father agreed to care for the dog, he was unaware that the dog had bitten another individual several days before and should have been quarantined. Plaintiff maintained that defendant had knowledge of the prior attack and failed to inform plaintiff's father of the dog's vicious propensities. Plaintiff also argued that defendant was responsible for the plaintiff's injuries because the dog should have been quarantined due to the prior attack. Further, plaintiff asserted that his injuries could have been prevented if the dog had been quarantined.

Defendant contended that he had relinquished control of the dog to plaintiff's father and he (defendant) no longer owned the dog. Defendant denied any responsibility for the dog's actions with regard to the attack on the plaintiff.

Plaintiff was a 5 year old male.

**Injury:**

Dog bite to the lip requiring plastic surgery and resulting in a change in appearance. Plaintiff claimed \$3,500 in past medical specials and \$1,500 in future medical specials for further surgery.

**Result:**

\$3,500

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

John T. Patton

**Writer**

## Web designer failed to deliver functioning site: defense

**Type:** Decision-Defendant

**Amount:** \$3,000

**Actual Award:** \$33,000

**State:** Texas

**Venue:** Dallas County

**Court:** Dallas County Court at Law No. 5, TX

**Case Type:**

- *Fraud* - Deceptive Trade Practices Act
- *Securities* - Securities Fraud; Breach of Fiduciary Duty
- *Contracts* - Breach of Contract
- *Intentional Torts* - Conspiracy; Conversion; Business Disparagement; Tortious Interference with a Contract
- *Business Law* - Unfair Competition
- *Intellectual Property* - Trademarks

**Case Name:** Riyadh Chowdhury and Synergy Developers Inc. v. Ocean Lots LLC, Lee Schmitt, and Southwest Community Management LLC, No. CC-11-03089-E

**Date:** February 18, 2013

**Plaintiff(s):**

- Riyadh Chowdhury (Male)
- [www.yournewlot.com](http://www.yournewlot.com)
- Synergy Developers Inc.

**Plaintiff Attorney(s):**

- J. Michael Tibbals; Snell, Wylie & Tibbals; Dallas TX for Synergy Developers Inc., Riyadh Chowdhury, [www.yournewlot.com](http://www.yournewlot.com)

**Plaintiff Expert(s):**

- Fred Kinder; Internet; Houston, TX called by: J. Michael Tibbals

**Defendant(s):**

- Alec Johns
- Bea Flores
- Lee Schmitt
- James Hancock
- Ocean Lots LLC
- unregistered association
- Southwest Community Management LLC

**Defense  
Attorney(s):**

- Jimmy R. Ross; Jim Ross & Associates, P.C.; Arlington, TX for Southwest Community Management LLC, Lee Schmitt, Ocean Lots LLC
- Bea Flores; pro se for Bea Flores
- Alec Johns; pro se for Alec Johns
- James Hancock; pro se for James Hancock

**Facts:**

In June 2010, Ocean Lots LLC, a real estate company in based in Lancaster, hired plaintiff Synergy Developers Inc. to design a Web site where owners could list properties for sale. The site, yournewlot.com, was to be completed by Dec. 31, 2010. Ocean Lots paid Synergy \$3,000 and promised it a 15 percent interest in Ocean lots.

At the time Synergy was hired, the owner of Ocean Lots was Lee Schmitt. In October 2010, James Hancock and Alec Johns were added as partners.

Also around October 2010, Synergy set up accounting software and performed data entry for a company owned by Schmitt's wife, Bea Flores. That company was Southwest Community Management LLC.

Synergy claimed that the site was completed and launched by November 2010, but Johns and Hancock then initiated and authorized at least 15 change orders. Synergy claimed that, when the change orders could not be fully implemented by Dec. 31, Schmitt fired Synergy and divested Synergy of its interest in Ocean Lots. Southwest also fired Synergy.

According to Synergy, Ocean Lots then set up a new Web site, buyanewlot.com, that was virtually identical to the one it designed.

Synergy was owned by plaintiff Riyad Chowdhury, a software developer and web designer.

Synergy, Chowdhury, and yournewlot.com sued Ocean Lots, Southwest, Schmitt, Flores, Johns, Hancock, and Buy a New Lot U.S.A. or buyanewlot.com for breach of contract, breach of fiduciary duty, breach of partnership, quantum meruit, promissory estoppel, common law fraud, fraudulent transfer, securities violations, securities fraud, statutory fraud, shareholder oppression, conversion, misappropriation of trademarks and trade dress, unfair competition, unjust enrichment, civil conspiracy, DTPA violations, business disparagement and tortious interference with contract.

Flores, Hancock and Johns were pro se.

The defendants denied the allegations. Ocean Lots and Schmitt counterclaimed for breach of contract, alleging that the plaintiffs failed to deliver a properly functioning Web site for Ocean Lots and failed to set up Southwest's accounting software properly or enter Southwest's data properly.

Schmitt testified that, when he tried to list a property for sale on the site in December 2010, he could not do so. The defense also argued that the site was not designed by Synergy at all and was copied from an existing Web site.

Chowdhury testified that, when Schmitt complained that the site was not working, he explained to Schmitt that the bugs were still being worked out.

Regarding Southwest, Chowdhury testified that he explained to Flores that the problem was not with the software or his data entry, but with discrepancies in the data that the company provided him.



**Injury:** The plaintiffs sought an amount equal to 15 percent of Ocean Lots, plus \$600 a week for the work he did for Southwest.

Schmitt and Ocean Lots sought reimbursement of the \$3,000 that was paid to Synergy. They also sought \$30,000 in attorney fees.

**Result:** After a bench trial, the court awarded Schmitt \$3,000 in damages and \$30,000 in attorney fees. The plaintiffs and other counter-plaintiffs took nothing.

**Trial Information:**

**Judge:** Mark Greenberg

**Trial Length:** 3 days

**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. The pro se individuals and unrepresented corporate parties were not contacted for this report.

**Writer** John Schneider