Bronco II design blamed for rollover resulting in brain damage

Type: Verdict-Plaintiff

Amount: $20,500,000

State: New Jersey

Venue: Camden County

Court: Camden County Superior Court, NJ

Injury Type(s):
- *back* - fracture, back
- *head* - fracture, skull
- *neck* - fracture, neck
- *brain* - brain damage
- *wrist* - fracture, wrist
- *hand/finger* - crush injury, hand

Case Type:
- *Motor Vehicle* - Rollover
- *Products Liability* - Design Defect; Failure to Warn

Case Name: Kimberly Valentini v. Ford Motor Company, No. CIV 97-3365 (JLL)

Date: December 23, 2005

Plaintiff(s):
- Kimberly Valentini (Female, 25 Years)

Plaintiff Attorney(s):
- Jeffrey W. Moryan; Connell Foley (trial attorney); Roseland NJ for Kimberly Valentini
- John Lacey; Connell Foley (trial attorney); Roseland NJ for Kimberly Valentini

Plaintiff Expert (s):
- David Bilek; Car Design; Denver, CO called by: Jeffrey W. Moryan, John Lacey
- Edward Karnes; Labels & Warnings; Morrison, CO called by: Jeffrey W. Moryan, John Lacey
- Mickey G. Gilbert; Accident Reconstruction; Golden, CO called by: Jeffrey W. Moryan, John Lacey

Defendant(s):

- Ford Motor Co.

Defense Attorney(s):

- Frank J. Nizio; Wright, Robinson, Osthimer & Tatum; Detroit, MI for Ford Motor Co.
- James S. Dobis; Dobis, Russell & Peterson; Livingston, NJ for Ford Motor Co.
- Edward C. Stewart; Wheeler Trigg Kennedy; Denver, CO for Ford Motor Co.

Defendant Expert(s):

- Lee C. Carr; Design; Houston, TX called by: for Frank J. Nizio, James S. Dobis, Edward C. Stewart
- Jeff Worth; Accident Investigation; Phoenix, AZ called by: for Frank J. Nizio, James S. Dobis, Edward C. Stewart

Facts:

In July 1995, plaintiff Kimberly Valentini, 25, an employee at a manufacturing plant, was driving her 1988 Ford Bronco II in the middle lane on I-95 in Virginia when, to avoid an accident, she attempted to merge into traffic in the right lane when another driver cut her off, causing her to swerve left, as a result of which the SUV rolled over four times.

Claiming severe and permanent injuries, Valentini sued Ford Motor Co., Dearborn, Mich., for products liability (design defect and failure to warn).

Valentini's lawyers argued that the Bronco II's stability index--a rough measure of a vehicle's propensity to rollover--was not high enough, which increased its likelihood to roll in normal highway conditions. Plaintiff counsel also claimed that the Bronco II's rollover propensity is greater than any other SUV ever made, with the exception of one Jeep model, and that Ford could have prevented the rollover by widening the wheel track and lowering the vehicle, which would have cost the company $82 per vehicle.

Valentini's lawyers argued that Ford was aware that the Bronco II had stability issues, yet sold it anyway and failed to adequately warn consumers of its dangers. Although the roof was crushed in the accident, plaintiff's counsel chose to focus the case on stability rather than on negligent roof and window design.

Ford's counsel argued that the Bronco II was adequately designed as a multi-purpose vehicle for off-road driving and highway use. The defense contended that before putting it into the stream of commerce, the vehicle was rigorously tested and that it did not pose a rollover risk and had a wide margin of safety.

Injury: Valentini was rushed to the hospital via ambulance where she underwent four brain surgeries within a 24-hour period to save her life. She suffered fractures in her skull, neck, back, right (dominant) hand and right wrist. She had a total of 22 surgeries over the course of one year, with 13 involving her head trauma. She remained in and out of the hospital for 300 days over the course of two years. The front part of her brain does not work properly and she suffers from partial cognitive brain damage. She can talk and eat on her own but suffers from an inability to complete routine activities, such as getting dressed. Her brain can process that she needs to get dressed, but she cannot finish the task. She is currently in a residential counseling program aimed at rehabilitation. She was engaged at the time of the accident, but the wedding never took place.

Valentini sought an award for past medical bills of $1.5 million, future medical bills of $13 million, past and future lost earnings of $1 million and an unspecified amount for past and future pain and suffering and disability. At the time of the accident she was making about $35,000 annually.

The defense did not dispute damages.

Result: The jury found for Valentini and awarded her $20.5 million.

Kimberly Valentini

$1,500,000 Personal Injury: Past Medical Cost

$13,000,000 Personal Injury: Future Medical Cost

$5,000,000 Personal Injury: compensatory damages

$1,000,000 Personal Injury: past and future lost income

Trial Information:

Judge: Jose Linares

Trial Length: 5 weeks

Trial Deliberations: 1.5 days

Jury Vote: 7-0 on design defect; 7-0 on failure to warn

Jury Composition:	2 male, 5 female
Writer	Gregg Kaysen

Man's leg cut off by impact from Chevy Blazer

Type: Verdict-Mixed

Amount: $6,100,000

State: New Jersey

Venue: Camden County

Court: Camden County Superior Court, NJ

Injury Type(s):
- *leg* - fracture, leg; scar and/or disfigurement, leg
- *amputation* - leg
- *mental/psychological* - depression

Case Type:
- *Motor Vehicle* - Pedestrian
- *Products Liability* - Design Defect

Case Name: David W. Geist v. General Motors Corporation, William F. Firman and Jean Butler, No. CAM-L-5997-04

Date: August 26, 2008

Plaintiff(s):
- David W. Geist (Male, 43 Years)

Plaintiff Attorney(s):
- Larry E. Coben; Coben and Associates; Scottsdale AZ for David W. Geist
- Michael A. Kaplan; Jarve Kaplan Granato, LLC; Marlton NJ for David W. Geist

Plaintiff Expert (s):

- John P. Nolan M.D.; Physical Medicine; Camden, NJ called by: Larry E. Coben, Michael A. Kaplan
- John B. Catalano M.D.; Orthopedic Surgery; Vineland, NJ called by: Larry E. Coben, Michael A. Kaplan
- Gerry H. Aster R.N.; Life Care Planning; South Pasadena, CA called by: Larry E. Coben, Michael A. Kaplan
- James W. Pugh Ph.D.; Injury Biomechanics; Mineola, NY called by: Larry E. Coben, Michael A. Kaplan
- Robert J. Caldwell; Accident Investigation & Reconstruction/ Failure Analysis/Product Liability; LaFayette, CO called by: Larry E. Coben, Michael A. Kaplan
- Robert M. Toborowsky M.D.; Psychiatry; Philadelphia, PA called by: Larry E. Coben, Michael A. Kaplan
- Anthony M. Gamboa Jr.; Vocational Assessment; Louisville, KY called by: Larry E. Coben, Michael A. Kaplan
- Stephen R. Syson; Car Design; Goleta, CA called by: Larry E. Coben, Michael A. Kaplan

Defendant(s):

- Jean Butler
- William f. Firman
- General Motors Corporation

Defense Attorney(s):

- Thomas V. Convery; Tansey, Fanning, Haggerty, Kelly, Convery & Tracy; Woodbridge, NJ for General Motors Corporation
- Carolyn K. Karbasian; Chierici, Chierici & Smith; Moorestown, NJ for William f. Firman, Jean Butler
- James N. Tracy III; Tansey Fanning Haggerty Kelly Convery & Tracy; Woodbridge, NJ for General Motors Corporation

Defendant Expert(s):

- Cleve Bare P.E.; Accident Investigation & Reconstruction/ Failure Analysis/Product Liability; Phoenix, AZ called by: for Thomas V. Convery, James N. Tracy III
- Harry L. Smith Ph.D., M.D.; Biomechanics; San Antonio, TX called by: for Thomas V. Convery, James N. Tracy III
- Victor Hakim P.E.; Automotive; , called by: for Thomas V. Convery, James N. Tracy III

Insurers:

- State Farm

Facts:

At 4:55 p.m. on Oct. 4, 2002, plaintiff David W. Geist, 43, parked his late model Volkswagen Beatle parallel to the curb in front of a sandwich shop in Haddonfield along Haddon Avenue. When he returned to his car he went to the rear trunk in order to retrieve a movie pass. While searching the trunk for the pass, he was struck from behind by a `95 Chevy Blazer driven by William F. Firman, 72.

Geist's recollection of the incident was that while standing behind his car, suddenly his left leg was detached from his body and he fell to the ground. His left leg had been traumatically amputated by the impact of the front of the Blazer.

Fortuitously, an emergency medical team responding to another call was passing the scene of the accident and on their own initiative cancelled that call and rendered immediate first aide. One of these responders recalled observing the plaintiff's leg separated from his body, held on by only some skin, and seeing his patella lying on the ground. A suitable vehicle was summoned and plaintiff was rushed to the trauma ward of a nearby hospital and stabilized. Plaintiff's right leg had been severely broken in the accident as well.

Geist sued Firman for his negligence in causing the accident and resulting injury. Geist's wife, Jean Butler, to whom the vehicle he operated was registered and insured was joined as a defendant. Geist also sued General Motors Corporation (GMC), the manufacturer of the Chevy Blazer, alleging that the front-end recovery tow hook located beneath and behind the front bumper was a design defect and the proximate cause of the traumatic amputation of plaintiff's left leg. Although the recovery tow hook did not protrude from the bumper, plaintiff contended that when the bumper collapsed on impact the revovery tow hook became a sort of ramming rod. Counsel pointed to the fact that his right leg was merely broken and that it was foreseeable that the recovery tow hook could cause injury of this sort. It was Geist's product liability theory that but for the recovery tow hook, his leg would not have been traumatically amputated.

Firman, who did not contest liability and paid the $100,000 insurance policy limit into court shortly after suit was commenced, gave slightly different accounts of how the accident occurred. Given his statements and the observation of witnesses, he either had to come to a sudden stop or get around an automobile that had stopped or slowed in front of him. By all accounts, as he approached the location of the accident, he swerved to the right, observed the open trunk of the plaintiff's parked vehicle in front of him and attempted to rapidly swerve left toward the center.

GMC disputed the product liability theory of plaintiff's claim against it and also disputed that it was the recovery tow hook, as opposed to the surface of the bumper, that impacted with plaintiff's left leg. GMC stressed that even plaintiff's accident reconstruction expert had the defendant's vehicle traveling at 25 mph at the time of impact, which caused plaitiffs parked vehicle to be propelled 18 feet forward. Photographs of the tow bar that plaintiff contended revealed blood and flesh, as well as examination of the tow bar itself, were at the center of the liability issue.

Injury: Geist suffered the immediate traumatic amputation of his left leg and a crushing fracture of his right leg; he suffered massive blood loss, emergency surgery and a lengthy hospital stay. The traumatic amputation was at knee level and plaintiff eventually underwent two additional surgical reductions of his left leg involving bone and skin grafts.

Attempts as fitting Geist with a prosthesis have proved futile and he is confined to a wheelchair. He has incurred significant psychiatric problems in the form of depression and post-traumatic stress disorder.

Geist did not return to his position as a guidance counselor for the Camden School District.

The extent and degree of Geist's injuries were not significantly challenged.

Result: The jury, by way of special verdict form, determined that the protruding tow bar was a defective product, but found that it was not the proximate cause of plaintiff's injury. By necessary factual implication, the jury accepted GMC's view that the tow bar itself was not the agent of harm to plaintiff's left leg. The jury found defendant Firman (deceased since the time of the accident) to have been 100 percent negligent. His wife had been dismissed from the lawsuit prior to trial because discovery failed to reveal any facts that would support the stated agency theory against her.

The jury returned a damage award of $6,100,000.

David W. Geist

$400,000 Personal Injury: Past Medical Cost

$2,000,000 Personal Injury: Future Medical Cost

$2,200,000 Personal Injury: Pas and future wage loss

$1,500,000 Personal Injury: Pain and suffering

Trial Information:

Judge: Ronald J. Freeman

Demand: $2,190,000

Offer: $200,000 (exclusive of $100,000 policy paid into court)

Trial Length: 3 weeks

Trial Deliberations: 1.5 days

Jury Vote: 6-0 negligence of Firman 5-1 Producr Liability - defective product 5-1 Product Liability - proximate cause 6-0 damages

Jury Composition: 1 male, 5 female

Post Trial: Plaintiff has filed an appeal.

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

Writer Jon Steiger

Plaintiff: John Deere excavator platform should've had railing

Type: Settlement

Amount: $1,000,000

State: New Jersey

Venue: Camden County

Court: Camden County Superior Court, NJ

Injury Type(s):
- *back* - herniated disc, thoracic; herniated disc at T11-12

Case Type:
- *Products Liability* - Equipment; Design Defect

Case Name: Stanley Stankiewicz and Debra Ann Stankiewicz v. John Deere & Company, No. CAM-L-2352-99

Date: September 23, 2004

Plaintiff(s):
- Stanley Stankiewicz (Male, 38 Years)

Plaintiff Attorney(s):
- Mati Jarve; Jarve & Kaplan; Morrestown NJ for Stanley Stankiewicz
- Michael Kaplan; Jarve & Kaplan; Moorestown NJ for Stanley Stankiewicz
- Ronald Graziano; Law Office of Ronald Graziano; Cherry Hill NJ for Stanley Stankiewicz

Defendant(s):
- John Deere & Company

Defense Attorney(s):
- Harold Braff; Margulies, Wind & Herrington; Jersey City, NJ for John Deere & Company

Facts:

On Oct. 2, 1998, plaintiff Stanley Stankiewicz, 38, a Cape May County Municipal Utilities Authority employee, was perched on an elevated platform of a John Deere 595D excavator to check coolant level when he lost his footing and fell nearly seven feet to the ground. He landed on a log.

Stankiewicz sued John Deere & Company, Moline, Ill., the designer and manufacturer of the 595D, alleging that the excavator platform should have had a safety railing to prevent such falls.

The defense argued that it had no obligation to provide such a railing and that had Stankiewicz not hit the log, his injuries would not have been as severe.

Injury:

Stankiewicz suffered a burst fracture at T12. He underwent a few surgeries on his back and was hospitalized for them.

He is still out of work due to back pain. He had a long life expectancy was expected to work until retirement. He had been earning about $30,000 a year.

Result:

The parties reached a $1 million settlement on the day before the trial was slated to begin.

John Deere's attorney, Harold Braff, confirmed the settlement and said Deere did not concede the products liability allegation but settled because of the extent of the plaintiff's injuries.

Trial Information:

Judge: Mary Eva Colalillo

Writer Alison Love

King Kong backyard play set unsafe for adults, suit alleged

Type: Settlement

Amount: $110,000

State: New Jersey

Venue: Camden County

Court: Camden County Superior Court, NJ

Injury Type(s):
- *leg* - fracture, leg; fracture, fibula
- *back* - herniated disc, lumbar; herniated disc at L4-5; herniated disc, lumbar; herniated disc at L5-S1
- *knee* - meniscus, tear
- *surgeries/treatment* - arthroscopy

Case Type:
- *Products Liability* - Design Defect; Marketing Defect; Sports Equipment; Manufacturing Defect

Case Name: Susan Whitelaw and Robert Whitelaw v. Rainbow Play Systems and Superior Play Systems, No. L-002608-04

Date: October 20, 2006

Plaintiff(s):
- Robert Whitelaw (Male)
- Susan Whitewall (Female, 56 Years)

Plaintiff Attorney(s):
- Richard W. Yost; Yost & Tretta; East Haddonfield NJ for Susan Whitewall, Robert Whitelaw
- Jessica F. Cifaldi; Yost and Tretta; East Haddonfield NJ for Susan Whitewall, Robert Whitelaw

Plaintiff Expert (s):
- Brad Probst Ph.D.; Biomechanical; Penns Park, PA called by: Richard W. Yost, Jessica F. Cifaldi
- Stuart Dubowitch D.O.; Orthopedics; Cherry Hill, NJ called by: Richard W. Yost, Jessica F. Cifaldi
- Francis Wallach Ed.D.; Parks & Recreation Safety; Manhattan, NY called by: Richard W. Yost, Jessica F. Cifaldi

Defendant(s):

- Rainbow Play Systems
- Superior Play Systems

Defense Attorney(s):

- R. Barry Strosnider; Philadelphia, PA for Rainbow Play Systems, Superior Play Systems

Defendant Expert(s):

- Marc Kahn M.D.; Orthopedics; Cherry Hill, NJ called by: for , , R. Barry Strosnider
- Scott Burton; Playgrounds; Sarasota, FL called by: for R. Barry Strosnider

Facts:

On March 23, 2002, plaintiff Susan Whitelaw, 56, a project coordinator, was playing with her grandchildren in the backyard of her daughter, Danielle Landau's house.

Landau's backyard included Rainbow Play System's King Kong Play System, which had such items as a swing set, a play fort and an enclosed spiral slide. The entire set, intended for residential and commercial space use, was estimated at $10,000. It was manufactured by Rainbow and distributed by Superior Play Systems.

Whitelaw attempted to go down the enclosed slide when her right leg got caught on the first spiral turn. Her leg became briefly lodged while the rest of her body continued forward, with the woman's head facing downward. She safely landed. However, she claimed to have injured both knees and fractured her right leg.

Whitelaw sued Rainbow Play Systems and Superior Play Systems on a product's liability theory, claiming that the slide was hazardous to adults, that an adult's length and weight was too big to use and that the play system was wrongfully marketed for adult use.

The defense disputed the safety claim and the extent of Whitelaw's injuries.

According to its brochure, the King Kong Play System encourages adults to climb into the fort, slide down the slide and swing on the swings.

The manufacturer claimed to be a member of the American Society of Testing Materials (ASTM) and billed itself as one of the safest in the industry because of its sturdiness. The system was never tested on adults and violated ASTM requirements that the intended age group be displayed on the product for ages 2-10.

Plaintiff's counsel also contended that there was no way for Landau or Whitewall to know the product's target age group because it was assembled for $750 by a hired contractor. Landau never received a copy of the manual.

Scott Burton, an expert playground safety auditor, who was to testify as a defense witness, noted the product's failure to identify an age group. In 2002, Burton inspected the product and offered to provide the product's manufacturer $1 for signs to be placed on each product.

Rainbow allegedly never followed through on Burton's request.

Injury: Whitelaw suffered a right fibula fracture, a bilateral torn meniscus and L5-S1 and L4-5 disc herniations. Her knee injuries required orthoscopic surgery.

She first complained of knee pain in October 2002 and again in December 2002.

The defense contended that there was too much of a time lapse between the time of Whitelaw's fall and her knee injuries. The defense did not object to Whitelaw's fibula fracture.

Whitelaw sought $16,308 in lost wages for work she missed because of the orthoscopic surgery.

Her medical bills totaled $42,745, but a negotiated lien brought the cost to $6,500, which the plaintiff sought from the defendant.

In addition, Whitelaw sought pain and suffering damages.

Result: The case was settled for $110,000.

Trial Information:

Writer Michael Rehak

Retailer let the bedbugs bite, claimed plaintiffs in Cherry Hill

Type: Verdict-Plaintiff

Amount: $49,000

State: New Jersey

Venue: Camden County

Court: Camden County Superior Court, NJ

Injury Type(s):
- *epidermis* - bite mark

Case Type:
- *Products Liability* - Failure to Warn; Household Products

Case Name: Diep Huynh and Oanh Nguyen v. J.C. Penney Company, Inc., No. CAM-L-7889-06

Date: May 06, 2008

Plaintiff(s):
- Diep Huynh (Male, 50 Years)
- Oanh Nguyen (Female, 30 Years)

Plaintiff Attorney(s):
- Kevin M. Siegel; Law Office of Kevin M. Siegel; Marlton NJ for Diep Huynh, Oanh Nguyen

Defendant(s):
- J.C. Penney Company Inc.

Defense Attorney(s):
- Jill Taylor; Mintzer, Sarowitz, Zeris, Ledva & Meyers; Cherry Hill, NJ for J.C. Penney Company Inc.

Insurers:
- self-insured

Facts:

On June 10, 2006, plaintiff Diep Huynh, 50, and his wife, plaintiff Oanh Nguyen, late 30s, purchased a bedroom set from J.C. Penney Company Inc., at the company's retail store in Cherry Hill. The couple immediately began utilizing the furniture in the bedroom of their Pennsauken home. The plaintiffs claimed that within one to two days after they began sleeping in the bed, they experienced severe itching all over their bodies. The itching persisted throughout the summer, resulting in sores and bloody scabs, and the cause remained a mystery to both the plaintiffs and the doctors from whom they sought medical attention. Allegedly, no one else in the house experienced these symptoms.

In September 2006, the couple observed that their bed was infested with crawling bugs, subsequently determined to be of the genus *Cimex lectularius*,a/k/a "bedbug." The couple complained to J.C. Penney, claiming the bugs were sold along with the bed. At first J.C. Penney denied that the bed was the source of the insects, but the company eventually sent a repairman, who observed the extent of the bedbug infestation in the crevices and joints of the furniture.

In November 2006, J.C. Penney credited the couple for the purchase price of the bedroom set.

Claiming emotional pain and suffering, the plaintiffs sued J.C. Penney for products liability.

As the case proceeded, it became apparent that the infestation occurred at the point of the bed's manufacture. Rather than implead the manufacturer, an indemnification agreement was arrived at between the manufacturer and J.C. Penney, of which the particulars have not been disclosed.

At trial, neither side offered any form of expert testimony. The plaintiff's case proceeded on a theory of product liability and was purely circumstantial: no problem before purchasing the furniture; itching immediately upon sleeping in the bedroom with the furniture; only the parents and none of the children incurred bedbug bites; the repairman witnessed bedbugs in September; the ordeal subsided when the bedroom set was removed from the home and the house was fumigated.

The defense did not concede liability and argued that the plaintiffs had not proven their case.

Injury:

The plaintiffs endured severe itching for a sustained period of time, because of bug bites. The itching resulted in bloody sores and unsightly scabbing all over the plaintiffs' bodies. Oanh was particularly sensitive to her appearance and was caused to wear long sleeve shirts all the time. The couple sustained sleep deprivation and anxiety over the cause of their condition, for which perplexed doctors had prescribed various ointments and medications. When the bedbug infestation was discovered, the couple took the remedial measure of discarding not only the culprit bedroom set, but their bedding, clothes, rugs and children's mattresses. They incurred a $750 cost for an exterminator to treat their home.

Result:

After a court arbitration that awarded the plaintiffs $35,000, the jury returned a verdict for the plaintiffs in the amount of $49,000.

Trial Information:

Judge:	Anthony M. Pugliese
Demand:	$35,000
Offer:	$7,500
Trial Length:	2 days
Trial Deliberations:	2 hours
Jury Composition:	2 male, 4 female
Editor's Comment:	This report is based on information that was provided by plaintiffs' counsel. Defense counsel did not respond to the reporter's phone calls.
Writer	Jon Steiger

Director of Safety's hand crushed in punch press

Type: Settlement

Amount: $0

State: New Jersey

Venue: Camden County

Court: Camden County Superior Court, NJ

Injury Type(s):
- *epidermis* - gangrene
- *amputation* - hand; thumb; finger
- *hand/finger* - crush injury, hand
- *surgeries/treatment* - open reduction

Case Type:
- *Products Liability* - Manufacturing Defect

Case Name: John Peluso v. L.C.O Ventures, LLC Trading as Permalith Plastics, No. CAM-L-5762-05

Date: June 12, 2007

Plaintiff(s):
- John Peluso (Male)

Plaintiff Attorney(s):
- Paul D'Amato; D'Amato & D'Amato, P.C.; Linwood NJ for John Peluso

Defendant(s):
- L.C.O Ventures, LLC Trading as Permalith Plastics

Defense Attorney(s):
- Robert J. McGuirl; Law Offices of Robert J. McGuirl; Park Ridge, NJ for L.C.O Ventures, LLC Trading as Permalith Plastics
- David R. Kott; McCarter & English, LLP; Newark, NJ for L.C.O Ventures, LLC Trading as Permalith Plastics

Facts:

On July 2, 2003, in Camden County, plaintiff John Peluso was working as a Director of Safety when he attempted to clear a jam on a punch press manufactured by Permalith Plastics of New Jersey. Peluso's hand became caught in the machine.

Peluso sued Permalith under a products liability theory.

Peluso claimed he cleared the jam and then turn back on the power. He stated he slipped and his left hand went into the die set area. Peluso claimed that the machine suddenly and without warning activated and the die set came down and crushed his hand. Peluso stated that he used the device's jog button to extricate his hand. Plaintiff's counsel argued that the foot pedal shorted out, causing the machine to cycle.

Defense counsel obtained a videotape which captured the incident. Defense counsel posited that Peluso's hand would have been immediately crushed had the injury occurred in the manner he described. Defense counsel believed Peluso was using the jog button to jog the die, and the escape mechanism of the punch press worked. Since the safety mechanism worked, Defense counsel argued that Permalith should not be held liable.

Injury:

Peluso suffered a crush injury to his left hand, requiring a total of 8 surgeries. He had his left index and middle fingers amputated, flexor repair of his left thumb, a closed reduction and pinning of his left thumb distal phalanx fracture, an open reduction and pinning of his left wrist, dislocation of his left wrist and of the left hand wound, tendon repair to his left little finger, including tendon transfer, and attempted reconstruction of his nerves on his left thumb with aural nerve graft, wrist fusion and amputation of his gangrenous left thumb. After a seventh surgery proved unsuccessful, the plaintiff's left hand was amputated above the wrist. He had a worker's compensation lien of $300,000.

Result:

The plaintiff voluntarily discontinued the lawsuit.

Trial Information:

Judge:

Robert G. Millenky

Editor's Comment:

This report is based on if information provided by defense counsel. Plaintiff's counsel declined comment.

Writer

Stephen DiPerte

GMC Jimmy's air bag should've deployed, crash victim claimed

Type: Decision-Defendant

Amount: $0

State: New Jersey

Venue: Camden County

Court: Camden County Superior Court, NJ

Injury Type(s):
- *knee* - knee derangement
- *other* - laceration

Case Type:
- *Motor Vehicle* - SUV; Rollover; Rear-ender
- *Products Liability* - Airbag; Automobiles; Design Defect; Crashworthiness

Case Name: Bonnie S. Zold and John Zold v. General Motors Corp. and O'Neill Buick; General Motors Corp. v. Jared M. Styer, No. CAM-L-6925-02

Date: June 08, 2004

Plaintiff(s):
- John Zold (Male)
- Bonnie S. Zold (Female, 32 Years)

Plaintiff Attorney(s):
- Michael J. Farrell; Wilentz, Goldman & Spitzer; Woodbridge NJ for Bonnie S. Zold, John Zold

Defendant(s):
- O'Neill Buick
- Jared M. Styer
- General Motors Corp.

Defense Attorney(s):
- Thomas Kelly; Tansey, Fanning, Haggerty Kelly Convery & Tracy; Woodbridge, NJ for General Motors Corp., O'Neill Buick

Facts: On Oct. 16, 2000, plaintiff Bonnie Zold, 32, was driving a 1999 GMC Jimmy in Vineland. Jared Styer was driving a 2000 Hyundai Tiburon behind Zold. Styer attempted to pass Zold on her right, and he struck the right rear of the Jimmy. Zold lost control of the Jimmy, and, after being struck again by the Tiburon, it rolled over.

Zold and her husband sued General Motors Corp., Detroit, and the dealership from which they purchased the Jimmy, O'Neill Buick, Avon, Conn., for products liability, alleging that the vehicle was defective and was not crashworthy because the air bag system did not deploy.

General Motors filed a third-party claim against Styer for negligence

The defendants moved for summary judgment.

Injury: Zold claimed a laceration to her skull and internal derangement of the knee. She has permanent scarring of the scalp and permanent instability of the knee. She had surgery to her skull. She was hospitalized for a few days. She underwent physical therapy for months.

Her medicals was unspecified, as were her lost wages.

Her husband claimed loss of consortium.

Result: Judge Ronald Freeman granted the defendants' motion for summary judgment.

The third-party claim against Styler was then dropped.

Trial Information:

Judge: Ronald J. Freeman

Writer Alison Love

Worker lost finger tips to hamburger-making machine

Type: Arbitration

Amount: $0

Actual Award: $100,000

State: New Jersey

Venue: Camden County

Court: Camden County Superior Court, NJ

Injury Type(s):
- *amputation* - fingertip

Case Type:
- *Products Liability* - Design Defect

Case Name: Daviel Burton v. Superior Butcher Saw Services and Hollymatic, No. CAM-L-1878-04

Date: January 17, 2008

Plaintiff(s):
- Daviel Burton (Male, 30 Years)

Plaintiff Attorney(s):
- Richard Talbot; Law Offices of Andrew A. Ballerini; Cherry Hill NJ for Daviel Burton

Plaintiff Expert (s):
- George Widas P.E.; Engineering; Medford, NJ called by: Richard Talbot

Defendant(s):
- Hollymatic
- Superior Butcher Saw Services

Defense Attorney(s):

- Robert J. McGuirl; Law Offices of Robert J. McGuirl; Park Ridge, NJ for Hollymatic
- Joseph Deal; Cooper, Levenson, April, Niedelman & Wagenheim; Cherry Hill, NJ for Superior Butcher Saw Services
- James Suozzo; Law Offices of Robert J. McGuirl; Park Ridge, NJ for Hollymatic

Defendant Expert(s):

- David Toler P.E.; Engineering; Edison, NJ called by: for Robert J. McGuirl, James Suozzo

Facts:

On June 29, 2002, plaintiff Daviel Burton, 30s was working at a Fuddruckers restaurant in Turnersville, when his hand became caught in a hamburger-making machine.

Burton sued the designer of the machine Hollymatic of Illinois and Superior Butcher Saw Service of Pennsylvania, who services the machine, under a products liability-design defect theory.

Plaintiff's counsel argued that the machine had too large an opening, and it should have been reduced by around six inches, thus one could not get their hand stuck in the machine.

Defense counsel argued that changing the design of the machine would make it ineffective. To make the opening smaller it would slow the burger-making process down.

Defense counsel argued that there was evidence that the machine was not properly cared for by Fuddruckers employees and the machine appeared to have rot spots and evidence of being dropped. Defense counsel also posited that Fuddruckers had instructed employees to place their hands in the machine.

Injury:

Burton had a total of five surgeries, included the amputation of his right index and middle finger tips. Burton, who is right- handed, missed four months of work. He subsequently left his job as Fuddruckers. In sum, plaintiff's counsel asked for about $400,000 in damages. Defense counsel argued in arbitration that Burton has had a spotty employment history.

Result:

At a binding arbitration with retired Superior Court Judge Gerald Weinstein, a defense ruling was issued. Because of a previous high-low agreement, the plaintiff took $100,000.

Trial Information:

Judge: Charles A. Little

Editor's Comment: This report is based on information provided by defense counsel. Plaintiff's counsel declined comment.

Writer Stephen DiPerte

Technician sued capacitor manufacturer for burns

Type: Verdict-Defendant

Amount: $0

State: New Jersey

Venue: Camden County

Court: Camden County Superior Court, NJ

Injury Type(s):
- *leg* - scar and/or disfigurement, leg
- *burns* - first degree; third degree; second degree
- *other* - loss of consortium

Case Type:
- *Products Liability* - Failure to Warn; Industrial Machinery

Case Name: Stephen Burin and LuAnn Burin v. Sealed Unit Parts Co., Inc., No. CAM-L-4628-05

Date: July 23, 2008

Plaintiff(s):
- LuAnn Burin (Female)
- Stephen Burin (Male, 46 Years)

Plaintiff Attorney(s):
- Richard C. Sokorai; High Swartz LLP; Norristown PA for Stephen Burin, LuAnn Burin
- Evan A. Blaker; Evan A. Blaker, Attorney-At-Law; Cherry Hill NJ for Stephen Burin, LuAnn Burin

Plaintiff Expert (s):
- Gary N. Goldstein M.D.; Plastic Surgery/Reconstructive Surgery; Voorhess, NJ called by: Richard C. Sokorai,
- Peter F. Coste P.E.; HVAC; York, PA called by: Richard C. Sokorai, Evan A. Blaker
- Robert Simpson; HVAC; McLean, VA called by: Richard C. Sokorai,

Defendant(s):
- Sealed Unit Parts Co. Inc.

Defense Attorney(s):

- Steve Rudolph; Monte & Rudolph; Sea Girt, NJ for Sealed Unit Parts Co. Inc.

Insurers:

- Travelers Insurance Co.

Facts:

On Aug. 14, 2003, plaintiff Stephen Burin, 46, was injured while in the scope of his employment as a heating and air conditioning technician. Burin was visiting a household in Cherry Hill that had complained of its air conditioning unit not starting, and he allegedly tried to jump-start the unit with a capacitor manufactured by defendant Sealed Unit Parts Co. Inc., or SUPCO. A power surge caused an explosion in the air conditioner's compressor, and the resulting flames and hot compressed oil shot out of the unit 15 to 20 feet, striking Burin. Burin was the owner of his company, and was working with an employee at the time.

Burin and his wife, LuAnn Burin, sued SUPCO, alleging products liability. LuAnn Burin asserted a claim for loss of consortium.

The plaintiffs claimed that SUPCO's capacitor caused the explosion that struck Burin, and this the company was liable for his injuries. Plaintiff's counsel also claimed that SUPCO's capacitor kit contained no specific or general warnings of the possibility of explosions when the kit is hooked up to an AC unit.

SUPCO denied products liability. Defense counsel claimed the packaging and the product was labeled with the information that it would "increase torque up to 600 percent," and that a professional HVAC technician would be aware that this could result in an explosion. The defense claimed there were no more specific warnings because the kit was intended for use only by professional technicians. Considering that Burin had approximately 25 years of experience as an HVAC technician, the defense contended, the information on the kit would have been sufficient to warn him of the possible danger.

Injury:

Burin was hospitalized for nine days with first-, second-, and third-degree burns on his legs, arms, chest and face. The plaintiff's medical expert, Gary Goldstein, testified that the burns left permanent scars on his legs, and that the skin damage there left him at increased risk for skin cancer.

The plaintiff claimed that his injuries had forced him to curtail outdoor activities and to miss three months of work, costing him $8,000 in lost wages. LuAnn Burin testified she spent three months providing daily care for her husband's injuries. The plaintiffs were seeking an unspecified amount for pain and suffering, lost income, disfigurement and physical impairment.

Result:

The jury returned a defense verdict, finding that the warnings on the kit were adequate.

Trial Information:

Judge:

Ronald J. Freeman

Trial Length:	9 days
Trial Deliberations:	1.75 hours
Jury Vote:	5-1
Jury Composition:	2 male, 4 female
Editor's Comment:	This report is based on information provided by plaintiffs' and defense counsel.
Writer	Rick Archer

Companies rejected asbestos link to decedent's cancer

Type: Verdict-Defendant

Amount: $0

State: New Jersey

Venue: Camden County

Court: Camden County Superior Court, NJ

Injury Type(s):
- *other* - death
- *cancer* - mesothelioma

Case Type:
- *Wrongful Death*
- *Products Liability* - Tobacco; Asbestos; Design Defect; Failure to Warn

Case Name: Valerie Panzarella as administrator ad prosequendum for the Estate of Michael Argento, deceased v. Charles B. Chrystal Company Inc., Proctor & Gamble Company, RT Vanderbilt Company Inc., Scotts Company LLC, Shulton Inc., Whittaker Clark & Daniels Inc., Wyeth Holdings Corporation, Holingsworth & Vose Company, Lorillard Tobacco Company, American Talc Company, Brenntag North America, Brenntag Specialties, and Vornado Realty Trust (Two Guys), No. MID-L-5418-12AS

Date: August 15, 2016

Plaintiff(s):
- Valarie Panzarella (Female)
- Estate of Micahel Argento (Male, 78 Years)

Plaintiff Attorney(s):
- Moshe Maimon; Levy Konigsberg LLP; Lawrenceville NJ for Estate of Micahel Argento, Valarie Panzarella
- Robert G. Stevens; Szaferman, Lakind, Blumstein & Blader, P.C.; Lawrenceville NJ for Estate of Micahel Argento, Valarie Panzarella
- Amber R. Long; Levy Konigsberg LLP; Lawrenceville NJ for Estate of Micahel Argento, Valarie Panzarella

Plaintiff Expert (s):

- Sean Fitzgerald PG; Geology; Winston-Salem, NC called by: Moshe Maimon, Robert G. Stevens, Amber R. Long
- Michael K. Cummings M.D.; Tobacco; Charleston, SC called by: Moshe Maimon, Robert G. Stevens, Amber R. Long
- Jacqueline M. Moline M.D.; Occupational Medicine; Hempstead, NY called by: Moshe Maimon, Robert G. Stevens, Amber R. Long

Defendant(s):

- Shulton Inc.
- R. J. Reynolds
- Scotts Co. LLC
- American Talc Co.
- Proctor & Gamble Co.
- Wyeth Holdings Corp.
- Lorillard Tobacco Co.
- Brenntag North America
- RT Vanderbilt Co. Inc.
- Hollingsworth & Vose Co.
- Charles B. Chrystal Co. Inc.
- Whittaker Clark & Daniels Inc.
- Vornado Realty Trust (Two Guys)

Defense Attorney(s):

- Stephen J. DeFeo; Brown & Connery, LLP; Westmont, NJ for Hollingsworth & Vose Co., Lorillard Tobacco Co.
- Ricardo G. Cedillo; Davis, Cedillo & Mendoza; San Antono, TX for R. J. Reynolds
- Michael L. Lazarus; CNA Litigation Coverage Group; Cranbury, NJ for Whittaker Clark & Daniels Inc.
- Sean X. Kelly; Marks, O'Neill, O'Brien, Doherty & Kelly, P.C.; Cherry Hill, NJ for American Talc Co.
- Christopher E. Martin; Morrison Mahoney LLP|; Parsippany, NJ for Charles B. Chrystal Co. Inc.
- James E. Berger; Shook, Hardy & Bacon L.L.P.; Kansas City, MO for Hollingsworth & Vose Co.
- Steven A. Weiner; O´Toole Fernandez Weiner Van Lieu, LLC; Verona, NJ for RT Vanderbilt Co. Inc.
- Alan I. Dunst; Hoagland, Longo, Moran, Dunst & Doukas, L.L.P.; New Brunswick, NJ for Whittaker Clark & Daniels Inc.
- Debra M. Perry; McCarter & English; Newark, NJ for Scotts Co. LLC
- Joshua S. Lichtenstein; O´Toole Fernandez Weiner Van Lieu, LLC; Verona, NJ for Vornado Realty Trust (Two Guys)
- Suzanne Teeven; Hughes Hubbard & Reed; Kansas City, MO for Hollingsworth & Vose Co.
- Kathleen Jeanetta; Hughes Hubbard & Reed; Kansas City, MO for Hollingsworth & Vose Co.
- Sally Merriam; Hughes Hubbard & Reed for Hollingsworth & Vose Co.
- Christopher P. DePhillips; Gibbons P.C.; Newark, NJ for Wyeth Holdings Corp.
- Kristen M. Mykulak; Parker Ibrahim & Berg LLC; Philadelphia, PA for Brenntag North America
- Joshua Lichenstein; O'Toole Fernandez Weiner Van Lieu, LLC; Verona, NJ for Vornado Realty Trust (Two Guys)
- Daniel R. Kuszmerski; Hoagland, Longo, Moran, Dunst & Doukas, LLP; New Brunswick, NJ for Whittaker Clark & Daniels Inc.
- Ronald E. Hurst; Montgomery, McCracken, Walker & Rhoads; Philadelphia, PA for Brenntag North America
- William A. Cooney; New York, NY for Vornado Realty Trust (Two Guys)

Defendant Expert(s):

- Alan Segrave P.G.; Geology; Kennesaw, GA called by: for Alan I. Dunst, Daniel R. Kuszmerski
- Kevin Reinert; Environmental Sciences; Greensboro, NC called by: for James E. Berger, Suzanne Teeven
- Melvin W. First Ph.D.; Industrial Hygiene; Cambridge, MA called by: for James E. Berger, Suzanne Teeven
- Victor Roggli M.D.; Pathology; Durham, NC called by: for James E. Berger, Suzanne Teeven
- William C. Hinds Sc.D.; Environmental Safety; Los Angeles, CA called by: for James E. Berger, Suzanne Teeven

Facts:

On Nov. 7, 2011, Michael Argento was diagnosed with mesothelioma, and died from the disease on Jan. 2, 2013, at the age of 78.

Valerie Panzarella, as representative of her father's estate, pursued a wrongful death lawsuit sounding in products liability against various defendants that she contended contributed to Argento's mesothelioma through asbestos exposure.

The lawsuit claimed that Argento's mesothelioma and resulting death were caused by smoking Kent cigarettes when they had an asbestos-containing filter; from exposure to asbestos-contaminated lawn fertilizer; and from exposure to asbestos-containing talc while he worked at a factory that manufactured cosmetic products. Panzarella also claimed Argento was exposed to asbestos-containing insulation while working at a pharmaceutical manufacturing plant, and exposure to asbestos-containing joint compound.

All of the 13 defendants were dismissed, except for Lorillard Tobacco Co., Hollingsworth & Vose Co., and Whittaker Clark & Daniels Inc.

The case against Lorillard and Hollingsworth & Vose included claims for failure to warn and design defect for the inclusion of asbestos in the filters of Kent cigarettes.

Panzarella claimed that Argento smoked Kent filtered cigarettes at some point between March 1952 and May 1956. During that time, Lorillard manufactured, marketed, and sold the cigarettes with a filter that contained asbestos, among other components. Hollingsworth & Vose supplied Lorillard with the materials used in the filters.

In her claim against Whittaker Clark, Panzarella alleged failure to warn, based on the allegation that the talc it supplied was contaminated with asbestos.

Lorillard and Hollingsworth & Vose argued that Argento did not smoke Kent cigarettes during the limited time there was asbestos in the filter; that the use of asbestos in the filter material was consistent with the state of the art at the time; that any danger of asbestos exposure was not known before the 1960s; and that the filters did not release a significant amount of asbestos, if any, when smoked.

Lorillard further noted that it discontinued the asbestos-containing filter because of consumer dissatisfaction with the product, manufacturing inefficiency, and development of a better alternative filter.

Whittaker Clark maintained that Argento never came into contact with any talc supplied by the company, and that the talc that was supplied was not contaminated with asbestos; therefore, the company had no duty warn.

Injury:

Argento died from mesothelioma at the age of 78. He was retired at the time of his death. He had last worked as a maintenance foreman at a healthcare company. He was survived by three adult children.

Result:

The jury returned a defense verdict for the three defendants that went to trial. The jury found that Argento's estate had failed to prove by a preponderance of the evidence the failure to warn claims against all defendants. The jury also found that plaintiff failed to prove the design defect claim against Lorillard and Hollingsworth & Vose.

Trial Information:

Judge:	Ana C. Viscomi
Trial Length:	2 months
Trial Deliberations:	4.75 hours
Jury Vote:	8-0 liability Whittaker Clark. 6-2 liability Tobacco Defendants
Editor's Comment:	This report is based on information that was provided by plaintiff's counsel. Defense counsel declined to contribute.
Writer	Jon Steiger