



## Defense disputed extent of plaintiff's alleged neck injury

**Type:** Verdict-Plaintiff

**Amount:** \$6,831

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *neck* - bulging disc, cervical
- *other* - chiropractic; epidural injections
- *shoulder*

**Case Type:**

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

**Case Name:** Nader Darabi v. Jamie Levy, Joshua Levy and Does 1-25, inclusive, No. BC657407

**Date:** December 06, 2018

**Plaintiff(s):**

- Nader Darabi (Male, 24 Years)

**Plaintiff Attorney(s):**

- Faud Haghghi; Law Offices of Faud Haghghi; Tustin CA for Nader Darabi

**Plaintiff Expert(s):**

- Robert Curtis D.C.; Chiropractic; Santa Monica, CA called by: Faud Haghghi
- Samuel A. Seelig M.D.; Anesthesiology; Beverly Hills, CA called by: Faud Haghghi
- Shirin Hekmat M.D.; Anesthesiology; Los Angeles, CA called by: Faud Haghghi
- Thomas A. Herbold M.D.; Radiology; Encino, CA called by: Faud Haghghi
- Jamshid J. Hekmat M.D.; Orthopedic Surgery; Los Angeles, CA called by: Faud Haghghi

**Defendant(s):**

- Jamie Levy
- Joshua Levy

**Defense  
Attorney(s):**

- David A. Belofsky; Belofsky & Hanker, LLP; San Pedro, CA for Jamie Levy, Joshua Levy

**Defendant  
Expert(s):**

- Richard B. Rhee M.D.; Radiology; Corona del Mar, CA called by: for David A. Belofsky
- Richard C. Rosenberg M.D.; Orthopedic Surgery; Tarzana, CA called by: for David A. Belofsky

**Insurers:**

- Mercury Insurance Group

**Facts:**

On Sept. 29, 2016, plaintiff Nader Darabi, 24, a sales representative, was stopped on westbound Pico Boulevard with his turn signal activated, waiting to make to make a left turn onto 33rd Street, in Santa Monica, when his sedan was rear-ended by a vehicle operated by Jamie Levy. Darabi claimed injuries to his neck and a shoulder.

Darabi sued Jamie Levy and the owner of Ms. Levy's vehicle, Ms. Levy's husband, Joshua Levy. Darabi alleged that Ms. Levy was negligent in the operation of her vehicle and that Mr. Levy was vicariously liable for his wife's actions.

Mr. Levy was dismissed prior to trial in exchange for a waiver of costs.

Ms. Levy admitted liability during discovery.

**Injury:**

Darabi claimed he sustained a bulging cervical disc as a result of the accident. He alleged that he experienced immediate head, upper shoulder and neck pain at the accident scene, rating the pain in his neck 8.5 out of 10 and the pain in his shoulder six out of 10.

Darabi did not go to a hospital after the crash and, instead, took ibuprofen for the discomfort. He claimed that because the pain persisted, he went to his normal doctor at the Kaiser Permanente Santa Monica Medical Offices, in Santa Monica, on Oct. 6, 2016. At the time of the initial visit, Darabi still rated his neck pain 8.5 out of 10 and his shoulder pain six out of 10.

Darabi was seen at Bay Cities Chiropractic, in National City, at around the end of October 2016. He underwent chiropractic treatment two to three times a week for three months. He claimed that while he was still undergoing treatment, he occasionally took ibuprofen for his neck pain to help him sleep. After completing all of the recommended sessions by mid-January 2017, Darabi felt that he merely received temporary relief. Darabi recalled that Bay Cities billed him close to \$3,000, but that he rated his neck pain at the end of the chiropractor treatment 7.5 or eight out of 10 and his shoulder pain still being six out of 10. When he reported that he was still having pain, the chiropractors at Bay Cities told him to see a head and neck specialist, so Darabi presented to an orthopedist. The first consultation took place near the end of January 2017, during which time the physician ordered an MRI of his neck and found there was a bulging cervical disc. The orthopedist recommended epidural injections, which cost more than \$24,000 in total.

Darabi claimed that he felt 60 percent better after the epidural injections. He followed up with his orthopedist one week after the epidural injections, during which time Darabi allegedly still had neck pain (rated five out of 10) and minimal discomfort in his shoulders (rated one or two out of 10). Darabi's treating orthopedist instructed him that if there was more pain, he has the option of receiving more injections or undergoing more-invasive surgery.

Darabi claimed that at the time of trial, he was still experiencing discomfort in his neck, which he rated four or five out of 10, and a loss of range of motion. He also claimed that as a result of his pain, he no longer goes to the gym or plays basketball, flag football or golf. Darabi expressed interest in going back to his treating chiropractor and orthopedist for follow-up care and another MRI of his neck.

Darabi sought recovery of \$162,149.10 to \$182,149.10 in total damages, including \$32,149.10 in past medical costs, between \$65,000 and \$75,000 for his past pain and suffering; between \$65,000 and \$75,000 for his future pain and suffering, and an unspecified amount for his future medical costs.

Defense counsel disputed the extent of Darabi's injuries and argued that Darabi would have only needed minor care, such as seeing a physician and undergoing X-rays.

The defense's medical experts opined that there was no pathology for injury beyond sprains and/or strains. Defense counsel also argued that the sprains and/or strains would have healed, even without any care.

**Result:**

The jury found that Ms. Levy's negligence was a substantial factor in causing harm to Darabi. It also determined that Darabi's damages totaled \$6,831, all for past damages.

## **Nader Darabi**

\$5,831 Personal Injury: Past Medical Cost

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

### **Trial Information:**

**Judge:** Michele E. Flurer

**Demand:** \$50,000 (from Jamie Levy)

**Offer:** \$12,500 (by Jamie Levy; C.C.P. § 998)

**Trial Length:** 4 days

**Trial  
Deliberations:** 100 minutes

**Jury Vote:** 10-2

**Jury  
Composition:** 5 male, 7 female; 2 black, 5 Hispanic, 5 white

**Post Trial:** The defense has filed a \$12,829 cost bill.

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

**Writer** Priya Idiculla

## Plaintiff claimed injuries from improperly secured inflatable slide

**Type:** Verdict-Plaintiff

**Amount:** \$2,125,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *head*
- *brain* - brain damage; traumatic brain injury; internal bleeding
- *chest* - fracture, rib
- *other* - unconsciousness; seizure disorder
- *shoulder* - rotator cuff, injury (tear)
- *face/nose* - fracture, nose; facial laceration; scar and/or disfigurement, face
- *mental/psychological* - depression; post-traumatic stress disorder

**Case Type:**

- *Worker/Workplace Negligence* - Negligent Training; Negligent Assembly or Installation

**Case Name:** Lillian Brookman v. Signature Fundraising, Inc., No. MC026617

**Date:** December 05, 2018

**Plaintiff(s):**

- Lillian Brookman (Female, 60 Years)

**Plaintiff Attorney(s):**

- Eric D. Nielsen; The Nielsen Law Firm; Houston TX for Lillian Brookman
- Tiffany T. Chung; Law Offices of Tiffany Chung; Montebello CA for Lillian Brookman

**Plaintiff Expert(s):**

- A. David Axelrad M.D.; Psychiatry; Houston, TX called by: Eric D. Nielsen, Tiffany T. Chung
- Kenneth E. Lehrer Ph.D.; Economics; Houston, TX called by: Eric D. Nielsen, Tiffany T. Chung
- Michael B. Freeman Ph.D.; Epidemiology; Portland, OR called by: Eric D. Nielsen, Tiffany T. Chung

- Defendant(s):**
- Signature Fundraising Inc.
- Defense Attorney(s):**
- Mark M. Gnesin; Ropers, Majeski, Kohn & Bentley; Los Angeles, CA for Signature Fundraising Inc.
- Defendant Expert(s):**
- Howard Tung M.D.; Neurosurgery; San Diego, CA called by: for Mark M. Gnesin,
  - Steven A. Castellon Ph.D.; Neuropsychology; Calabasas, CA called by: for Mark M. Gnesin,
- Insurers:**
- Crum & Forster

**Facts:** On Oct. 10, 2014, plaintiff Lillian Brookman, 60, a teacher, was with her class on a blacktop play area outside of Summerwind Elementary School, in Palmdale. Five inflatables were set up on the grass field in the back of the school earlier that day. Two tall slides broke loose and became airborne. One inflatable, which was 20 feet in length from bottom to top, flew over a portable building and struck Brookman in the face and upper torso. She sustained injuries to her head, face, chest and a shoulder.

Brookman sued the owner and operator of the inflatables, Signature Fundraising Inc. She alleged that Signature Fundraising was negligent in its installation and operation of the inflatables.

Brookman claimed that workers for Signature Fundraising were negligent for using improperly fabricated stakes to set up the inflatables and for operating the inflatables when it was too windy. She further claimed that Signature Fundraising was negligent for failing to provide its workers with training and instructions on what conditions were too windy and unsafe.

The defendant stipulated to liability two weeks before trial.

**Injury:** Brookman sustained a traumatic brain injury and was rendered unconscious for less than 30 minutes. She also sustained a fractured nose, a torn rotator cuff, a fractured rib and a gash on her forehead. She was immediately taken to a hospital, where a CT scan showed internal bleeding in her brain.

Brookman claimed she now suffers from neurocognitive deficits, a seizure disorder, depression, anxiety and post-traumatic stress disorder. She alleged that as a result, she retired early, at age 60 instead of 65. Brookman claimed the early retirement from her job as a teacher, which was her passion, caused a loss of income, household services, and some retirement benefits that had a present value of between \$446,000 and \$471,000.

Brookman sought recovery of past and future lost wages, and damages for her past and future pain and suffering.

**Result:** The jury found that Signature Fundraising's negligence was a substantial factor in causing Brookman harm. It determined that Brookman's damages totaled \$2,125,000.

**Lillian Brookman**

\$78,700 Personal Injury: past economic damages

\$446,300 Personal Injury: future economic damages

\$300,000 Personal Injury: past noneconomic damages

\$1,300,000 Personal Injury: future noneconomic damages

**Trial Information:**

**Judge:** J. Stephen Czuleger

**Demand:** \$1,900,000 (C.C.P. § 998 [insurance coverage's limit was \$1,940,000])

**Offer:** \$750,000

**Trial Length:** 9 days

**Trial  
Deliberations:** 6 hours

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

**Post Trial:** Defense counsel moved to tax costs. The matter settled before the hearing on the motion to tax costs.

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

**Writer** Priya Idiculla

## Plaintiff claimed failure to warn of open hatch door, caused fall

**Type:** Verdict-Plaintiff

**Amount:** \$760,000

**Actual Award:** \$655,746

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back* - bulging disc, lumbar; herniated disc, lumbar
- *neck* - herniated disc, lumbar
- *other* - kyphoplasty; physical therapy; hardware implanted; epidural injections; tendon, severed/torn; decreased range of motion
- *wrist*
- *shoulder* - fracture, shoulder; rotator cuff, injury (tear)
- *surgeries/treatment* - decompression surgery

**Case Type:**

- *Worker/Workplace Negligence*
- *Slips, Trips & Falls* - Fall from Height

**Case Name:** Theresa Worhach and John Jedic v. Antonio Banuelos dba Tony B. Electric and Construction, No. BC586344

**Date:** December 03, 2018

**Plaintiff(s):**

- John Jedic
- Theresa Worhach (Female, 60 Years)

**Plaintiff Attorney(s):**

- Mike Arias; Arias Sanguinetti Wang & Torrijos, LLP; Los Angeles CA for Theresa Worhach, John Jedic
- Eugene Feldman; Arias Sanguinetti Wang & Torrijos, LLP; Los Angeles CA for Theresa Worhach, John Jedic
- Kate Harvey Lee; Arias Sanguinetti Wang & Torrijos, LLP; Los Angeles CA for Theresa Worhach, John Jedic



**Plaintiff Expert (s):**

- Brad P. Avrit P.E.; Safety; Marina del Rey, CA called by: Mike Arias, Eugene Feldman, Kate Harvey Lee
- Glenn M. Lipton M.D.; Pain Management; Marina del Rey, CA called by: Mike Arias, Eugene Feldman, Kate Harvey Lee
- Jeffrey Colbert M.D.; Orthopedic Surgery; Marina del Rey, CA called by: Mike Arias, Eugene Feldman, Kate Harvey Lee
- Jennifer A. Hertz M.D.; Hand Surgery; Los Angeles, CA called by: Mike Arias, Eugene Feldman, Kate Harvey Lee

**Defendant(s):**

- Antonio Banuelos

**Defense Attorney(s):**

- Daniel E. Kenney; Harrington, Foxx, Dubrow & Canter LLP; Los Angeles, CA for Antonio Banuelos

**Defendant Expert(s):**

- Kurt Ising P.E.; Ergonomics/Human Factors; , called by: for Daniel E. Kenney
- Ronald S. Kvitne M.D.; Orthopedic Surgery; Los Angeles, CA called by: for Daniel E. Kenney

**Facts:**

On April 16, 2015, plaintiff Theresa Worhach, 60, a self-employed talent manager, was having outdoor electrical work done by Tony B. Electric and Construction. During the course of their work, one of the two workers opened a trapdoor inside the house, to reach wiring under the home. While Worhach was walking in her home's hallway, she fell inside the trapdoor that was left open by the worker and allegedly sustained injuries to her back, and left shoulder and wrist.

Worhach sued the operator of Tony B. Electric and Construction, Antonio Banuelos. Worhach claimed that Banuelos and his company were negligent for leaving the trapdoor open without any warning, cones or caution tape so as to alert others about the dangerous condition.

Defense counsel argued that the hazard was open and obvious and that Banuelos and his company gave sufficient warning to Worhach. Specifically, Banuelos' employee testified that he announced that he was accessing the crawl space under the house via the access hatch in the hallway. Defense counsel argued that Worhach was at fault for her injuries because she failed to pay attention to where she was walking.

**Injury:**

Worhach sustained a complex fracture and torn rotator cuff of the left, non-dominant shoulder. She also claimed she sustained a torn tendon of the left, non-dominant wrist and a bulging lumbar disc at the L5-S1 level.

Immediately after the accident, Worhach was transported by paramedics to a hospital, where she was admitted and underwent emergency shoulder surgery the following day. She then underwent a second shoulder surgery with the placement of permanent hardware. She also ultimately underwent tendon repair surgery on the left wrist. In addition, Worhach received lumbar epidural injections and underwent micro-decompression surgery at the L5-S1 level and a kyphoplasty on the L3 vertebra. She also underwent physical therapy before and after each of the surgeries.

Worhach claimed that as a result of the shoulder hardware, she suffers from permanent, residual movement restrictions. She also claimed that she suffers from continued weakness to her right leg due to the bulging lumbar disc with nerve impingement. Worhach alleged that as a result of her leg weakness, she sustained an L3 compression fracture during physical therapy approximately one year later. However, she claimed that she has improved symptoms in her wrist and back and that no future procedures were anticipated. Instead, Worhach alleged that she will only occasionally need additional physical therapy for any residual symptoms and/or flare-ups.

Worhach sought recovery of general, noneconomic damages for her past and future pain and suffering. Her husband, John Jedic, presented a derivative claim, seeking recovery for his loss of consortium. Plaintiffs' counsel asked the jury to award Worhach and Jedic between \$4 million and \$6 million in total damages.

Defense counsel agreed that the left shoulder injury was due to the incident. However, counsel argued that Worhach's left wrist and lower back symptoms were degenerative in nature and pre-existing.

**Result:**

The jury found that Banuelos and his company were negligent and that their negligence was a substantial factor in causing harm to Worhach. It also found that Worhach was comparatively at fault for the accident. The jury determined that Banuelos and his company were 75 percent liable for the incident and that Worhach was 25 percent liable. It also determined that the plaintiffs' damages totaled \$760,000, all for Worhach's damages.

The judgment was later entered in the amount of \$570,000, based upon a reduction for Worhach's comparative fault.

**Theresa Worhach**

\$260,000 Personal Injury: past general damages

\$500,000 Personal Injury: future general damages

## **Trial Information:**

**Judge:** H. Chester Horn

**Demand:** \$273,999.99 (C.C.P. § 998)

**Offer:** \$200,000

**Trial Length:** 5 days

**Trial  
Deliberations:** 1 days

**Jury Vote:** 10-2

**Post Trial:** Due to the prior 998 demand, Worhach was awarded \$95,745.55 in interest and costs, making her final judgment total \$655,745.55. The defendant was also awarded costs against Jedic.

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

**Writer** Priya Idiculla

## Plaintiff claimed crash aggravated lower back injury

**Type:** Verdict-Plaintiff

**Amount:** \$131,897

**Actual Award:** \$157,170

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back*
- *other* - chiropractic; physical therapy; epidural injections; aggravation of pre-existing condition

**Case Type:**

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

**Case Name:** Luis Carillo v. Luis Flores, No. BC657261

**Date:** November 30, 2018

**Plaintiff(s):**

- Luis Carillo (Male, 33 Years)

**Plaintiff Attorney(s):**

- Aaron R. Stiegler; Carpenter, Zuckerman & Rowley, LLP; Beverly Hills CA for Luis Carillo

**Plaintiff Expert(s):**

- Andrew S. Morris D.C.; Coding & Billing (Medical); Torrance, CA called by: Aaron R. Stiegler
- Arthur Kreitenberg M.D.; Orthopedic Surgery; Los Angeles, CA called by: Aaron R. Stiegler
- Hussam Antoin M.D.; Anesthesiology; Burbank, CA called by: Aaron R. Stiegler

**Defendant(s):**

- Luis Flores

**Defense  
Attorney(s):**

- Ted M. Endres; Law Offices of Steven D. Levine; Torrance, CA for Luis Flores

**Defendant  
Expert(s):**

- Griff Stelzner; Economics; Camarillo, CA called by: for Ted M. Endres
- Kasra Rowshan M.D.; Orthopedic Surgery; Newport Beach, CA called by: for Ted M. Endres

**Insurers:**

- Allstate Insurance Co.

**Facts:**

On July 5, 2015, plaintiff Luis Carillo, 33, a surgical technician, was driving in Lynwood. When he entered the intersection of Beechwood Avenue and Elm Street, his vehicle was broadsided by a vehicle operated by Luis Flores. Carillo claimed injuries to his lower back.

Carillo sued Flores, alleging that Flores was negligent in the operation of his vehicle.

Flores admitted liability for the accident.

**Injury:**

Carillo claimed that he suffered an aggravation of a herniated lumbar disc as a result of the accident. He was taken by ambulance to a hospital and missed two days of work as a surgical technician. After being discharged from the hospital, Carillo underwent four chiropractic sessions over the course of two weeks between July 7, 2014 and July 21, 2015. He also had an initial pain management consultation on July 15, 2015 and followed up with a different pain management doctor in October 2015. Carillo ultimately underwent an epidural injection to his lumbar spine on Oct. 30, 2015 and then a second lumbar epidural injection on Dec. 16, 2015. He then underwent three sessions of physical therapy in February 2016.

Carillo claimed that he has no permanent residual injuries but that he will require four to six chiropractic/physical therapy visits a year, as needed.

Defense counsel disputed the severity of the impact, and the nature and extent of Carillo's injuries. Counsel argued that the accident was not a substantial factor in causing or aggravating Carillo's alleged injuries. Counsel also argued that some of Carillo's medical treatment was not necessary, such as his treatment with an anesthesiologist and the epidural injections that were administered. In addition, defense counsel argued that the alleged cost of Carillo's medical treatments was unreasonable.

**Result:**

The jury found that Flores' negligence was a substantial factor in causing Carillo harm. It determined that Carillo's damages totaled \$131,897.

## **Luis Carillo**

\$24,477 Personal Injury: Past Medical Cost

\$38,000 Personal Injury: Future Medical Cost

\$30,000 Personal Injury: past noneconomic damages

\$39,420 Personal Injury: future noneconomic damages

### **Trial Information:**

**Judge:** Michele E. Flurer

**Demand:** \$69,999.99 (C.C.P. § 998)

**Offer:** \$30,918

**Trial Length:** 4 days

**Trial  
Deliberations:** 2.5 hours

**Jury Vote:** 12-0 (past medical costs and past noneconomic damages); 11-1 (future medical costs); 10-2 (future noneconomic damages)

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

**Post Trial:** Carillo's award was increased to \$157,169.87 with costs of suit added.

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

**Writer** Priya Idiculla

## Plaintiff claimed rear-ender caused need for future care

**Type:** Verdict-Plaintiff

**Amount:** \$1,075,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back* - bulging disc, lumbar
- *other* - chiropractic; physical therapy

**Case Type:**

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

**Case Name:** Rene Bravo and Marciela Bravo v. Arturo Garcia, No. BC604951

**Date:** November 29, 2018

**Plaintiff(s):**

- Rene Bravo (Male, 49 Years)
- Marciela Bravo

**Plaintiff Attorney(s):**

- Richard A. Apodaca; Rodriguez Apodaca Law Firm LLP; Ontario CA for Rene Bravo, Marciela Bravo

**Plaintiff Expert (s):**

- Stepan O. Kasimian M.D.; Orthopedic Surgery; Glendale, CA called by: Richard A. Apodaca

**Defendant(s):**

- Arturo Garcia

**Defense Attorney(s):**

- Jay S. McClaugherty; McClaugherty & Associates; Arcadia, CA for Arturo Garcia

**Defendant  
Expert(s):**

- Babak Barcohana M.D.; Orthopedic Surgery; Van Nuys, CA called by: for Jay S. McClaugherty
- Phillip D. Rake D.C.; Chiropractic; Montrose, CA called by: for Jay S. McClaugherty

**Insurers:**

- Allstate Insurance Co.

**Facts:**

On July 19, 2014, plaintiff Rene Bravo, 49, a box designer for a packaging company, was operating a sport utility vehicle in downtown Los Angeles when his vehicle was rear-ended by a pickup truck operated by Arturo Garcia. Bravo sustained injuries of the lower back.

Bravo sued Garcia, alleging Garcia was negligent in the operation of his vehicle.

Garcia admitted liability.

**Injury:**

Bravo claimed he suffered a 5 to 6 millimeter lumbar disc bulge at the L4-5 level and a 6 to 7 millimeter lumbar disc bulge at the L5-S1 level, resulting in chronic lower back pain. He sought medical care about two weeks after the accident, and underwent seven months of orthopedic evaluation, physical therapy and chiropractic care.

Bravo claimed he had constant pain in his lower back with flare-ups. However, he acknowledged that he did not miss any days from work because he sits behind a desk. Bravo waived his claim for past medical costs, but sought recovery for his alleged future medical treatment, including the need for conservative treatment, such as epidurals, radiofrequency ablations, and other surgical remedies, including microdecompression surgery and a lumbar fusion. He also sought recovery for his past and future pain and suffering.

Defense counsel noted that Bravo had a gap in treatment of approximately two years, during which Bravo had no injections or any other conservative treatment. Counsel also argued that Bravo only sustained sprain and strain injuries, which should have resolved.

**Result:**

The jury found that Garcia's negligence was a substantial factor in causing Bravo's injuries. It determined that Bravo's damages totaled \$1,075,000.

**Rene Bravo**

\$575,000 Personal Injury: Future Medical Cost

\$50,000 Personal Injury: Past Pain And Suffering

\$450,000 Personal Injury: Future Pain And Suffering



**Trial Information:**

**Judge:** Charles F. Palmer

**Demand:** None

**Offer:** \$100,000 (eve of trial)

**Trial Length:** 4 days

**Trial  
Deliberations:** 80 minutes

**Jury Vote:** 12-0

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

**Writer** Priya Idiculla

## Artist's stage dive caused stroke, plaintiff claimed

**Type:** Verdict-Plaintiff

**Amount:** \$4,525,402

**Actual Award:** \$3,846,592

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *head*
- *neck* - whiplash; cervical disc injury
- *brain* - stroke
- *foot/heel* - foot
- *hand/finger* - hand
- *arterial/vascular* - artery, severed/tear
- *mental/psychological* - anxiety; depression; cognition, impairment
- *paralysis/quadruplegia* - hemiparesis

**Case Type:**

- *Worker/Workplace Negligence* - Negligent Security
- *Premises Liability* - Inadequate or Negligent Security; Amusement Park/Place of Entertainment

**Case Name:** Jennifer Fraissl v. Sonny John Moore aka Skrillex, Belsaco Entertainment Theater Inc., Belasco Unlimited Corporation, Lost Boys Touring Inc., Entitled Global LLC, RPS Protection Services Inc. and Does 1 through 100, No. BC535745

**Date:** November 27, 2018

**Plaintiff(s):**

- Jennifer Fraissl (Female, 25 Years)

**Plaintiff Attorney(s):**

- B. Mark Fong; Minami Tamaki, LLP; San Francisco CA for Jennifer Fraissl
- Seema J. Bhatt; Minami Tamaki LLP; San Francisco CA for Jennifer Fraissl
- Seth I. Rosenberg; Emergent LLP; San Francisco CA for Jennifer Fraissl

**Plaintiff Expert(s):**

- Anna Piotrowski M.D.; Psychiatry; San Jose, CA called by: B. Mark Fong, Seema J. Bhatt, Seth I. Rosenberg
- Wade Smith M.D.; Neurology; San Francisco, CA called by: B. Mark Fong, Seema J. Bhatt, Seth I. Rosenberg
- Zahra Ajani M.D.; Neurology; Los Angeles, CA called by: B. Mark Fong, Seema J. Bhatt, Seth I. Rosenberg
- Daniel E. Zehler Psy.D.; Neuropsychology; Long Beach, CA called by: B. Mark Fong, Seema J. Bhatt, Seth I. Rosenberg
- Lester M. Zackler M.D.; Neuropsychiatry; Sherman Oaks, CA called by: B. Mark Fong, Seema J. Bhatt, Seth I. Rosenberg
- Steven W. Hetts M.D.; Neuroradiology; San Francisco, CA called by: B. Mark Fong, Seema J. Bhatt, Seth I. Rosenberg

**Defendant(s):**

- Sonny John Moore
- Entitled Global LLC
- Lost Boys Touring Inc.
- Belasco Unlimited Corp.
- RPS Protection Services Inc.
- Belasco Entertainment Theater Inc.

**Defense Attorney(s):**

- None reported for Entitled Global LLC, RPS Protection Services Inc.
- Barry J. Thompson; Baker McKenzie; Los Angeles, CA for Sonny John Moore, Lost Boys Touring Inc.
- James Ward; Baker McKenzie; Los Angeles, CA for Sonny John Moore, Lost Boys Touring Inc.
- Kimberly F. Rich; Baker McKenzie; Dallas, TX for Sonny John Moore, Lost Boys Touring Inc.
- Judy J. Steffy; Lewis Brisbois Bisgaard & Smith LLP; Los Angeles, CA for Belasco Entertainment Theater Inc., Belasco Unlimited Corp.

**Defendant Expert(s):**

- A. Jubin Merati Ph.D.; Economics; Los Angeles, CA called by: for Barry J. Thompson, James Ward, Kimberly F. Rich, Judy J. Steffy
- Tony L. Strickland Ph.D.; Neuropsychology; Los Angeles, CA called by: for Barry J. Thompson, James Ward, , , Kimberly F. Rich, Judy J. Steffy
- Barry D. Pressman M.D.; Neuroradiology; West Hollywood, CA called by: for Barry J. Thompson, James Ward, , , Kimberly F. Rich, Judy J. Steffy
- Brian P. Jacks M.D.; Psychiatry; Beverly Hills, CA called by: for Barry J. Thompson, James Ward, , , Kimberly F. Rich, Judy J. Steffy
- Janine E. Smedley; Injury Biomechanics; Phoenix, AZ called by: for Barry J. Thompson, James Ward, , , Kimberly F. Rich, Judy J. Steffy
- Stacey R. Helvin B.S.N., R.N.; Life Care Planning; Anaheim, CA called by: for Barry J. Thompson, James Ward, , , Kimberly F. Rich, Judy J. Steffy
- Wouter I. Schievink M.D.; Neurosurgery; Los Angeles, CA called by: for Barry J. Thompson, James Ward, , , Kimberly F. Rich, Judy J. Steffy

**Facts:**

On Feb. 11, 2012, plaintiff Jennifer Fraissl, 24, a student, was attending a pre-Grammy concert performance by Skrillex, a DJ and record producer whose real name is Sonny John Moore, at the Belasco Theater, in Los Angeles. At the end of the show, Moore got on his DJ stand and dove off the stage and landed in the crowd, where Fraissl was allegedly standing. Fraissl claimed she suffered injuries to her head and neck causing a

stroke 16 days later.

Fraissl sued Moore; Moore's production company, Lost Boys Touring Inc.; the operators of the theater, Belasco Entertainment Theater Inc. and Belasco Unlimited Corp.; an entertainment and promotions company, Entitled Global LLC; and a security company that handled the event, RPS Protection Services Inc.

Entitled Global defaulted and RPS Protection settled out. The matter continued with Fraissl's negligence claims against the remaining defendants.

Fraissl claimed that while she was standing near the front of the crowd, she was standing back away from the stage when Moore began urging the crowd to come closer, making it hard for her to leave or protect herself. She alleged that when the crowd moved closer to the stage, Moore, who was standing on a table, dove into it and struck her on the back of her head and neck. Fraissl claimed that she felt a blow to the back of her head and assumed Moore had kicked her in the head, and Fraissl's boyfriend, who also attended the show, testified that he saw Moore kick Fraissl in the back of the head. Fraissl alleged that a crowd of people then surged toward the stage, where she was standing, as Moore's road manager attempted to pull Moore out of the crowd by one of his legs, causing the pop singer to be dragged over her.

Plaintiff's counsel argued that Moore created a dangerous condition when he called the crowd to come closer to the stage because it made it difficult for Fraissl to move amid the crowd and protect herself. Counsel also argued that the singer knew his stage diving led to unpredictable results, such as crowds falling over, people being knocked down, bloody noses, broken arms, and other injuries. Plaintiff's counsel further argued that Lost Boys Touring and Moore's road manager contributed to the injury by dragging him over Fraissl during the dive, and by not holding a pre-show security briefing with the Belasco staff to confirm whether Fraissl would stage dive or not. In addition, plaintiff's counsel argued that the Belasco entities were negligent for overselling the event, not having a security plan, and using improperly licensed security personnel.

Moore's counsel contended that Fraissl was a fan of Moore's, had seen Moore perform at least three times during the year that preceded the Belasco show, and had saw Moore stage dive and "crowd surf" at each of those previous shows. Counsel also contended that it was Moore's custom and practice to stage dive and crowd surf at the end of his performances. Counsel further introduced evidence that stage diving and crowd surfing was common in the electronic dance music genre at that time, and identified more than a dozen EDM performers who regularly stage dove and crowd surfed, including many artists whom Fraissl liked and followed, and/or whom had performances that Fraissl attended. Moore's counsel argued that, based on the past history presented, Fraissl consented to and/or assumed the risk of injury by choosing to position herself at the front of the crowd and that Fraissl was actively participating in the show, as evidenced by the video of Fraissl jumping, raising her hands and smiling before, during, and after Moore stage dove. Counsel also argued that Moore stage dove hundreds of times before the Belasco show without injury to the crowd. In addition, counsel argued that there was an inconsistency between Fraissl's and other's eyewitness's testimony claiming contact versus the video evidence that allegedly showed no contact between Fraissl and Moore.

Counsel for Lost Boys Touring contended that its employee, Moore's road manager, and Moore had an established routine for performances and stage diving and that the road

manager acted as he normally did that evening when Moore stage dove. Counsel also contended that there was an established routine for the road manager to meet with the venue and security team prior to Moore's shows.

Belasco's counsel argued that the Belasco staff was not aware that Moore was going to stage dive, that the Belasco entities had a standard security plan in place, and that there was no evidence that the venue was overcrowded. Counsel further argued that the Belasco entities were not responsible for ticketing the event.

The defense's biomechanical engineering expert testified that the video of the concert showed that Moore did not make contact with Fraissl, and showed Fraissl smiling before and after the stage dive.

## **Injury:**

Fraissl alleged that she suffered blunt force trauma to her head and neck at the concert, causing a whiplash injury that resulted in a stroke 16 days later.

Fraissl claimed that 18 hours after the concert, she texted her boyfriend to complain that she had terrible whiplash from getting kicked in the head. Sixteen days later, on Feb. 27, 2012, she suffered a right pontine stroke, also known as pons stroke, a type of ischemic stroke in the pons part of the brain stem, due to a dissection of her left vertebral artery. As a result, she suffers from left-sided hemiparesis, which results in her dragging her left foot when she walks and having limited use of her left hand.

Fraissl claimed that her hemiparesis is permanent and that she also suffers from depression and anxiety as a result of her condition. She claimed that she was a student about to graduate from the University of California, Irvine, with a degree in anthropology at the time of the incident and that she wanted to become a veterinarian, but that she was unable to finish her college studies due to her stroke. In 2017, Fraissl began working part-time for an online job service, which was her only work history. She also took a biology class at community college and obtained a grade of an "A," but she claimed that her anxiety prevented her from taking more classes.

The plaintiff's medical experts opined that trauma from the concert show caused Fraissl's dissection and stroke. They testified that Fraissl's symptoms of whiplash is a well-known cause of vertebral artery dissection and that spontaneous dissections and strokes are rare for 24-year-olds to suffer. They also testified that the medical literature established the median time between a dissection and a stroke is two weeks, which placed Fraissl in the classic time frame for a stroke due to a dissection. The experts further testified that the primary sign of a vertebral artery dissection is neck pain, and opined that Fraissl likely suffered multiple transient ischemic attacks -- episodes of dizziness, headaches and confusion -- in the intervening two weeks, which are classic signs of an impending stroke caused by a vertebral artery dissection.

The plaintiff's treating doctors opined that Fraissl's hemiparesis is permanent. The plaintiff's treating neuropsychologist also opined that Fraissl suffers from a mild neurocognitive disorder with sustained attention and focus, as well as suffers from emotional incontinence, also known as pseudobulbar affect, which is a condition that's characterized by episodes of sudden, uncontrollable and inappropriate laughing or crying. She also agreed that Fraissl suffers from hemiparesis, depression, and mild anxiety.

Fraissl sought recovery of past and future medical costs, past and future loss of earnings,

and damages for her past and future pain and suffering. Plaintiff's counsel presented a life care plan of approximately \$2.2 million.

Defense counsel argued that Fraissl's stroke was not caused by the concert. Counsel noted that Fraissl did not seek medical attention after the show, nor at any time in the next two weeks, for any injuries or symptoms relating to head and/or neck pain. However, counsel noted that Fraissl did seek medical attention for coughing and that during that medical visit, Fraissl's head and neck were reported to be atraumatic and normal.

The defense's medical experts testified that 80 percent of cervical artery dissections are spontaneous and that Fraissl had numerous risk factors for a spontaneous dissection, such as paroxysmal coughing due to an upper respiratory infection, recent alcohol consumption, fibromuscular dysplasia, vomiting, and self-cracking of her neck.

In regard to the psychological claims, defense counsel argued that Fraissl's alleged depression and anxiety were merely mild, and noted that Fraissl is still able to travel extensively around the country after her stroke. Counsel also argued that Fraissl's psychological testing showed no neurocognitive disorder.

In addition, defense counsel challenged the scope and severity of Fraissl's claims of an ongoing injury, and disputed Fraissl's alleged medical expenses, loss of earning capacity, and pain and suffering. Specifically, counsel argued that Fraissl suffered no wage loss at all, and suggested a life care plan of approximately \$600,000.

**Result:**

The jury found that Moore, Lost Boys Touring and the Belasco entities were negligent. It also found that Fraissl was negligent. The jury determined that Lost Boys Touring was 40 percent liable for Fraissl's injuries, that Moore was 35 percent liable, that the Belasco entities were 10 percent liable, and that Fraissl was 15 percent comparatively liable. It also determined that Fraissl's damages totaled \$4,523,402.

After an offset due to Fraissl's comparative liability, Fraissl should recover \$3,846,592.

**Jennifer Fraissl**

\$2,262,701 Personal Injury: economic damages

\$2,262,701 Personal Injury: noneconomic damages

**Trial Information:**

**Judge:** Daniel S. Murphy

**Demand:** \$1,750,000 (total, from all defendants [mediator's proposal])

**Offer:** \$300,000 (total, from Lost Boys Touring and Moore); \$500,000 (total, from Belasco Entertainment Theater and Belasco Unlimited)

**Trial Length:** 5 weeks

**Trial  
Deliberations:** 2.5 days

**Editor's  
Comment:** This report is based on information that was provided by plaintiff's counsel and counsel of Belasco Entertainment Theater, Belasco Unlimited, Lost Boys Touring and Moore. The remaining defendants' counsel were not asked to contribute.

**Writer** Gary Raynaldo

## Employee appropriately fired after investigation, store claimed

**Type:** Verdict-Plaintiff

**Amount:** \$175,500

**State:** California

**Venue:** Los Angeles County

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

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

**Case Type:** • *Employment* - Retaliation; Whistleblower; Age Discrimination; Wrongful Termination; Failure to Accommodate; Disability Discrimination

**Case Name:** Patricia Tillotson v. The Home Depot, Home Depot USA Inc. and Stephen Conley, No. BC601497

**Date:** November 21, 2018

**Plaintiff(s):** • Patricia Tillotson (Female, 58 Years)

**Plaintiff Attorney(s):** • Maryann P. Gallagher; Law Offices of Maryann P. Gallagher; Los Angeles CA for Patricia Tillotson

**Plaintiff Expert (s):** • Maureen A. Clark M.Ed.; Human Resources Policies; Menlo Park, CA called by: Maryann P. Gallagher

**Defendant(s):**

- Home Depot
- Stephen Conley
- Home Depot USA Inc.



**Defense  
Attorney(s):**

- Cara F. Barrick; Ogletree, Deakins, Nash, Smoak & Stewart, P.C.; San Francisco, CA for Home Depot USA Inc.
- Charles L. Thompson; Ogletree, Deakins, Nash, Smoak & Stewart, P.C.; San Francisco, CA for Home Depot USA Inc.
- Alis M. Moon; Ogletree, Deakins, Nash, Smoak & Stewart, P.C.; Costa Mesa, CA for Home Depot USA Inc.
- None reported for Home Depot, Stephen Conley

**Defendant  
Expert(s):**

- Rhoma D. Young; Human Resources Policies; Oakland, CA called by: for Cara F. Barrick, Charles L. Thompson, Alis M. Moon

**Facts:**

In April 2014, plaintiff Patricia Tillotson, 58, a pro account sales associate at a Home Depot store in Torrance, was terminated from her employment. Tillotson claimed that she was fired because of her age and disabilities, and in retaliation for whistleblowing.

Tillotson sued The Home Depot, Home Depot USA Inc. and Stephen Conley. Tillotson alleged that the defendants' actions constituted age discrimination, disability discrimination and whistleblower retaliation, resulting in her wrongful termination.

The matter only continued against Home Depot USA.

Tillotson claimed that Home Depot USA fired her in retaliation for reporting unauthorized discounts. She also claimed that Home Depot USA fired her because of her age and because of her disabilities relating to breast cancer and varicose veins. In addition, she claimed she had requested reasonable accommodations, such as a sedentary position and help lifting, for her alleged disabilities, but that Home Depot USA did not provide them.

Home Depot USA claimed that that it provided every accommodation that Tillotson requested during her employment. It also claimed that it terminated Tillotson and five other employees after an internal investigation revealed that they had collectively given more than \$400,000 in unauthorized discounts and free services to a customer, and had accepted gifts from the customer in violation of company policy.

**Injury:**

Tillotson alleged that she was unemployed for approximately one year before she started to work at a job that paid less than what she earned at Home Depot.

Tillotson sought recovery of past lost wages, future lost wages, and non-economic damages for her past and future emotional distress. Specifically, plaintiff's counsel asked the jury to award Tillotson \$3,495,472, including \$75,472 in past lost wages, \$120,000 in future lost wages, \$1 million in damages for her past emotional distress, and \$2.3 million in damages for her future emotional distress.

**Result:**

The jury found that Home Depot USA did not wrongfully terminate Tillotson and that Home Depot USA did not terminate Tillotson's employment for discriminatory or retaliatory reasons. However, the jury found that Home Depot USA did not reasonably accommodate Tillotson's disabilities during her employment. It determined that Tillotson's damages totaled \$175,500, all for her economic damages. The jury did not award for Tillotson's alleged emotional distress or punitive damages.

**Patricia Tillotson**

\$75,500 Personal Injury: past economic damages

\$100,000 Personal Injury: future economic damages

**Trial Information:**

**Judge:** Terry A. Green

**Trial Length:** 12 days

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

**Writer** Priya Idiculla

## Plaintiff fractured leg when door closer failed to work properly

**Type:** Verdict-Plaintiff

**Amount:** \$185,180

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *hip* - fracture, hip
- *leg* - fracture, leg; fracture, femur
- *other* - physical therapy; pins/rods/screws; comminuted fracture; fracture, displaced
- *surgeries/treatment* - internal fixation

**Case Type:**

- *Slips, Trips & Falls* - Falldown
- *Premises Liability* - Door Accidents; Dangerous Condition; Negligent Repair and/or Maintenance

**Case Name:** Isabella Lubomirski v. PCAL BB Inc. dba Sansai Japanese Grill, No. BC648559

**Date:** November 21, 2018

**Plaintiff(s):**

- Isabella Lubomirski (Female, 90 Years)

**Plaintiff Attorney(s):**

- David Pivtorak; Pivtorak Law Firm; Los Angeles CA for Isabella Lubomirski

**Plaintiff Expert (s):**

- Arbis Rojas M.D.; Geriatrics; Pasadena, CA called by: David Pivtorak
- Scott H. Liang M.D.; Internal Medicine; Arcadia, CA called by: David Pivtorak
- Braden Criswell M.D.; Orthopedic Surgery; Pasadena, CA called by: David Pivtorak

**Defendant(s):**

- PCAL BB Inc.

**Defense Attorney(s):**

- Gerry DeSimone; DeSimone & Huxster; Agoura Hills, CA for PCAL BB Inc.

**Defendant Expert(s):**

- Arthur Kreitenberg M.D.; Orthopedic Surgery; Los Angeles, CA called by: for Gerry DeSimone
- Abraham "Avi" Ishaaya M.D.; Pulmonology; Los Angeles, CA called by: for Gerry DeSimone

**Insurers:**

- Kookmin Best Insurance Co. Ltd.

**Facts:**

On March 19, 2015, plaintiff Isabella Lubomirski, 93, a retiree, was exiting the restroom at Sansai Japanese Grill, in Burbank, when she was struck on the back by the wooden door, causing her to fall on her left side. Lubomirski sustained injuries to her left hip and leg.

Lubomirski sued the operator of Sansai Japanese Grill, PCAL-BB Inc.

Plaintiff's counsel contended that the closer on the women's restroom door was not working properly. Counsel contended that the restaurant's restroom doors were equipped with pneumatic door closers that were supposed to prevent the door from slamming shut, but that the closer on the women's restroom door did not control the swing speed of the door and closed with sufficient force to throw Lubomirski to the ground.

PCAL-BB Inc. admitted liability shortly before trial.

**Injury:**

Lubomirski was taken from the restaurant to Huntington Memorial Hospital, in Pasadena, where doctors discovered that she had a comminuted, displaced, intertrochanteric fracture of the left femur. She underwent a rodding surgery that left her with a 15-inch piece of titanium in her leg, near her hip.

Before the injury, Lubomirski lived on her own, was completely independent, and was very active, in that she exercised and walked almost every day. However, she claimed that after the surgery, despite tireless efforts in physical therapy and on her own, she suffered from instability, which required her to use a cane, and constant fatigue, which prevented her from doing many of the activities she was able to before the incident.

Approximately three years after the incident, Lubomirski suffered another fall, which caused severe injuries and left her requiring the use of a wheelchair. At trial, the jury was instructed that the subsequent fall was unrelated to the original injury.

Lubomirski sought recovery for her past medical costs, and past and future pain and suffering.

Defense counsel contended that Lubomirski had balance and stability issues before the incident and that she had recovered to her pre-injury state approximately seven months after the incident.

**Result:**

The jury determined that Lubomirski's damages totaled \$185,179.54.

## **Isabella Lubomirski**

\$41,785 Personal Injury: past economic damages

\$107,260 Personal Injury: past noneconomic damages

\$36,135 Personal Injury: future noneconomic damages

### **Trial Information:**

**Judge:** Mark A. Borenstein

**Demand:** \$145,000 (C.C.P. § 998)

**Offer:** \$100,001 (C.C.P. § 998)

**Trial Length:** 6 days

**Trial  
Deliberations:** 5 hours

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

**Writer** Priya Idiculla

## Diver retaliated against after reporting improper activities: suit

**Type:** Verdict-Plaintiff

**Amount:** \$2,750,000

**State:** California

**Venue:** Los Angeles County

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

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

**Case Type:** • *Employment* - Retaliation; Whistleblower; Hostile Work Environment

**Case Name:** Stephen Meiche v. City of Los Angeles, a government entity; Los Angeles Fire Department, a government entity; and Does 1 through 100, inclusive, No. BC625060

**Date:** November 21, 2018

**Plaintiff(s):** • Stephen Meiche (Male, 53 Years)

**Plaintiff Attorney(s):** • Matthew S. McNicholas; McNicholas & McNicholas, LLP; Los Angeles CA for Stephen Meiche  
• Douglas D. Winter; McNicholas & McNicholas, LLP; Los Angeles CA for Stephen Meiche

**Defendant(s):** • City of Los Angeles  
• Los Angeles Fire Department

**Defense Attorney(s):** • Stacey Anthony; Office of the City Attorney; Los Angeles, CA for City of Los Angeles, Los Angeles Fire Department  
• Susan J. Rim; Office of the City Attorney; Los Angeles, CA for City of Los Angeles, Los Angeles Fire Department

**Facts:** In 2014, plaintiff Stephen Meiche, 53, a firefighter III/frontline diver for the Los Angeles Fire Department, was allegedly subjected to adverse employment actions by other members of his fire station

Meiche was assigned to Fire Station 49's Marine Division, which was under the authority of Battalion 6 of the LAFD. In 2013, he was appointed to the Dive Safety Board, which was allegedly tasked with managing the LAFD's Dive Program as well as all incoming federal grant funding designated for equipment purchase and diver training. However, in early 2014, Meiche complained about activities of the Dive Safety Board. He claimed that shortly thereafter, his duties on the Dive Safety Board were taken away, he was ostracized by other Dive Safety Board members, and he was subjected to adverse employment action by members at Fire Station 49. As a result, in September 2014, Meiche went to the fire chief at Battalion 6 and complained that he was subjected to a hostile work environment at Station 49. The chief then had an internal complaint initiated with the Professional Standards Division. Meiche provided the investigators with an explanation of his disclosures, including alleged federal grant equipment destruction, fraud, waste, and abuse of grant funding by members of the department's Dive Program. He also provided the investigators with evidence of the alleged resulting retaliation he suffered. The information was provided in written documentation and over a series of in-person interviews. However, Meiche claimed the investigation was closed, and no action was taken.

Meiche claimed that after the department failed to move the offending members out of Fire Station 49, he was forced to request a transfer to another station and, in March 2015, he moved to a different station, where he is still employed as a firefighter III/frontline diver.

Meiche sued the city of Los Angeles and the Los Angeles Fire Department. He alleged that the defendants' actions constituted whistleblower retaliation, in violation of Labor Code §1102.5.

Defense counsel argued that Meiche did not engage in any whistleblowing activity and that Meiche was not subjected to any adverse employment action. Counsel contended that Meiche was a serial complainer who had general complaints about the activities of the Dive Board and that only after infighting with the other members, did Meiche frame his complaints as fraud, waste and abuse. Counsel also contended that Meiche's participation in the investigation waned after his preliminary disclosure to the investigators and that as a result, the department was forced to close its investigation into Meiche's complaints of whistleblower retaliation without taking any action, but proceeded to investigate internal cross-complaints that had been made by others against Meiche as a result of his whistleblower complaints. However, defense counsel noted that the investigations filed against Meiche were resolved in Meiche's favor and had been closed and that Meiche suffered no negative performance rating from 2013 to 2016, had not been reprimanded, and had not been disciplined.

In addition, defense counsel contended that the Dive Safety Board was a volunteer advisory board that had no fiduciary duties or binding authority and that any work performed in connection with the board was separate and apart from any underlying job duties. Counsel also contended that there was no compensation for being a board member and that the board was not approved by the union. Counsel further contended that in early 2015, Battalion 6 disbanded the Dive Safety Board and all of its members, and that, later that year, the battalion rebooted the program, with no one, including Meiche, excluded from participating.

**Injury:**

Meiche claimed that although he maintained his title and position as a diver, he was ostracized from the dive team, wherein his duties and responsibilities were greatly circumscribed; he was completely ignored throughout the fire house; and people began claiming he was an unsafe diver. Plaintiff's counsel argued that claiming Meiche was an unsafe diver was a way to drive someone out of the unit entirely, as it causes others to not want to dive with him. Among other things, Meiche testified that he thought that others were just going to leave him on the bottom one day, referring to being left behind while underwater at the port. He claimed that as a result, he suffers from emotional distress, including anguish, fright, nervousness, grief, anxiety, worry, shame, mortification, injured feelings, shock, humiliation and indignity, as well as other unpleasant physical, mental, and emotional reactions.

Meiche sought recovery for the damage to his reputation. He also sought recovery of emotional distress damages and other non-economic damages. Plaintiff's counsel asked the jury to award Meiche \$6 million in total damages.

Defense counsel contended that Meiche's income, benefits and pension have all remained unchanged and that Meiche was not denied any bonuses. Counsel also contended Meiche had not been denied any promotion because he had not applied for one since at least 2005. Defense counsel further contended that Meiche's plans for retirement within about five years, as he was 57 at the time of trial, were unaffected by any of the incidents.

In regard to Meiche's alleged emotional distress, defense counsel noted that Meiche testified that he "never really suffered from anxiety" and that he "manages [his] stress pretty well." Counsel also noted that Meiche did not seek treatment from any doctor or therapist.

**Result:**

The jury found for Meiche on his claim of whistleblower retaliation. It determined that Meiche's damages totaled \$2.75 million.

**Stephen Meiche**

\$1,000,000 Personal Injury: past noneconomic damages

\$1,750,000 Personal Injury: future noneconomic damages

**Trial Information:**

**Judge:** Rafael A. Ongkeko

**Demand:** \$750,000

**Offer:** \$10,000



**Trial Length:** 12 days

**Trial  
Deliberations:** 2.5 hours

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

**Writer** Priya Idiculla

## Store manager forced to quit after continual sexual harassment: suit

**Type:** Verdict-Plaintiff

**Amount:** \$491,911

**State:** California

**Venue:** Los Angeles County

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

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

**Case Type:** • *Employment* - Sexual Harassment; Workplace Harassment; Constructive Discharge

**Case Name:** Vilma Aguilar v. Blaze Pizza, LLC; Alberto Daniel Driz; Maurice Driz; LA Metro BP Holding Co., LLC; BP Farmers Market, LLC; Cerritos BP, LLC; Culvercity BP, LLC; Del Amo BP, LLC; Gateway USC BP, LLC; La Paz Laguna BP, LLC; Rolling Hills BP, LLC; Santa Ana BP, LLC; South Gate BP, LLC; and Whittier BP, LLC, No. BC651278

**Date:** November 20, 2018

**Plaintiff(s):** • Vilma Aguilar (Female, 18 Years)

**Plaintiff Attorney(s):** • Matthew J. Matern; Matern Law Group, PC; Manhattan Beach CA for Vilma Aguilar  
• Joshua D. Boxer; Matern Law Group, PC; Manhattan Beach CA for Vilma Aguilar  
• Matthew W. Gordon; Matern Law Group, PC; Manhattan Beach CA for Vilma Aguilar

**Defendant(s):**

- Maurice Driz
- Del Amo BP, LLC
- Blaze Pizza, LLC
- Cerritos BP, LLC
- Whittier BP, LLC
- Santa Ana BP, LLC
- Culvercity BP, LLC
- South Gate BP, LLC
- Alberto Daniel Driz
- Gateway USC BP, LLC
- La Paz Laguna BP, LLC
- Rolling Hills BP, LLC
- BP Farmers Market, LLC
- LA Metro BP Holding Co., LLC

**Defense  
Attorney(s):**

- Julianne Pinter; Ogltree, Deakins, Nash, Smoak & Stewart; Los Angeles, CA for Blaze Pizza, LLC, Alberto Daniel Driz, Maurice Driz, BP Farmers Market, LLC, Cerritos BP, LLC, Culvercity BP, LLC, Del Amo BP, LLC, Gateway USC BP, LLC, LA Metro BP Holding Co., LLC, La Paz Laguna BP, LLC, Rolling Hills BP, LLC, Santa Ana BP, LLC, South Gate BP, LLC, Whittier BP, LLC
- Lyne A. Richardson; Ogltree, Deakins, Nash, Smoak & Stewart; Los Angeles, CA for Blaze Pizza, LLC, Alberto Daniel Driz, Maurice Driz, BP Farmers Market, LLC, Cerritos BP, LLC, Culvercity BP, LLC, Del Amo BP, LLC, Gateway USC BP, LLC, LA Metro BP Holding Co., LLC, La Paz Laguna BP, LLC, Rolling Hills BP, LLC, Santa Ana BP, LLC, South Gate BP, LLC, Whittier BP, LLC
- Jennifer L. Hamilton; Andrews Lagasse Branch & Bell LLP; San Diego, CA for Blaze Pizza, LLC, Alberto Daniel Driz, Maurice Driz, BP Farmers Market, LLC, Cerritos BP, LLC, Culvercity BP, LLC, Del Amo BP, LLC, Gateway USC BP, LLC, LA Metro BP Holding Co., LLC, La Paz Laguna BP, LLC, Rolling Hills BP, LLC, Santa Ana BP, LLC, South Gate BP, LLC, Whittier BP, LLC

**Facts:**

In 2015, plaintiff Vilma Aguilar, 18, a store manager for a Blaze Pizza outlet in Torrance, quit her position.

Before she quit, Vilma complained that she was repeatedly sexually harassed since 2013 by Alberto Driz, the co-owner of a company that eventually owned 11 Southern California Blaze Pizza locations, and his brother, Maurice Driz, the director of operations for the firm. She claimed that the harassment included continual hugging, kissing, unwanted massages and grabs on the buttocks. Vilma complained about the alleged abuse to both brothers and to other senior officials in the company, but she was allegedly told that she could either resign or transfer to another store, which would increase her commute. Instead, Vilma resigned.

Vilma sued the Driz brothers and several operators of Blaze Pizza locations, including Blaze Pizza, LLC; LA Metro BP Holding Co., LLC; Del Amo BP, LLC; Rolling Hills BP, LLC; and multiple other entities.

Blaze Pizza, LLC and several other entities were dismissed from the case prior to the matter going to the jury. Thus, the trial only continued against the Driz brothers, LA Metro BP Holding, Del Amo BP, and Rolling Hills BP.

Vilma claimed that she was constructively discharged from her position due to the harassing work environment.

Defense counsel argued that the Driz brothers' conduct was merely a cultural expression, owing to the fact that, despite living in the U.S. for 45 years, they were born in Argentina and spent considerable time living in Europe. In addition, counsel argued that Vilma was an underperforming employee.

**Injury:**

Vilma, who began working for the defendants when she was 16 years old, quit her position in 2015, at the age of 18. She sought recovery of past and future lost wages, and non-economic damages for her alleged emotional distress. Vilma also sought recovery of punitive damages as a result of the Driz brothers' conduct.

Plaintiff's counsel asked the jury to award Vilma \$1.7 million in total damages.

**Result:**

The jury found that Vilma was subjected to workplace harassment that caused her to be constructively discharged. It determined that Vilma's compensatory damages totaled \$346,911. The jury also found that Vilma was entitled to punitive damages against Alberto Driz and the companies of LA Metro BP Holding, Del Amo BP and Rolling Hills BP. However, it found that Vilma was not entitled to punitive damages against Maurice Driz.

The jury determined that Vilma's punitive damages totaled \$145,000, including \$85,000 in punitive damages against Alberto Driz, and \$60,000 in punitive damages against LA Metro BP Holding, Del Amo BP and Rolling Hills BP. Thus, Vilma's recovery totaled \$491,911.

## **Vilma Aguilar**

\$225,000 Personal Injury: Past Pain And Suffering

\$40,000 Personal Injury: Future Pain And Suffering

\$39,623 Personal Injury: past economic loss

\$42,288 Personal Injury: future economic loss

\$85,000 Personal Injury: punitive damages (Alberto Driz)

\$60,000 Personal Injury: punitive damages (total, Del Amo BP, LA Metro BP Holding and Rolling Hills BP)

## **Trial Information:**

**Judge:** Ruth Ann Kwan

**Demand:** \$1 million

**Offer:** None reported

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

**Writer** Priya Idiculla

## Plaintiff claimed neck injuries from multiple vehicle collision

**Type:** Verdict-Plaintiff

**Amount:** \$660,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *neck* - bulging disc, cervical
- *other* - aggravation of pre-existing condition
- *neurological* - radicular pain / radiculitis

**Case Type:**

- *Motor Vehicle* - Broadside; Red Light; Intersection; Multiple Impact; Multiple Vehicle

**Case Name:** Marcia Arreola v. John Austin Deapera Ella and Susan Hanson, No. BC600875

**Date:** November 20, 2018

**Plaintiff(s):**

- Marcia Arreola (Female, 48 Years)

**Plaintiff Attorney(s):**

- H. Gavin Long; Bisnar | Chase LLP; Newport Beach CA for Marcia Arreola

**Plaintiff Expert(s):**

- Beau LeBlanc; Accident Reconstruction; El Segundo, CA called by: H. Gavin Long
- Gerald J. Alexander M.D.; Spinal Surgery; Orange, CA called by: H. Gavin Long
- Kendall S. Wagner M.D.; Orthopedic Surgery; Fullerton, CA called by: H. Gavin Long

**Defendant(s):**

- Susan Hanson
- John Austin Deapera Ella

**Defense Attorney(s):**

- James T. Biesty; Biesty, Garretty & Wagner; Los Angeles, CA for Susan Hanson
- None reported; Los Angeles, CA for John Austin Deapera Ella

**Defendant  
Expert(s):**

- Robert Freundlich M.D.; Neurology; Encino, CA called by: for James T. Biesty
- Russell Gish Ph.D.; Accident Reconstruction; Laguna Hills, CA called by: for James T. Biesty

**Facts:**

On Dec. 23, 2014, plaintiff Marcia Arreola, 48, was stopped at a traffic light on westbound Artesia Boulevard, in Cerritos, when her vehicle was broadsided by two vehicles, which were operated by Susan Hanson and John Ella.

Prior to the collision with Arreola, Hanson was eastbound on Artesia Boulevard and Ella was northbound on Norwalk Boulevard. As they entered the intersection, a collision occurred. The force of the impact pushed their vehicles into Arreola's stopped vehicle. Arreola claimed injuries to her neck.

Arreola sued Hanson and Ella, alleging that Hanson and Ella were negligent in the operation of their respective vehicles.

Arreola contended that Hanson ran a red light, causing the collision.

Hanson claimed Ella ran his red light.

Ella settled out of the case.

**Injury:**

Arreola claimed she suffered an aggravation of her pre-existing neck pain and cervical degeneration, making her a surgical candidate.

The plaintiff's expert spinal surgeon opined that Arreola had a cervical disc bulge at C5-6, which pressed on the spinal cord and impinged the exiting nerve root, causing radicular symptoms in the arms and legs. The expert further opined that a cervical disc arthroplasty was needed at the C3-4 level.

Arreola waived her claim for past medical costs, but sought recovery of \$100,000 in future medical costs for the surgery, which she had not undergone by the time of trial. She also sought recovery of non-economic damages for her past and future pain and suffering.

Hanson's counsel argued that Arreola only suffered a cervical strain and/or sprain and that surgery was unnecessary. Counsel also contended that Arreola had not treated for three years since the crash.

Hanson's neurology expert agreed that the accident caused radicular symptoms in the left arm and that Arreola's pain was permanent. However, the expert opined that, due to Arreola's varied symptoms, future surgery was not indicated as a result of the collision.

**Result:**

The jury found that Hanson was negligent and that Arreola's damages totaled \$660,000.

**Marcia Arreola**

\$100,000 Personal Injury: Future Medical Cost

\$140,000 Personal Injury: past noneconomic damages

\$420,000 Personal Injury: future noneconomic damages

**Trial Information:**

**Judge:** Mary Ann Murphy

**Demand:** \$30,000 (from Hanson; insurance coverage's limit [C.C.P. § 998])

**Offer:** None (Hanson)

**Trial Length:** 5 days

**Trial Deliberations:** 3 hours

**Jury Vote:** 11-1

**Editor's Comment:** This report is based on information that was provided by plaintiff's counsel. Hanson's counsel did not respond to the reporter's phone calls, and Ella's counsel was not asked to contribute.

**Writer** Priya Idiculla



## Residents claimed mobile home park not maintained

**Type:** Verdict-Plaintiff

**Amount:** \$39,702,667

**State:** California

**Venue:** Los Angeles County

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

**Case Type:**

- *Real Property* - Trespass
- *Contracts* - Breach of Contract; Breach of Warranty
- *Landlord and Tenant* - Habitability; Constructive Eviction; Warranty of Habitability

**Case Name:** Celestino Acosta, Rodrigo Gomez Acosta, Rodrigo Mayorga Acosta, Suzanna Aguilar, Luis Albarran, Rosa Isela Albarran, Cristel Alcazar, Robert Alvillar, Judith Anctil, Michael Anderson, Mike Angelini, Robert Antonio De Angel, Sherman Apple, Lorena Araujo, Maria Araujo, Hill Avila, Caral Ayala, Olvin Ayala, Paula Ayers, Magali Barbosa, Jaime Barillas, Marilyn Barlow, Elisa V. Barr, Carolyn Bateman, Jairo Bautista, David Beausoleil, Mary Beausoleil, Mildred Bejarano, Noemi Santos Beltran, Stephanie Bernard, Deborah D. Bowser, Eddie Brandow, Janet Buck, Alexandria Cabrera, Solares Cabrera, Eugenia Calderon, Gonzalo Calderon, Gonzalo Caledron, Delia Camacho, Raymond Camacho, Clara Camarena, Leonard Camarena, et al. v. City of Long Beach, Friendly Village GP LLC, Friendly Village MHP Associates L.P., Friendly Village Mobile Associates LP, Friendly Village Mobile Home Assoc., Friendly Village of Long Beach, Kort and Scott Financial Group LLC and Sierra Corporate Management Inc., No. BC591412

**Date:** November 19, 2018

**Plaintiff(s):**

- Alex May
- Ana Ochoa (Female)
- Dunn Cole
- Jose Luis (Male)
- Jose Ruiz (Male)
- Matt Cook (Male)
- Phil Doty (Male)
- David Leon (Male)
- Hill Avila
- Irma Perez (Female)

- Janet Buck (Female)
- Jim Garcio (Male)
- John Shull (Male)
- Jose Rivas (Male)
- Lisa Campo (Female)
- Sela Taufa
- Bill Cathey (Male)
- Carla Ayala (Female)
- Carolyn Roe (Female)
- Elmer Jones (Male)
- Helen Owens (Female)
- Hilda Gomez (Female)
- Hulani Wood
- James Davis (Male)
- Jesus Duran (Male)
- John Perius (Male)
- Judy Perius (Female)
- Leo Gilbert (Male)
- Maria Rivas (Female)
- Maria Tovar (Female)
- Mary Kelley (Female)
- Nano Lackey
- Olvin Ayala
- Otis Nabors (Male)
- Paula Ayers (Female)
- Pedro Gomez (Male)
- Robert Soto (Male)
- Romeo Giron (Male)
- Rosa Melara (Female)
- Steve Cohen (Male)
- Tomas Perez (Male)
- Vima Rainer (Female)
- Antonio Ruiz (Male)
- Barbara Doty (Female)
- Betty Kaiser (Female)
- Chuck Harris (Male)
- Dawn Whitman (Female)
- Fidel Melara (Male)
- Gary Strahle (Male)
- Irma Santana (Female)
- Ivan Salazar (Male)
- Jerilyn Dunn (Female)
- John Sweeney (Male)
- Jorge Osoria (Male)
- Juan Toscano (Male)
- Judith Davis (Female)
- Julie Reagan (Female)
- June Pearson (Female)
- Ken Wassenaar (Male)
- Linda Colvin (Female)

- Magali Gomez
- Maria Araujo (Female)
- Maria Garcia (Female)
- Mark Goodart (Male)
- Maya Camacho (Female)
- Miley Cherie (Female)
- Miriam Licon (Female)
- Nick Larizza (Male)
- Olga Santana (Female)
- Pam Phummala (Female)
- Pamela Young
- Phyllis Soto (Female)
- Ray Trautman (Male)
- Ricky Meehan (Male)
- Rocky Horton (Male)
- Roger Lackey (Male)
- Rosa De Luna (Female)
- Ruben Galvan (Male)
- Sandra Rosko (Female)
- Selena Gomez (Female)
- Sharon Gider (Female)
- Stacy Grimes (Female)
- Theresa Cole (Female)
- Uriel Rivera
- William Monk (Female)
- Yadira Ochoa (Female)
- Zenaida Mota (Female)
- Zolia Medina (Female)
- Alba Espinoza
- Alicia Siegel (Female)
- Carlos Romero (Male)
- Cesar Sanchez (Male)
- Delia Camacho (Female)
- Earl McDonald (Male)
- Eddie Brandow (Male)
- Elisa V. Barr (Female)
- Helen Hackett (Female)
- Jamie Sweeney
- Judith Anctil (Female)
- Karen Esparza (Female)
- Lesly Esparza (Female)
- Lorena Araujo (Female)
- Luis Albarran (Male)
- Melody Osoria (Female)
- Mike Angelini (Male)
- Mike Edmonson (Male)
- Molly Simmons (Female)
- Roberto Saenz (Male)
- Rogelio Ochoa (Male)
- Sherman Apple (Male)

- Timothy Teach (Male)
- Villami Taufa
- Yolanda Cohen (Female)
- Albert Velasco (Male)
- Andrew Collins (Male)
- Anilber Turcio
- Aurelia Zavala
- Brendan Grimes (Male)
- Carlos Escobar (Male)
- Carlos Jimenez (Male)
- Clara Camarena (Female)
- Darlyn Wallace
- Darrell Lawson (Male)
- Deena Laughlin (Female)
- Donald Gilliam (Male)
- Ediberto Valle (Male)
- Gladys Sanchez (Female)
- Grace Capinpin (Female)
- Guadalupe Chiu (Female)
- Gustavo Garcia (Male)
- Isabel Sanchez
- Jaime Barillas
- Jairo Bautista (Male)
- Jennifer Teach (Female)
- Johanna Melgar (Female)
- Jorge Espinoza (Male)
- Jose S. Mendez (Male)
- Joseph Pearson (Male)
- Kimberly Dimas (Female)
- Kimberly Shull (Female)
- Magali Barbosa
- Margarita Cruz (Female)
- Marilyn Barlow (Female)
- Monica Mayorga (Female)
- Paulette Ochoa (Female)
- Ricardo Franco (Male)
- Rosalinda Ruiz (Female)
- Serio Quintero (Male)
- Timothy Howard (Male)
- Toya K. Thomas (Female)
- Vanessa Walker (Female)
- Walter Wallace (Male)
- Anthony Guarino (Male)
- Carolyn Bateman (Female)
- Cecilia Collins (Female)
- Cristel Alcazar (Female)
- Daniella Furlan (Female)
- Daria Hernandez (Female)
- Dolores Nunnely (Female)
- Doraluz Escobar (Female)

- Dorothy Michael (Female)
- Edwin Maravilla (Male)
- Esther Gonzalez (Female)
- Freddy Maravilla (Male)
- Irma Gomez Leon (Female)
- Jennie Pomarico (Female)
- Jonathan Curtis (Male)
- Jose Valdovinos (Male)
- Martina Velasco (Female)
- Mary Ann Elenez (Female)
- Mary Beausoleil (Female)
- Michael Camacho (Male)
- Nancy Gutierrez (Female)
- Raymond Camacho (Male)
- Robert Alvillar (Male)
- Shirley Ramirez (Female)
- Silva Rodriguez
- Socorro Toscano (Female)
- Solares Cabrera
- Suzanne Aguilar (Female)
- Sylvia Martinez (Female)
- Vicante Soltero
- Victoria Leland (Female)
- Yasmin Machorro
- Arturo Hernandez (Male)
- Carlos Acastillo (Male)
- Carlos Sanmiguel (Male)
- Celestino Acosta (Male)
- David Beausoleil (Male)
- Eugenia Calderon (Female)
- Francis Portillo
- Gaudencio Zamora
- Gerardo Saavedra (Male)
- Gloria Sanmiguel (Female)
- Gonzalo Calderon (Male)
- Guillermo Santos (Male)
- Israel Rodriguez (Male)
- Jennifer Jackson (Female)
- Leonard Camarena (Male)
- Michael Anderson (Male)
- Mildred Bejarano (Female)
- Paul A. Sandoval (Male)
- Toni G. Dalstrom
- Adriana Hernandez (Female)
- Christina Jagers (Female)
- Claudio Hernandez (Male)
- Deborah D. Bowser (Female)
- Evangeline Lawson (Female)
- Fernanda Saavedra (Female)
- George Colon Ruiz (Male)

- Jacqueline Medina (Female)
- Kenneth Wassenaar (Male)
- Marcela Sanmiguel (Female)
- Mavis Schielderup (Female)
- Patricia Espinoza (Female)
- Ramon Ortega Chiu (Male)
- Rigoberto Esparza (Male)
- Stephanie Bernard (Female)
- Theresa Catamisan (Female)
- Toni G. Dahlstrom
- Yolanda Rodriguez (Female)
- Zeonon Villalobos
- Alejandro Martinez (Male)
- Alexander Figueroa (Male)
- Alexandria Cabrera (Female)
- Argentina Castillo
- Barbara Weinberger (Female)
- Charlotte Edmonson (Female)
- Dolfredo Catamisan (Male)
- Maria F. Rubalcava (Female)
- Sharlynn L. Galvan (Female)
- Wacharee Pinkerton
- Alejandra Hernandez (Female)
- Leena Sopharary Sea (Female)
- Manassavee Campbell
- Michelle Parviainen (Female)
- Rosa Isela Albarran (Female)
- Esperanza Villalobos (Female)
- Evangelina Rodriguez (Female)
- Noemi Santos Beltran (Female)
- Norma Elizabeth Pena (Female)
- Rodrigo Gomez Acosta (Male)
- Isabel Diron De Angel (Female)
- Jesus Sanchez Argueta (Male)
- Rosa Maria Colon Ruiz (Female)
- Maria Anjelica Herrera (Female)
- Rod Roderick Maldonado (Male)
- Rodrigo Mayorga Acosta (Male)
- Alberto Jorge Maravilla (Male)
- Robert Antonio De Angel (Male)
- Roberto Jose Mazariegos (Male)
- Julieta Orellana Sanchez (Female)

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- Shant A. Karnikian; Kabateck LLP; Los Angeles CA for Bill Cathey, William



Monk, Celestino Acosta, Rodrigo Gomez Acosta, Rodrigo Mayorga Acosta, Suzanne Aguilar, Luis Albarran, Rosa Isela Albarran, Cristel Alcazar, Robert Alvillar, Judith Anctil, Michael Anderson, Mike Angelini, Robert Antonio De Angel, Sherman Apple, Lorena Araujo, Maria Araujo, Hill Avila, Carla Ayala, Olvin Ayala, Paula Ayers, Magali Barbosa, Jaime Barillas, Marilyn Barlow, Elisa V. Barr, Carolyn Bateman, Jairo Bautista, David Beausoleil, Mary Beausoleil, Mildred Bejarano, Noemi Santos Beltran, Stephanie Bernard, Deborah D. Bowser, Eddie Brandow, Janet Buck, Alexandria Cabrera, Solares Cabrera, Eugenia Calderon, Gonzalo Calderon, Delia Camacho, Raymond Camacho, Clara Camarena, Leonard Camarena, Manassavee Campbell, Lisa Campo, Grace Capinpin, Argentina Castillo, Carlos Acastillo, Dolfredo Catamisan, Theresa Catamisan, Guadalupe Chiu, Ramon Ortega Chiu, Steve Cohen, Yolanda Cohen, Dunn Cole, Theresa Cole, Linda Colvin, Matt Cook, Margarita Cruz, Jonathan Curtis, Toni G. Dahlstrom, Toni G. Dalstrom, James Davis, Judith Davis, Rosa De Luna, Kimberly Dimas, Barbara Doty, Phil Doty, Jerilyn Dunn, Jesus Duran, Charlotte Edmonson, Mike Edmonson, Mary Ann Elenez, Carlos Escobar, Doraluz Escobar, Alba Espinoza, Jorge Espinoza, Patricia Espinoza, Alexander Figueroa, Ricardo Franco, Daniella Furlan, Ruben Galvan, Sharlynn L. Galvan, Gustavo Garcia, Maria Garcia, Jim Garcio, Sharon Gider, Leo Gilbert, Donald Gilliam, Isabel Diron De Angel, Romeo Giron, Hilda Gomez, Magali Gomez, Pedro Gomez, Selena Gomez, Esther Gonzalez, Mark Goodart, Brendan Grimes, Stacy Grimes, Anthony Guarino, Nancy Gutierrez, Helen Hackett, Chuck Harris, Adriana Hernandez, Alejandra Hernandez, Arturo Hernandez, Claudio Hernandez, Daria Hernandez, Maria Anjelica Herrera, Rocky Horton, Timothy Howard, Jennifer Jackson, Christina Jagers, Carlos Jimenez, Elmer Jones, Betty Kaiser, Mary Kelley, Nano Lackey, Roger Lackey, Nick Larizza, Deena Laughlin, Darrell Lawson, Evangeline Lawson, Victoria Leland, David Leon, Irma Gomez Leon, Miriam Licon, Jose Luis, Rod Roderick Maldonado, Freddy Maravilla, Edwin Maravilla, Alberto Jorge Maravilla, Alejandro Martinez, Sylvia Martinez, Alex May, Monica Mayorga, Roberto Jose Mazariegos, Earl McDonald, Jacqueline Medina, Zolia Medina, Ricky Meehan, Fidel Melara, Rosa Melara, Johanna Melgar, Jose S. Mendez, Dorothy Michael, Miley Cherie, Zenaida Mota, Otis Nabors, Dolores Nunnely, Ana Ochoa, Paulette Ochoa, Rogelio Ochoa, Yadira Ochoa, Jorge Osoria, Melody Osoria, Helen Owens, Michelle Parviainen, Joseph Pearson, June Pearson, Norma Elizabeth Pena, Irma Perez, Tomas Perez, John Perius, Judy Perius, Pam Phummala, Wacharee Pinkerton, Jennie Pomarico, Francis Portillo, Serio Quintero, Vima Rainer, Shirley Ramirez, Julie Reagan, Jose Rivas, Maria Rivas, Uriel Rivera, Israel Rodriguez, Evangelina Rodriguez, Silva Rodriguez, Yolanda Rodriguez, Carolyn Roe, Carlos Romero, Sandra Rosko, Maria F. Rubalcava, Antonio Ruiz, George Colon Ruiz, Rosa Maria Colon Ruiz, Jose Ruiz, Rosalinda Ruiz, Fernanda Saavedra, Gerardo Saavedra, Roberto Saenz, Ivan Salazar, Jesus Sanchez Argueta, Cesar Sanchez, Gladys Sanchez, Isabel Sanchez, Julieta Orellana Sanchez, Paul A. Sandoval, Carlos Sanmiguel, Gloria Sanmiguel, Marcela Sanmiguel, Irma Santana, Olga Santana, Guillermo Santos, Mavis Schielderup, Leena Sophary Sea, John Shull, Kimberly Shull, Alicia Siegel, Molly Simmons, Vicante Soltero, Phyllis Soto, Robert Soto, Gary Strahle, Jamie Sweeney, John Sweeney, Sela Taufu, Villami Taufu, Jennifer Teach, Timothy Teach, Toya K. Thomas, Juan Toscano, Socorro Toscano, Maria Tovar, Ray Trautman, Anilber Turcio, Jose Valdovinos, Ediberto Valle, Albert Velasco, Martina Velasco, Esperanza Villalobos, Zeonon Villalobos, Vanessa Walker, Darlyn Wallace, Walter Wallace, Kenneth Wassenaar, Ken Wassenaar, Barbara

- Weinberger, Hulani Wood, Pamela Young, Gaudencio Zamora, Aurelia Zavala, Michael Camacho, Maya Camacho, Andrew Collins, Cecilia Collins, Dawn Whitman, Rigoberto Esparza, Yasmin Machorro, Lesly Esparza, Karen Esparza, Natalie S. Pang; Kabateck LLP; Los Angeles CA for Bill Cathey, William Monk, Celestino Acosta, Rodrigo Gomez Acosta, Rodrigo Mayorga Acosta, Suzanne Aguilar, Luis Albarran, Rosa Isela Albarran, Cristel Alcazar, Robert Alvillar, Judith Anctil, Michael Anderson, Mike Angelini, Robert Antonio De Angel, Sherman Apple, Lorena Araujo, Maria Araujo, Hill Avila, Carla Ayala, Olvin Ayala, Paula Ayers, Magali Barbosa, Jaime Barillas, Marilyn Barlow, Elisa V. Barr, Carolyn Bateman, Jairo Bautista, David Beausoleil, Mary Beausoleil, Mildred Bejarano, Noemi Santos Beltran, Stephanie Bernard, Deborah D. Bowser, Eddie Brandow, Janet Buck, Alexandria Cabrera, Solares Cabrera, Eugenia Calderon, Gonzalo Calderon, Delia Camacho, Raymond Camacho, Clara Camarena, Leonard Camarena, Manassavee Campbell, Lisa Campo, Grace Capinpin, Argentina Castillo, Carlos Acastillo, Dolfredo Catamisan, Theresa Catamisan, Guadalupe Chiu, Ramon Ortega Chiu, Steve Cohen, Yolanda Cohen, Dunn Cole, Theresa Cole, Linda Colvin, Matt Cook, Margarita Cruz, Jonathan Curtis, Toni G. Dahlstrom, Toni G. Dalstrom, James Davis, Judith Davis, Rosa De Luna, Kimberly Dimas, Barbara Doty, Phil Doty, Jerilyn Dunn, Jesus Duran, Charlotte Edmonson, Mike Edmonson, Mary Ann Elenez, Carlos Escobar, Doraluz Escobar, Alba Espinoza, Jorge Espinoza, Patricia Espinoza, Alexander Figueroa, Ricardo Franco, Daniella Furlan, Ruben Galvan, Sharlynn L. Galvan, Gustavo Garcia, Maria Garcia, Jim Garcio, Sharon Gider, Leo Gilbert, Donald Gilliam, Isabel Diron De Angel, Romeo Giron, Hilda Gomez, Magali Gomez, Pedro Gomez, Selena Gomez, Esther Gonzalez, Mark Goodart, Brendan Grimes, Stacy Grimes, Anthony Guarino, Nancy Gutierrez, Helen Hackett, Chuck Harris, Adriana Hernandez, Alejandra Hernandez, Arturo Hernandez, Claudio Hernandez, Daria Hernandez, Maria Anjelica Herrera, Rocky Horton, Timothy Howard, Jennifer Jackson, Christina Jagggers, Carlos Jimenez, Elmer Jones, Betty Kaiser, Mary Kelley, Nano Lackey, Roger Lackey, Nick Larizza, Deena Laughlin, Darrell Lawson, Evangeline Lawson, Victoria Leland, David Leon, Irma Gomez Leon, Miriam Licon, Jose Luis, Rod Roderick Maldonado, Freddy Maravila, Edwin Maravilla, Alberto Jorge Maravilla, Alejandro Martinez, Sylvia Martinez, Alex May, Monica Mayorga, Roberto Jose Mazariegos, Earl McDonald, Jacqueline Medina, Zolia Medina, Ricky Meehan, Fidel Melara, Rosa Melara, Johanna Melgar, Jose S. Mendez, Dorothy Michael, Miley Cherie, Zenaida Mota, Otis Nabors, Dolores Nunnely, Ana Ochoa, Paulette Ochoa, Rogelio Ochoa, Yadira Ochoa, Jorge Osoria, Melody Osoria, Helen Owens, Michelle Parviainen, Joseph Pearson, June Pearson, Norma Elizabeth Pena, Irma Perez, Tomas Perez, John Perius, Judy Perius, Pam Phummala, Wacharee Pinkerton, Jennie Pomarico, Francis Portillo, Serio Quintero, Vima Rainer, Shirley Ramirez, Julie Reagan, Jose Rivas, Maria Rivas, Uriel Rivera, Israel Rodriguez, Evangelina Rodriguez, Silva Rodriguez, Yolanda Rodriguez, Carolyn Roe, Carlos Romero, Sandra Rosko, Maria F. Rubalcava, Antonio Ruiz, George Colon Ruiz, Rosa Maria Colon Ruiz, Jose Ruiz, Rosalinda Ruiz, Fernanda Saavedra, Gerardo Saavedra, Roberto Saenz, Ivan Salazar, Jesus Sanchez Argueta, Cesar Sanchez, Gladys Sanchez, Isabel Sanchez, Julieta Orellana Sanchez, Paul A. Sandoval, Carlos Sanmiguel, Gloria Sanmiguel, Marcela Sanmiguel, Irma Santana, Olga Santana, Guillermo Santos, Mavis Schielderup, Leena Sopharary Sea, John Shull, Kimberly Shull, Alicia Siegel, Molly Simmons, Vicante Soltero, Phyllis Soto, Robert Soto, Gary Strahle, Jamie Sweeney, John Sweeney, Sela Taufa, Villami Taufa, Jennifer Teach, Timothy Teach, Toya K. Thomas, Juan Toscano, Socorro Toscano, Maria

Tovar, Ray Trautman, Anilber Turcio, Jose Valdovinos, Ediberto Valle, Albert Velasco, Martina Velasco, Esperanza Villalobos, Zeonon Villalobos, Vanessa Walker, Darlyn Wallace, Walter Wallace, Kenneth Wassenaar, Ken Wassenaar, Barbara Weinberger, Hulani Wood, Pamela Young, Gaudencio Zamora, Aurelia Zavala, Michael Camacho, Maya Camacho, Andrew Collins, Cecilia Collins, Dawn Whitman, Rigoberto Esparza, Yasmin Machorro, Lesly Esparza, Karen Esparza

**Defendant(s):**

- City of Long Beach
- Friendly Village GP LLC
- Friendly Village of Long Beach
- Sierra Corporate Management Inc.
- Kort and Scott Financial Group LLC
- Friendly Village Mobile Home Assoc.
- Friendly Village MHP Associates L.P.
- Friendly Village Mobile Associates LP

**Defense Attorney(s):**

- Michael A. D'Andrea, Jr.; Bremer Whyte Brown & O'Meara, LLP; Woodland Hills, CA for Friendly Village GP LLC, Friendly Village MHP Associates L.P.
- Theresa H. Lazorisak; Cooksey, Toolen, Gage, Duffy & Woog; Costa Mesa, CA for Friendly Village GP LLC, Friendly Village MHP Associates L.P., Friendly Village Mobile Associates LP, Kort and Scott Financial Group LLC, Sierra Corporate Management Inc.
- Thomas F. Vandenburg; Wood Smith Henning & Berman LLP; Glendale, CA for Friendly Village GP LLC, Friendly Village MHP Associates L.P., Friendly Village Mobile Associates LP, Kort and Scott Financial Group LLC, Sierra Corporate Management Inc.
- Philip M. Woog; Cooksey, Toolen, Gage, Duffy & Woog; Costa Mesa, CA for Friendly Village GP LLC, Friendly Village MHP Associates L.P., Friendly Village Mobile Associates LP, Kort and Scott Financial Group LLC, Sierra Corporate Management Inc.
- None reported for City of Long Beach, Friendly Village Mobile Home Assoc., Friendly Village of Long Beach

**Facts:**

In 2013, the plaintiffs, residents of Friendly Village, a mobile home park in Long Beach, began complaining to the new park owners about problems with their mobile home property.

The mobile home park was built on land that was previously used as a dump for the city of Long Beach in the 1940s and that closed around 1945. The residents claimed that since the park was built in the 1970s, their properties were subjected to the shifting and sinking land, which caused sewage backups, electrical problems and structural damage to their mobile homes.

At the end of 2013, the real estate company of Kort & Scott Financial Group LLC, which was owned by California real estate investors Lee Kort and Michael Scott, negotiated the purchase of the mobile home park. It then assigned the right to purchase the park to Friendly Village MHP Associates L.P., which took title to the park on Feb. 6, 2014. During that time, the park was managed by Sierra Corporate Management Inc. However, the residents claimed that the new owners and managers failed to make any repairs, remedies or otherwise address their complaints of property damage.

Plaintiffs consisting of almost 150 families sued the city of Long Beach; Kort and Scott Financial Group LLC; Sierra Corporate Management Inc.; and multiple Friendly Village entities, including Friendly Village GP LLC, Friendly Village MHP Associates L.P., Friendly Village Mobile Associates LP, Friendly Village Mobile Home Assoc. and Friendly Village of Long Beach. The plaintiffs brought claims of trespass, breach of warranty of habitability, breach of the covenant of quiet enjoyment, failure to maintain, negligence, nuisance, breach of contract, unfair business practices, retaliatory eviction, and financial elder abuse. They specifically alleged that the ownership entities and their related companies that managed and operated the mobile home park were negligent for failing to repair and maintain the park to keep livable conditions for the residents.

The city and Friendly Village Mobile Associates LP settled out of the case. Friendly Village Mobile Home Assoc. and Friendly Village of Long Beach were also let out of the case. As a result, the matter proceeded to a trial for the first group of 31 families, which commenced on Sept. 11, 2018 against Friendly Village GP, Friendly Village MHP Associates, Kort and Scott Financial Group, and Sierra Corporate Management only. However, Friendly Village GP LLC and Friendly Village MHP Associates filed for bankruptcy mid-trial, in October 2018, but the bankruptcy court lifted the automatic stay and ruled that the civil trial could proceed against the defendants.

Plaintiffs' counsel contended that when the city sold the site to be developed into a mobile home park, it issued a covenant that runs with the land that required all subsequent owners to regularly level the land as necessary. Counsel also contended that at the time of purchase, Friendly Village GP, Friendly Village MHP Associates, Kort and Scott Financial Group, and Sierra Corporate Management were aware that the park was built atop an old landfill and that it was prone to differential settlement. Plaintiffs' counsel argued that the defendants failed to formulate a plan to remedy or maintain the mobile home park, or address the inevitable issues that were caused by the degradation of the material in the landfill. Counsel also argued that even though the defendants were aware of the conditions and need for repairs, they failed to do any and, instead, raised rents while allowing the park and its infrastructure to fall into disrepair. In addition, plaintiff's counsel argued that Friendly Village GP, Friendly Village MHP Associates, Kort and Scott Financial Group, and Sierra Corporate Management were alter egos of each other because they were part of a single enterprise owned by Lee Kort and Michael Scott, who owned and operated nearly 40 mobile home parks in California.

Defense counsel denied the plaintiffs' allegations and contended that the residents knew of the mobile home park's issues when they signed their lease agreements to live there.

**Injury:**

The plaintiffs sought recovery of \$200,000 in economic damages for each of the 31 families, along with \$215,000 in noneconomic damages for each of the 55 individual residents involved in this first trial. They also sought recovery of compensatory and punitive damages for the defendants' alleged violation of the Mobilehome Residency Law due to the defendants raising their rent payments while allowing the mobile home park, situated on top of a landfill, to fall into a state of despair as it sank into the ground.

Defense counsel denied the plaintiffs' damages allegations.

**Result:** The jury found for the plaintiffs. It determined that the 55 individual plaintiffs' damages totaled \$39,702,667, including \$5,565,156 in total compensatory damages and \$34,137,511 in punitive damages. Of the total punitive damages award, \$3,440,212 was against Friendly Village MHP Associates, \$3,440,212 was against Friendly Village GP, \$8,600,521 was against Sierra Corporate Management, and \$18,656,566 was against Kort and Scott Financial Group.

**Robert Alvillar**

\$201,701 Personal Injury: compensatory damages

\$66,234 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$66,234 Personal Injury: punitive damages against Friendly Village GP LLC

\$165,585 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$364,287 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Michael Anderson**

\$206,826 Personal Injury: compensatory damages

\$79,002 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$79,002 Personal Injury: punitive damages against Friendly Village GP LLC

\$197,505 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$434,511 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Jesus Sanchez Argueta**

\$118,663 Personal Injury: compensatory damages

\$79,002 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$79,002 Personal Injury: punitive damages against Friendly Village GP LLC

\$197,505 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$434,511 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Carla Ayala**

\$104,913 Personal Injury: compensatory damages

\$53,466 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$133,665 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$294,063 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Olvin Ayala**

\$104,913 Personal Injury: compensatory damages

\$53,466 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$53,466 Personal Injury: punitive damages against Friendly Village GP LLC

\$133,665 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$294,063 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**David Beausoleil**

\$102,413 Personal Injury: compensatory damages

\$53,466 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$53,466 Personal Injury: punitive damages against Friendly Village GP LLC

\$133,665 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$294,063 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Mary Beausoleil**

\$102,413 Personal Injury: compensatory damages

\$53,466 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$53,466 Personal Injury: punitive damages against Friendly Village GP LLC

\$133,665 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$294,063 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Noemi Santos Beltran**

\$110,913 Personal Injury: compensatory damages

\$104,538 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$104,538 Personal Injury: punitive damages against Friendly Village GP LLC

\$261,345 Personal Injury: punitive damages against Sierra Corporate Management Inc.

### **Alexandria Cabrera**

\$136,163 Personal Injury: compensatory damages

\$130,074 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$130,074 Personal Injury: punitive damages against Friendly Village GP LLC

\$325,185 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$715,407 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

### **Solares Cabrera**

\$136,163 Personal Injury: compensatory damages

\$130,074 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$130,074 Personal Injury: punitive damages against Friendly Village GP LLC

\$325,185 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$715,407 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

### **Delia Camacho**

\$116,038 Personal Injury: compensatory damages

\$66,234 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$66,234 Personal Injury: punitive damages against Friendly Village GP LLC

\$165,585 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$364,287 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

### **Maya Camacho**

\$9,000 Personal Injury: compensatory damages

\$27,930 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$27,930 Personal Injury: punitive damages against Friendly Village GP LLC

\$69,825 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$153,615 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

\$9,000 Personal Injury: compensatory damages

\$27,930 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$27,930 Personal Injury: punitive damages against Friendly Village GP LLC

\$69,825 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$153,615 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Raymond Camacho**

\$116,038 Personal Injury: compensatory damages

\$66,234 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$66,234 Personal Injury: punitive damages against Friendly Village GP LLC

\$165,585 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$364,287 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Andrew Collins**

\$10,000 Personal Injury: compensatory damages

\$30,954 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$30,954 Personal Injury: punitive damages against Friendly Village GP LLC

\$77,385 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$170,247 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Cecilia Collins**

\$5,214 Personal Injury: compensatory damages

\$16,170 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$16,170 Personal Injury: punitive damages against Friendly Village GP LLC

\$40,425 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$88,935 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Linda Colvin**

\$190,826 Personal Injury: compensatory damages



\$79,002 Personal Injury: punitive damages against Friendly Village GP LLC

\$197,505 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$434,511 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Kimberly Dimas**

\$1,818 Personal Injury: compensatory damages

\$5,628 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$5,628 Personal Injury: punitive damages against Friendly Village GP LLC

\$14,070 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$30,954 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Barbara Doty**

\$122,413 Personal Injury: compensatory damages

\$104,538 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$104,538 Personal Injury: punitive damages against Friendly Village GP LLC

\$261,345 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$574,959 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Phil Doty**

\$122,413 Personal Injury: compensatory damages

\$104,538 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$104,538 Personal Injury: punitive damages against Friendly Village GP LLC

\$261,345 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$574,959 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Mary Ann Elenez**

\$185,826 Personal Injury: compensatory damages

\$79,002 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$197,505 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$434,511 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Karen Esparza**

\$3,318 Personal Injury: compensatory damages

\$10,290 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$10,290 Personal Injury: punitive damages against Friendly Village GP LLC

\$25,725 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$56,595 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Lesly Esparza**

\$3,318 Personal Injury: compensatory damages

\$10,290 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$10,290 Personal Injury: punitive damages against Friendly Village GP LLC

\$25,725 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$56,595 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Rigoberto Esparza**

\$91,937 Personal Injury: compensatory damages

\$29,106 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$29,106 Personal Injury: punitive damages against Friendly Village GP LLC

\$72,765 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$160,083 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Alba Espinoza**

\$113,663 Personal Injury: compensatory damages

\$79,002 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$79,002 Personal Injury: punitive damages against Friendly Village GP LLC

\$197,505 Personal Injury: punitive damages against Sierra Corporate Management Inc.

**Jorge Espinoza**

\$113,663 Personal Injury: compensatory damages

\$79,002 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$79,002 Personal Injury: punitive damages against Friendly Village GP LLC

\$197,505 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$434,511 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Gustavo Garcia**

\$103,947 Personal Injury: compensatory damages

\$65,142 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$65,142 Personal Injury: punitive damages against Friendly Village GP LLC

\$162,855 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$358,281 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Maria Garcia**

\$103,947 Personal Injury: compensatory damages

\$65,142 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$65,142 Personal Injury: punitive damages against Friendly Village GP LLC

\$162,855 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$358,281 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Romeo Giron**

\$204,966 Personal Injury: compensatory damages

\$91,770 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$91,770 Personal Injury: punitive damages against Friendly Village GP LLC

\$229,425 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$504,735 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

\$9,000 Personal Injury: compensatory damages

\$27,930 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$27,930 Personal Injury: punitive damages against Friendly Village GP LLC

\$69,825 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$153,615 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Daria Hernandez**

\$25,818 Personal Injury: compensatory damages

\$5,628 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$5,628 Personal Injury: punitive damages against Friendly Village GP LLC

\$14,070 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$30,954 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Mary Kelley**

\$32,630 Personal Injury: compensatory damages

\$11,760 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$11,760 Personal Injury: punitive damages against Friendly Village GP LLC

\$29,400 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$64,680 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Nano Lackey**

\$94,663 Personal Injury: compensatory damages

\$27,930 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$27,930 Personal Injury: punitive damages against Friendly Village GP LLC

\$69,825 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$153,615 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Roger Lackey**

\$94,663 Personal Injury: compensatory damages

\$27,930 Personal Injury: punitive damages against Friendly Village GP LLC

\$69,825 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$153,615 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Deena Laughlin**

\$52,371 Personal Injury: compensatory damages

\$24,388 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$24,388 Personal Injury: punitive damages against Friendly Village GP LLC

\$60,970 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$134,134 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Yasmin Machorro**

\$91,937 Personal Injury: compensatory damages

\$29,106 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$29,106 Personal Injury: punitive damages against Friendly Village GP LLC

\$72,765 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$160,083 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**William Monk**

\$184,576 Personal Injury: compensatory damages

\$53,466 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$53,466 Personal Injury: punitive damages against Friendly Village GP LLC

\$133,656 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$29,463 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Helen Owens**

\$58,877 Personal Injury: compensatory damages

\$32,830 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$82,075 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$180,565 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Francis Portillo**

\$110,913 Personal Injury: compensatory damages

\$104,538 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$104,538 Personal Injury: punitive damages against Friendly Village GP LLC

\$261,345 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$574,959 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Uriel Rivera**

\$92,397 Personal Injury: compensatory damages

\$24,010 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$24,010 Personal Injury: punitive damages against Friendly Village GP LLC

\$60,025 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$132,055 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Evangelina Rodriguez**

\$92,397 Personal Injury: compensatory damages

\$24,010 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$24,010 Personal Injury: punitive damages against Friendly Village GP LLC

\$60,025 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$132,055 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Israel Rodriguez**

\$26,946 Personal Injury: compensatory damages

\$20,930 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$20,930 Personal Injury: punitive damages against Friendly Village GP LLC

\$52,325 Personal Injury: punitive damages against Sierra Corporate Management Inc.

**Silva Rodriguez**

\$128,413 Personal Injury: compensatory damages

\$104,538 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$104,538 Personal Injury: punitive damages against Friendly Village GP LLC

\$261,345 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$574,959 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Ivan Salazar**

\$128,413 Personal Injury: compensatory damages

\$104,538 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$104,538 Personal Injury: punitive damages against Friendly Village GP LLC

\$261,345 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$574,959 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Gladys Sanchez**

\$118,663 Personal Injury: compensatory damages

\$79,002 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$79,002 Personal Injury: punitive damages against Friendly Village GP LLC

\$197,505 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$434,511 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Irma Santana**

\$111,913 Personal Injury: compensatory damages

\$104,538 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$104,538 Personal Injury: punitive damages against Friendly Village GP LLC

\$261,345 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$574,959 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

\$111,913 Personal Injury: compensatory damages

\$104,538 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$104,538 Personal Injury: punitive damages against Friendly Village GP LLC

\$261,345 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$574,959 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Alicia Siegel**

\$196,826 Personal Injury: compensatory damages

\$79,002 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$79,002 Personal Injury: punitive damages against Friendly Village GP LLC

\$197,505 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$434,511 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Vicante Soltero**

\$33,476 Personal Injury: compensatory damages

\$27,930 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$27,930 Personal Injury: punitive damages against Friendly Village GP LLC

\$69,825 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$153,615 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Jamie Sweeney**

\$34,381 Personal Injury: compensatory damages

\$24,150 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$24,150 Personal Injury: punitive damages against Friendly Village GP LLC

\$60,375 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$132,825 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**John Sweeney**

\$34,381 Personal Injury: compensatory damages



\$24,150 Personal Injury: punitive damages against Friendly Village GP LLC

\$60,375 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$132,825 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Jennifer Teach**

\$185,663 Personal Injury: compensatory damages

\$200,000 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$200,000 Personal Injury: punitive damages against Friendly Village GP LLC

\$500,000 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$1,100,000 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Timothy Teach**

\$185,663 Personal Injury: compensatory damages

\$200,000 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$200,000 Personal Injury: punitive damages against Friendly Village GP LLC

\$500,000 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$1,100,000 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Dawn Whitman**

\$166,761 Personal Injury: compensatory damages

\$28,140 Personal Injury: punitive damages against Friendly Village MHP Associates L.P.

\$28,140 Personal Injury: punitive damages against Friendly Village GP LLC

\$70,350 Personal Injury: punitive damages against Sierra Corporate Management Inc.

\$154,770 Personal Injury: punitive damages against Kort and Scott Financial Group LLC

**Trial Information:**

**Judge:** Carolyn B. Kuhl

**Trial Length:** 10 weeks

**Trial  
Deliberations:** 7 days

**Post Trial:** Defense counsel has moved to reduce or eliminate the punitive damages awards.

**Editor's  
Comment:** This report is based on information that was provided by plaintiffs' counsel and counsel of Friendly Village GP LLC, Friendly Village MHP Associates L.P., Friendly Village Mobile Associates LP, Kort and Scott Financial Group LLC, and Sierra Corporate Management. The remaining defendants' counsel were not asked to contribute.

**Writer** Priya Idiculla

## Plaintiff claimed disabling injuries after struck by police vehicle

**Type:** Verdict-Plaintiff

**Amount:** \$2,567,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *head* - concussion
- *knee* - meniscus, tear
- *neck*
- *brain* - traumatic brain injury
- *other* - lumbar facet injury
- *mental/psychological* - post-concussion syndrome

**Case Type:**

- *Motor Vehicle* - Rear-ender; Multiple Vehicle
- *Government* - Municipalities

**Case Name:** Jose Jesus Barragan v. City of South Gate and Aaron Moses Sosa, No. BC617720

**Date:** November 16, 2018

**Plaintiff(s):**

- Jose Jesus Barragan (Male, 57 Years)

**Plaintiff Attorney(s):**

- Brian J. Breiter; Law Offices of Brian J. Breiter; Los Angeles CA for Jose Jesus Barragan
- Timothy R. McCormick; Law Offices of Brian J. Breiter; Los Angeles CA for Jose Jesus Barragan
- Chance J. Pardon; Law Offices of Brian J. Breiter; Los Angeles CA for Jose Jesus Barragan

**Plaintiff Expert  
(s):**

- Jon B. Landerville M.S., P.E.; Accident Reconstruction; Torrance, CA called by: Brian J. Breiter, Timothy R. McCormick, Chance J. Pardon
- Rami Hashish Ph.D., D.P.T.; Biomechanics; Hermosa Beach, CA called by: Brian J. Breiter, Timothy R. McCormick, Chance J. Pardon
- Hyman Gross M.D.; Neurology; Santa Monica, CA called by: Brian J. Breiter, Timothy R. McCormick, Chance J. Pardon
- Khyber Zaffarkhan D.O.; Life Care Planning; Newport Beach, CA called by: Brian J. Breiter, Timothy R. McCormick, Chance J. Pardon
- Deborah Cresswell Ph.D.; Psychology/Counseling; Los Angeles, CA called by: Brian J. Breiter, Timothy R. McCormick, Chance J. Pardon
- Matthew J. Enna M.D.; Orthopedic Surgery; Beverly Hills, CA called by: Brian J. Breiter, Timothy R. McCormick, Chance J. Pardon
- Jennifer L. Polhemus M.A.; Economics; Santa Monica, CA called by: Brian J. Breiter, Timothy R. McCormick, Chance J. Pardon

**Defendant(s):**

- Aaron Moses Sosa
- City of South Gate

**Defense  
Attorney(s):**

- Raul F. Salinas; AlvaradoSmith; Los Angeles, CA for City of South Gate
- None reported for Aaron Moses Sosa
- Rick D. Navarrette; AlvaradoSmith; Los Angeles, CA for City of South Gate

**Defendant  
Expert(s):**

- John C. Gardiner Ph.D.; Biomechanical; Los Angeles, CA called by: for Raul F. Salinas, Rick D. Navarrette
- Brian F. King M.D.; Neuroradiology; Santa Monica, CA called by: for Raul F. Salinas, Rick D. Navarrette
- Diana Pelletier M.S., C.P.D.M.; Vocational Rehabilitation; Lake Forest, CA called by: for Raul F. Salinas, Rick D. Navarrette
- Stacy A. Kinsel C.P.A.; Economics; Pasadena, CA called by: for Raul F. Salinas, Rick D. Navarrette
- Vivian Alvarez Ph.D.; Psychology/Counseling; Los Angeles, CA called by: for Raul F. Salinas, Rick D. Navarrette
- Michael E. Gold M.D.; Neurology; Santa Monica, CA called by: for Raul F. Salinas, Rick D. Navarrette
- Richard C. Rosenberg M.D.; Orthopedic Surgery; Tarzana, CA called by: for Raul F. Salinas, Rick D. Navarrette

**Facts:**

On April 27, 2015, plaintiff Jesus Barragan, 57, a union-affiliated high-rise window washer, was turning into his driveway, in the city of South Gate, when his vehicle was struck on the right, rear quarter-panel by an on-duty police officer, Aaron Sosa, who was driving a marked police vehicle. Barragan claimed injuries to his head, right knee, neck and back.

Barragan sued Sosa and Sosa's employer, the city of South Gate. Barragan alleged that Sosa was negligent in the operation of the police vehicle and that the city was vicariously liable for Sosa's actions during the course and scope of his employment.

Sosa was dismissed with prejudice prior to the commencement of trial.

The city agreed that Sosa was acting within the course and scope of his employment at the time of the incident and admitted liability prior to trial.

**Injury:**

Barragan claimed he sustained traumatic brain injury due to axonal shearing, as a result of a coup contrecoup injury, which is a brain injury that occurs at the site of trauma as well as at the opposite side of the brain. He also claimed he sustained a torn meniscus in his right knee and injuries to his neck and lower back, including facet joint and disc injuries. Barragan was taken from the scene of the crash by ambulance and brought to a hospital. He ultimately underwent three years of treatment with neurologists and received a recommendation for arthroscopic surgery on his right knee.

Barragan claimed that he suffers from persistent post-concussion syndrome and that he was placed completely off of work as a high-rise window washer because of his post-concussion symptoms. He also claimed that he requires lifetime care for his traumatic brain injury, including psychiatric treatment for depression and post-traumatic stress disorder; attendant care by an licensed vocational nurse; cervical branch blocks; pain management therapy; a sleep study; surgery for his knee; and "transportation" for the rest of his life. The cost of Barragan's life care plan ranged from \$1.7 million to \$2.1 million.

Barragan sought recovery of future medical expenses, past lost earnings, future lost earnings and earning capacity, and damages for his past and future pain and suffering. (He waived his claims for past medical costs and expenses.)

Defense counsel disputed the full scope, nature and extent of Barragan's alleged damages. Specifically, defense counsel disputed Barragan's traumatic brain injury and denied that the meniscus tear of the right knee was caused by the incident.

Defense counsel contended that Barragan's life care plan cost of up to \$2.1 million was excessive, unreasonable and unwarranted. Counsel also contended that Barragan sole, documented work restriction was that he could not work "at heights" due to a risk of falling, but that Barragan had the skills and was physically and mentally capable of working in other similar types of jobs. However, defense counsel did not dispute that Barragan suffered from depression as a result of the accident.

**Result:**

The jury determined that Barragan's damages totaled \$2,567,000.

**Jose Jesus Barragan**

\$376,000 Personal Injury: Future Medical Cost

\$91,000 Personal Injury: Past Lost Earnings Capability

\$200,000 Personal Injury: FutureLostEarningsCapability

\$600,000 Personal Injury: Past Pain And Suffering

\$1,300,000 Personal Injury: Future Pain And Suffering

**Trial Information:**

**Judge:** Timothy P. Dillon

**Trial Length:** 9 days

**Trial Deliberations:** 2.5 hours

**Jury Vote:** 12-0

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

**Writer** Priya Idiculla

## Patient claimed dentist negligently placed implants

**Type:** Arbitration

**Amount:** \$175,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):** • *dental - tooth, loss*

**Case Type:** • *Medical Malpractice - Dentist; Oral Surgery; Surgical Error*

**Case Name:** Edik Abgaryan v. Dabbagh Kevork D.D.S. and Does 1 to 10, No. BC505498

**Date:** November 15, 2018

**Plaintiff(s):** • Edik Abgaryan (Male, 52 Years)

**Plaintiff Attorney(s):** • Richard Berberian; Berberian Ain LLP; Glendale CA for Edik Abgaryan

**Plaintiff Expert (s):** • Dennis G. Smiler D.D.S.; Maxillofacial Surgery; Encino, CA called by: Richard Berberian

**Defendant(s):** • Kyork Dabbagh

**Defense Attorney(s):** • Vincent P. D'Angelo; Wilson, Elser, Moskowitz, Edelman & Dicker; Los Angeles, CA for Kyork Dabbagh

**Defendant Expert(s):** • J. Thomas Chess D.D.S.; Dentistry/Odontology; South Pasadena, CA called by: for Vincent P. D'Angelo

**Facts:**

On April 4, 2012, plaintiff Edik Abgaryan, 52, underwent a dental procedure, during which Dr. Kyork Dabbagh, a dentist in Los Angeles, extracted the upper teeth and placed seven implants.

Abgaryan first presented to Dabbagh on March 27, 2012, seeking to have a fixed prosthesis for his upper jaw. The initial procedure was performed approximately one week later, during which Dabbagh placed the implants in the upper jaw. Abgaryan claimed the implants were useless, as they would not allow for either a fixed or removable prosthesis.

Abgaryan sued Dabbagh, who was initially erroneously sued as Dabbagh Kevork. Abgaryan alleged that Dabbagh negligently placed the implants and that Dabbagh's actions constituted dental malpractice. The matter proceeded to a binding arbitration.

Abgaryan claimed that Dabbagh failed to have a coherent treatment plan and failed to make use of a CT scan that was taken prior to the surgery. He claimed that as a result, Dabbagh placed the implants too close together and at unacceptable angles so that they could not accommodate a fixed prosthesis. Abgaryan also claimed the implants were placed without consideration of where they could support the aesthetics and function of the prosthesis.

Dabbagh claimed that his care and treatment of Abgaryan was within the standard of care and that he did not cause Abgaryan any injury or damage. He also claimed that Abgaryan was unreasonable and abandoned the treatment plan before the planned work could be completed.

**Injury:**

At the time of the arbitration, Abgaryan still had the implants in his upper jaw, and he did not have a prosthesis during the pendency of the litigation. Thus, he had no teeth to chew. Abgaryan claimed that he would have to have the implants surgically removed.

Abgaryan sought recovery of damages for the one year's time the process would take to remove the implants and have new ones placed so that he could have a fixed prosthesis. He also sought recovery of damages for his emotional distress.

Defense counsel asserted that Abgaryan failed to mitigate his damages.

**Result:**

Arbitrator Timothy Corcoran, of Redlands Arbitration and Mediation Services Inc., determined that Abgaryan's damages totaled \$175,000.

**Edik Abgaryan**

\$150,000 Personal Injury: noneconomic damages

\$25,000 Personal Injury: economic damages

**Trial Information:**



**Judge:** Timothy J. Corcoran

**Demand:** \$174,999.99 (C.C.P. § 998)

**Offer:** None

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

**Writer** Priya Idiculla

## Pipe distributor failed to warn about asbestos dangers: plaintiff

**Type:** Verdict-Plaintiff

**Amount:** \$30,270,501

**Actual Award:** \$22,213,704

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *cancer* - lung; mesothelioma
- *pulmonary/respiratory* - respiratory

**Case Type:**

- *Toxic Torts* - Asbestos
- *Products Liability* - Asbestos; Design Defect; Failure to Warn

**Case Name:** Norris Morgan and Lori Morgan v. CBS Corporation, f/k/a Viacom Inc., successor by merger with CBS Corporation, f/k/a Westinghouse Electric Corporation; Certain-Teed Corporation; Crown Cork & Seal Company, Inc., individually and as successor-in-interest to Mundet Cork Corporation; Familian Corp; Ferguson Enterprises, Inc., as successor-in-interest to P.E. O'Hair & Co. and Westburne Supply Inc.; Ford Motor Company; Foster Wheeler Energy Corporation; General Electric Company; Grinnell LLC; Highland Stucco and Lime Products Inc.; Industrial Holdings Corporation f/k/a The Carborundum Company; Ingersoll Rand Company; John Crane Inc.; J-M Manufacturing Company, Inc.; Keenan Properties, Inc., f/k/a Keenan Pipe & Supply and Keenan Supply; Kelly Moore Paint Company Inc.; Metalclad Insulation LLC; Premix-Marbletite Manufacturing Co.; Soco West, Inc.; Union Carbide Corporation; and Does 1-750 Inclusive, No. BC695605; JCCP4674

**Date:** November 15, 2018

**Plaintiff(s):**

- Lori Morgan
- Norris Morgan (Male, 64 Years)

**Plaintiff  
Attorney(s):**

- Scott Peebles; Simmons Hanly Conroy LLC; San Francisco CA for Lori Morgan, Norris Morgan
- Robert Woodward; Simmons Hanly Conroy LLC; Alton IL for Lori Morgan, Norris Morgan

**Plaintiff Expert  
(s):**

- Barry R. Horn M.D.; Pulmonology; Oakland, CA called by: Scott Peebles, Robert Woodward
- Robert Johnson; Economics; Los Altos, CA called by: Scott Peebles, Robert Woodward
- Charles W. Ay; Materials; Garden Grove, CA called by: Scott Peebles, Robert Woodward
- Gregory Wolgamot M.D.; Pathology; Bellingham, WA called by: Scott Peebles, Robert Woodward
- Richard Cohen M.D.; Asbestos; Palo Alto, CA called by: Scott Peebles, Robert Woodward
- William M. Ewing C.I.H.; Industrial Hygiene; Kennesaw, GA called by: Scott Peebles, Robert Woodward

**Defendant(s):**

- CBS Corp.
- Amcord Inc.
- Supro Corp.
- Conwed Corp.
- Grinnell LLC
- Familian Corp
- Ford Motor Co.
- Parex USA Inc.
- Soco West Inc.
- Calportland Co.
- John Crane Inc.
- Certain-Teed Corp.
- Ingersoll Rand Co.
- Simpson Timber Co.
- Union Carbide Corp.
- General Electric Co.
- Keenan Properties Inc.
- Metalclad Insulation LLC
- Ferguson Enterprises Inc.
- Industrial Holdings Corp.
- Crown Cork & Seal Co. Inc.
- J-M Manufacturing Co. Inc.
- Kelly Moore Paint Co. Inc.
- Foster Wheeler Energy Corp.
- Premix-Marbletite Manufacturing Co.
- Highland Stucco and Lime Products Inc.

**Defense  
Attorney(s):**

- Kurt T. Putnam; Walsworth - WFBM, LLP; San Francisco, CA for J-M Manufacturing Co. Inc.
- Helen M. Luetto; Walsworth - WFBM, LLP; Orange, CA for J-M Manufacturing Co. Inc.
- None reported for Keenan Properties Inc., Amcord Inc., Calportland Co., CBS Corp., Certain-Teed Corp., Conwed Corp., Crown Cork & Seal Co. Inc., Familian Corp, Ferguson Enterprises Inc., Ford Motor Co., Foster Wheeler Energy Corp., General Electric Co., Grinnell LLC, Highland Stucco and Lime Products Inc., Industrial Holdings Corp., Ingersoll Rand Co., John Crane Inc., Kelly Moore Paint Co. Inc., Metalclad Insulation LLC, Parex USA Inc., Premix-Marbletite Manufacturing Co., Simpson Timber Co., Soco West Inc., Supro Corp., Union Carbide Corp.

**Defendant  
Expert(s):**

- Kyle B. Dotson C.I.H.; Industrial Hygiene; Carmel, CA called by: for Kurt T. Putnam, Helen M. Luetto
- Kathy S. Jones C.I.H.; Industrial Hygiene; Los Alamitos, CA called by: for Kurt T. Putnam, Helen M. Luetto
- Laura Fuchs Dolan M.B.A.; Economics; San Juan Capistrano, CA called by: for Kurt T. Putnam, Helen M. Luetto

**Facts:**

In December 2017, plaintiff Norris Morgan, 64, a part-time construction coordinator, learned that he was suffering from pleural mesothelioma, which is an aggressive, incurable cancer that develops on the lining of the lungs and that often stems from exposure to asbestos.

Between 1983 and 1986, Morgan was a construction superintendent on various sites that utilized asbestos-cement (AC) pipes sold by J-M Manufacturing Co. Inc. As part of the normal construction process, plumbers on the job sites would cut the pipes with power saws to fit them into their final destination. Morgan claimed that his mesothelioma stemmed from his inhalation of asbestos fibers that escaped the pipes during that cutting process.

Morgan sued J-M Manufacturing, along with other companies that were believed to have distributed, manufactured and/or sold asbestos-containing products to which he was allegedly exposed. Morgan alleged that the products were defectively designed and that the defendants negligently failed to provide warnings that disclosed the hazards of asbestos.

Morgan's complaint was coordinated with hundreds of other cases that were pending in different counties that shared common questions of fact or law regarding direct and indirect exposure, and involved many of the same defendants. The cases were joined in one court, the Los Angeles County Superior Court. Many of those cases were put on hold while awaiting a decision regarding an appellate case involving indirect exposure.

Morgan settled claims against some of the defendants and discontinued claims against other defendants. Morgan's complaint ultimately proceeded to trial against J-M Manufacturing and another defendant, Familian Corp. However, Familian Corp settled the claims against it for undisclosed terms shortly before the trial's closing arguments. Thus, the jury only considered the claims against J-M Manufacturing.

Morgan's counsel argued that J-M Manufacturing began selling AC pipes in 1983 when it

purchased the pipe division of Johns Manville, a company that produced numerous asbestos-containing products. By that time, Johns Manville had faced multiple lawsuits involving asbestos-related illnesses. Morgan's counsel pointed to numerous studies that found a link between asbestos and mesothelioma. Based on those studies, counsel argued that J-M Manufacturing knew about the dangers of asbestos from the moment it first began selling AC pipes.

Morgan's counsel contended that J-M Manufacturing was also producing safer, asbestos-free PVC pipes and that J-M Manufacturing could have just sold the PVC pipes instead of selling the AC pipes. Counsel argued that had J-M Manufacturing just sold the PVC pipes, it would have prevented its customers from being unnecessarily exposed to asbestos. According to Morgan's counsel, there was no safe way to use AC pipes.

Morgan's counsel further contended that J-M Manufacturing never made any attempt to warn consumers about the dangers of the asbestos in its AC pipes. Counsel contended that J-M Manufacturing had signs in its plants warning employees about asbestos exposure, so counsel questioned why those same warnings were not present on the AC pipes.

J-M Manufacturing's counsel maintained that the AC pipes did contain a warning stating that the asbestos dust is hazardous to breathe. Counsel also argued that Morgan and others who worked around AC pipes knew or should have known that a respirator was necessary to protect them from the dust. Counsel further argued that workers on construction sites should have used snap cutters to cut the pipes, instead of power saws, as it would have released less asbestos dust. In addition, counsel argued that Morgan's illness was caused by asbestos-containing products that were distributed, manufactured and/or sold by other companies.

In response, Morgan's counsel argued that J-M Manufacturing never produced any objective evidence to establish that J-M Manufacturing's alleged warning was provided and that if the warning existed, it was insufficient because it did not mention that asbestos can cause cancer. Morgan's counsel further argued that J-M Manufacturing did not tell consumers to wear a respirator or use snap cutters, even though it knew the industry standard was to use power saws to cut AC pipes.

**Injury:**

Norris Morgan was diagnosed with pleural mesothelioma in December 2017. A short time later, he was placed in home hospice care. He has not received any chemotherapy or other treatment, and his condition has continued to decline. At the time of his diagnosis, he was given approximately one year to live.

Morgan sought recovery of approximately \$1 million in economic damages for his loss of earning capacity, loss of Social Security benefits, and loss of household services. He also sought recovery of damages for his past and future pain and suffering. He additionally sought punitive damages, alleging that J-M Manufacturing acted with fraud, malice and oppression. His wife, Lori Morgan, filed a derivative claim seeking recovery for her loss of consortium.

The defense's expert economist opined that Mr. Morgan was only entitled to around \$500,000 in economic damages.

J-M Manufacturing disputed the punitive damages award by arguing that J-M Manufacturing's actions did not rise to the level of being malicious, fraudulent or oppressive.

**Result:**

The jury found that Mr. Morgan was exposed to an asbestos-containing product that was distributed, supplied or sold by J-M Manufacturing. It also found that J-M Manufacturing was negligent and that J-M Manufacturing's negligence was a substantial factor in causing Mr. Morgan's illness. The jury further found that the design of the AC pipe was defective and that the pipe presented a substantial danger to persons using or misusing the product in an intended or reasonably foreseeable way.

The jury additionally found that J-M Manufacturing failed to warn users about the dangers of AC pipes and that both the design defect and the failure to warn were substantial factors in causing Mr. Morgan's illness.

The jury determined that J-M Manufacturing was 45 percent liable for Mr. Morgan's illness and that Mr. Morgan himself was 12 percent liable. The remaining liability percentage was assigned to other entities and employers believed to have distributed or supplied asbestos, including some of the defendants who were released from the lawsuit. In addition, the jury determined that J-M Manufacturing acted with malice, oppression or fraud and that punitive damages were warranted.

The jury determined that the Morgans' damages totaled \$30,270,501, including \$15 million in punitive damages and \$1 million for Ms. Morgan's loss of consortium.

Based on the apportionment of liability, the non-economic portion of the compensatory damages award was reduced from \$14,268,400 to \$6,420,780.

The economic portion of the compensatory damages award, which initially totaled \$1,002,101, was also reduced based on a legal equation and settlements with other defendants. The net amount of the economic compensatory award was \$792,924.39. When this was added to the net non-economic compensatory damages award and the punitive damages award, the plaintiffs' total recovery was \$22,213,704.39.

## **Lori Morgan**

\$1,000,000 Personal Injury: loss of consortium

## **Norris Morgan**

\$15,000,000 Personal Injury: Punitive Exemplary Damages

\$3,002,400 Personal Injury: Past Pain And Suffering

\$10,266,000 Personal Injury: Future Pain And Suffering

\$450,000 Personal Injury: loss of earning capacity

\$160,712 Personal Injury: loss of household services

\$391,389 Personal Injury: loss of Social Security benefits

## **Trial Information:**

**Judge:** Maurice Leiter

**Demand:** \$5,000,000 (total, by both plaintiffs, from J-M Manufacturing)

**Offer:** \$2,000,000 (total, for both plaintiffs, by J-M Manufacturing)

**Trial Length:** 3 weeks

**Trial  
Deliberations:** 9 hours

**Jury  
Composition:** 4 male, 8 female; 1 Asian, 5 black, 6 Hispanic

**Post Trial:** According to J-M Manufacturing's counsel, there was no insurance money left to pay the verdict.

**Editor's  
Comment:** This report is based on information that was provided by plaintiffs' counsel. Additional information was gleaned from court documents. J-M Manufacturing's counsel did not respond to the reporter's phone calls, and the remaining defendants' counsel were not asked to contribute.

**Writer**

Melissa Siegel



## Defense disputed crash caused plaintiffs' alleged injuries

**Type:** Verdict-Plaintiff

**Amount:** \$7,663

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back*
- *knee*
- *neck* - bulging disc, cervical
- *elbow*
- *other* - chiropractic; physical therapy; epidural injections; aggravation of pre-existing condition
- *shoulder* - glenoid labrum, tear
- *neurological* - radiculopathy

**Case Type:**

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

**Case Name:** Anthony Hall v. Dolly G Lemus / Xavier Powell v. Dolly Graciella Lemus, No. BC613309; BC623724

**Date:** November 14, 2018

**Plaintiff(s):**

- Anthony Hall (Male, 47 Years)
- Xavier Powell (Female, 45 Years)

**Plaintiff Attorney(s):**

- Byron M. Purcell; Ivie McNeill & Wyatt; Los Angeles CA for Xavier Powell
- Daniel B. Miller; Wilshire Law Firm, PLC; Los Angeles CA for Anthony Hall
- Julio C. Navarro; Ivie McNeill & Wyatt; Los Angeles CA for Xavier Powell

**Plaintiff Expert(s):**

- Thomas F. Fugger Jr.; Biomechanical; Valencia, CA called by: Byron M. Purcell, Julio C. Navarro
- Michael Schiffman M.D.; Orthopedic Surgery; Los Angeles, CA called by: Byron M. Purcell, Julio C. Navarro

**Defendant(s):**

- Dolly Graciella Lemus

**Defense Attorney(s):**

- John T. Farmer; Farmer Case & Fedor; San Diego, CA for Dolly Graciella Lemus

**Defendant Expert(s):**

- Henry W. Lubow M.D.; Coding & Billing (Medical); Agoura Hills, CA called by: for John T. Farmer
- Peter M. Burkhard Ph.D.; Biomechanical; Laguna Hills, CA called by: for John T. Farmer
- Robert Wilson M.D.; Orthopedic Surgery; Los Angeles, CA called by: for John T. Farmer
- Stephen Rothman M.D.; Neuroradiology; Los Angeles, CA called by: for John T. Farmer

**Insurers:**

- State Farm Insurance Cos.

**Facts:**

On April 2, 2015, plaintiff Xavier Powell, 45, a college student, was driving on Slauson Avenue, in Culver City. Plaintiff Anthony Hall, 47, was sitting in the front, passenger seat. Powell entered an intersection's left-turn lane in an attempt to turn onto Hannum Avenue. Shortly after the traffic light turned green, her vehicle was rear-ended by a vehicle driven by Dolly Lemus. Powell claimed injuries to her neck, back, and left knee and elbow. Hall claimed injuries to his neck, back and right shoulder.

Powell and Hall filed separate lawsuits against Lemus. They claimed that Lemus was negligent in the operation of her vehicle.

The two lawsuits were consolidated, but Hall ultimately settled his claim prior to trial for \$50,000.

Lemus claimed Powell started moving forward to make the left turn and then stopped suddenly, but Powell denied stopping prior to the collision. Lemus ultimately conceded liability, and the trial solely addressed causation and damages.

**Injury:**

Powell was seen by paramedics at the scene, but she declined transportation to a hospital. However, later that day, she presented to Cedars-Sinai Marina Del Rey Hospital, where she was treated and released. Powell was diagnosed with cervical radiculopathy and a bulging cervical disc at the C5-6 level. She also claimed the crash aggravated her pre-existing lumbar levoscoliosis, a type of scoliosis in which the spine twists and curves toward the left side of the body in a "C" shape, as her condition had allegedly been under control prior to the accident. In addition, Powell claimed she suffered soft tissue injuries to her left knee and elbow.

In later 2015, Powell received one epidural steroid injection to her lumbar spine and another to her cervical spine. However, she had a reaction to one of the injections, allegedly causing her to lose her hair and gain weight. She also underwent chiropractic treatment and physical therapy.

The plaintiff's expert biomechanical engineer testified that the force involved in the crash created a delta-V of 8 to 10 mph. The expert opined that the alleged amount of force

created exposure for a cervical injury and possibly a lumbar injury.

The plaintiff's expert orthopedist opined that Powell's cervical disc bulge was a result of the subject accident.

Powell claimed that as a result of her injuries, she can no longer go on walks as she did prior to the crash. She also claimed that she exercises less frequently and can't lift heavy items, such as laundry or groceries. She further claimed that she still has occasional pain in her left elbow.

Powell sought recovery of \$70,488.60 in past medical expenses and \$198,755 in future medical expenses. The latter number included \$31,000 for a diagnostic knee arthroscopy, \$141,495 for a cervical fusion surgery, \$2,700 for post-surgery physical therapy, \$12,445 for facet joint injections and \$11,115 for nerve block testing. In addition, Powell sought recovery of non-economic damages for her past and future pain and suffering.

Hall's alleged injuries and damages were not before the court. He had also declined transport to a hospital from the scene and had also reported to Cedars-Sinai Marina Del Rey Hospital later that day. He was diagnosed with injuries to his neck and back, and he also claimed a labral tear in his right shoulder. Hall was treated at the hospital and released. He then underwent three months of chiropractic treatment, followed by three months of physical therapy. In late 2015, he received two epidural injections of a steroid-based painkiller to his lumbar spine.

Hall's doctors recommended shoulder surgery, but Hall never underwent the procedure nor did he follow up with any further treatment to the shoulder. Hall was also advised that he could either manage his back pain conservatively or undergo a lumbar microdiscectomy. He ultimately chose not to proceed with the surgery, but claimed that he would need additional epidural injections in his back.

Hall initially sought recovery of \$36,279.31 in past medical expenses, but the defense pointed out that Hall was involved in a prior car accident in June 2012, and two additional crashes in April 2015 and November 2017. In addition, the defense's independent medical examiner, an expert orthopedist, opined that Hall likely sustained soft tissue injuries and contusions in the subject crash and that the injuries should have resolved in 10 to 12 weeks with conservative treatment. He estimated that the reasonable value of this treatment was \$4,464. However, Hall settled his claim prior to trial, so his alleged injuries and damages, as well as the defense's arguments regarding Hall's injuries and damages, were not before the court.

At trial, the defense's expert biomechanical engineer testified that the force of the crash created a delta-V of 6 to 8 mph. He opined that most people aren't injured in accidents with that level of force and that those who are injured typically sustain minor neck sprains.

Defense counsel pointed out that Powell complained of neck pain and radiculopathy following a 2004 car accident and that Powell was involved in two subsequent crashes in October 2015 and January 2017. Counsel specifically pointed to a settlement demand letter that Powell submitted as part of litigation for the October 2015 accident. Per the defense, the letter included the same injuries and treatment that Powell alleged following the April 2015 crash. As a result, defense counsel disputed whether any of Powell's'

alleged medical expenses were related to the subject accident.

The defense's expert orthopedist opined that Powell sustained a mild sprain and/or strain to the cervical spine as a result of the subject crash and that it should have resolved in two or three months. He also opined that Powell's only necessary medical treatments were the emergency room visit, eight to 10 weeks of chiropractic care or physical therapy, one visit to a specialist, two follow-up appointments, and cervical and lumbar X-rays and MRIs. The expert opined that the cost of that treatment only totaled \$4,663. In addition, the expert opined that the spinal injections were not medically necessary, that the knee injury was not related to the crash, and that Powell did not require any future care as a result of the accident.

The defense's expert neuroradiologist opined that there were no signs of an acute injury to Powell's spine or left knee and that Powell's cervical disc bulge was degenerative and not caused by the accident.

The defense's medical billing expert testified that while Powell claimed she had been charged approximately \$36,000 for the spinal injections, the procedures should have cost only \$2,752.28.

**Result:** The jury awarded Powell \$7,663. The award solely addressed past medical expenses and past noneconomic damages.

## **Xavier Powell**

\$4,663 Personal Injury: Past Medical Cost

\$3,000 Personal Injury: past noneconomic damages

## **Trial Information:**

**Judge:** Frank Johnson

**Demand:** \$100,000 (by Powell; insurance coverage's limit)

**Offer:** \$25,000 (for Powell)

**Trial Length:** 5 days

**Trial  
Deliberations:** 165 minutes

**Jury Vote:** 8-1

**Jury  
Composition:** 1 male, 8 female

**Post Trial:** Powell's counsel moved for a new trial or for additur. He also moved to tax costs. The motions were denied. Defense counsel's motion for costs is pending.

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

**Writer** Melissa Siegel

## Plaintiff claimed car crash led to severe headaches, neck pain

**Type:** Verdict-Plaintiff

**Amount:** \$60,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back* - sprain, thoracic
- *head* - headaches
- *neck*
- *other* - acupuncture; physical therapy; epidural injections; trigger point injection; aggravation of pre-existing condition
- *epidermis* - numbness
- *face/nose* - jaw
- *neurological* - radicular pain / radiculitis

**Case Type:**

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

**Case Name:** Aleksandra Abs v. Brane Alex Zivkovic and Does 1 To 100, No. BC629590

**Date:** November 09, 2018

**Plaintiff(s):**

- Aleksandra Abs (Female, 63 Years)

**Plaintiff Attorney(s):**

- Aaron M. Brown; California Trial Team P.C.; Long Beach CA for Aleksandra Abs

**Plaintiff Expert (s):**

- Thomas J. Montell M.D.; Orthopedic Surgery; Torrance, CA called by: Aaron M. Brown

**Defendant(s):**

- Brane Alex Zivkovic

**Defense  
Attorney(s):**

- Lorin D. Snyder; Hartsuyker, Stratman & Williams-Abrego; Los Angeles, CA for Brane Alex Zivkovic

**Defendant  
Expert(s):**

- James M. Loddengaard M.D.; Orthopedic Surgery; Torrance, CA called by: for Lorin D. Snyder

**Insurers:**

- Bristol West Insurance Group

**Facts:**

On Feb. 16, 2015, plaintiff Aleksandra Abs, 63, a retiree, was a passenger of a compact car that was traveling on the southbound side of Hawthorne Boulevard, near its intersection at Emerald Street, in Torrance. While the vehicle was stopped in traffic, its rear end was struck by a trailing sport utility vehicle that was being driven by Brane Zivkovic. Abs claimed that she suffered injuries of her back, her head and her neck.

Abs sued Zivkovic. Abs alleged that Zivkovic was negligent in the operation of his vehicle.

Defense counsel conceded liability. The trial addressed damages.

**Injury:**

Abs claimed the crash aggravated her pre-existing cervical and lumbar disc disease. She also claimed a thoracic sprain, left-sided jaw pain, and constant headaches. Abs first sought treatment several days after the accident. She treated her injuries with physical therapy, acupuncture and yoga. She also had epidural and trigger point injections to her cervical spine on Aug. 21, 2015. Abs then had another cervical epidural injection on March 16, 2016.

At the time of trial, Abs primarily complained of problems with her neck. While she admitted that her pre-existing cervical disc disease caused her occasional neck pain, arm numbness, and mild headaches prior to the accident, she claimed that those conditions became much more severe following the subject crash. She specifically claimed that her neck pain radiated to both shoulders and that her headaches radiated from her neck to the back of her head. Abs also claimed in a 2017 deposition that she had numbness from her neck to her fingers every morning.

Abs retired shortly before the crash, but she claimed that she had only planned to take a short break from work and that she had hoped to get a different job within a few months. However, she alleged that due to the subject crash, she was not able to go back to work. She also claimed that while she used to drive 60 miles to work each day, she is now unable to sit in her car for extended periods of time. Abs also claimed that she can only sit at a computer for an hour at a time when, previously, she was able to sit at her computer for the entire work day.

Abs sought recovery of past and future lost earnings, and damages for her past and future pain and suffering. She waived her claim for past medical expenses.

Defense counsel argued that Abs had an extensive history of pre-accident treatment for degenerative changes to her neck and back. Counsel noted that Abs had complained of headaches and neck pain in 2013, at which time she received acupuncture treatment. Counsel also noted that a rheumatologist had diagnosed degenerative changes to Abs' neck and back in 2014.

The defense's expert orthopedic surgeon performed an independent medical examination of Abs and opined that Abs' symptoms were consistent with thoracic outlet syndrome, rather than cervical disc disease. He opined that as a result, the cervical injections were not necessary. The expert further opined that any of Abs' complaints of lower back pain resulted from her pre-existing conditions, rather the subject accident, and that Abs required no future treatment.

In addition, defense counsel argued that Abs could not prove that she was planning a return to the workforce prior to the subject crash, and noted that Abs continued to travel following the accident. As a result, defense counsel disputed the extent of Abs' injuries.

**Result:**

The jury determined that Abs' damages totaled \$60,000.



**Aleksandra Abs**

\$30,000 Personal Injury: Past Pain And Suffering

\$30,000 Personal Injury: Future Pain And Suffering

**Trial Information:**

**Judge:** Armen Tamzarian

**Demand:** \$100,000

**Offer:** \$17,425

**Trial Length:** 3 days

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

**Writer** Melissa Siegel

## Teacher claimed discrimination due to being a single mother

**Type:** Verdict-Plaintiff

**Amount:** \$3,662,306

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):** • *mental/psychological* - emotional distress; post-traumatic stress disorder

**Case Type:** • *Employment* - Pregnancy; Retaliation; Wrongful Termination  
• *Civil Rights* - Pregnancy Discrimination  
• *Intentional Torts* - Intentional Infliction of Emotional Distress

**Case Name:** Kourtney Liggins v. Archdiocese of Los Angeles, Evelyn Rickenbacker, Michael Tang and Transfiguration School, No. BC522726

**Date:** November 01, 2018

**Plaintiff(s):** • Kourtney Liggins (Female, 41 Years)

**Plaintiff Attorney(s):** • James Urbanic; Urbanic & Associates; Los Angeles CA for Kourtney Liggins  
• Anthony Nguyen; Shegerian & Associates; Santa Monica CA for Kourtney Liggins  
• Mark I. Lim; Shegerian & Associates; Santa Monica CA for Kourtney Liggins

**Plaintiff Expert(s):** • Warren Procci M.D.; Psychiatry; Pasadena, CA called by: James Urbanic, Anthony Nguyen, Mark I. Lim  
• Tamorah G. Hunt M.B.A., Ph.D.; Economics; Santa Ana, CA called by: James Urbanic, Anthony Nguyen, Mark I. Lim

**Defendant(s):** • Michael Tang  
• Evelyn Rickenbacker  
• Transfiguration School  
• Archdiocese of Los Angeles

**Defense  
Attorney(s):**

- Lara C. De Leon; Ogletree, Deakins, Nash, Smoak & Stewart; Costa Mesa, CA for Archdiocese of Los Angeles, Evelyn Rickenbacker, Michael Tang, Transfiguration School
- Nikki Fermin; Ogletree, Deakins, Nash, Smoak & Stewart; Costa Mesa, CA for Archdiocese of Los Angeles, Evelyn Rickenbacker, Michael Tang, Transfiguration School

**Facts:**

In June 2013, plaintiff Kourtney Liggins, 41, a science teacher at Transfiguration School, a Roman Catholic school in Los Angeles, was terminated from her position. She claimed that after she complained about pregnancy discrimination, the school decided to not renew her contract at the end of the school year.

Liggins sued Transfiguration School; the Archdiocese of Los Angeles; the principal at the school, Evelyn Rickenbacker; and the pastor at the church and school, Michael Tang.

Liggins, who was single and the mother of six children, claimed that she was targeted for being pregnant out of wedlock. Specifically, she alleged that Tang told her that her pregnancy would "morally corrupt" impressionable teens at the school. She also alleged that Tang called her baby an "it," despite knowing the baby's gender, and that when she was eight months pregnant in the summer of 2012, Tang told her that she should not bring "it" to campus. She further alleged that she was asked to return early from maternity leave and that despite not having any complaints against her prior to her pregnancy, she was suddenly accused of poor teaching performance. Liggins claimed that when she complained of the illegal conduct in the church, she was terminated and that Tang changed her personnel file to include fake complaints from parents to justify her termination.

Defense counsel argued that Tang and Rickenbacker jointly decided not to renew Liggins' contract based, in part, on complaints by parents about Liggins' tardiness and cellphone use during class time. Counsel also argued that the decision to not renew Liggins' contract for another year was the result of her poor performance and classroom management, and had nothing to do with Liggins' pregnancy or complaint.

In response, Liggins claimed that any tardiness was due to nursing her newborn daughter and that any cellphone conversations she had in the classroom were directly related to parents' inquiries. She also claimed that there were documents in her employee file that she had never seen before because Tang had fabricated them.

**Injury:** Liggins, who had taught at the school since 1998, claimed that she had been unable to find a comparable job and that she suffers emotional distress as a result of the defendants' treatment of her. She alleged that she is still dealing with emotional distress as a result of Tang's actions.

The plaintiff's psychiatry expert testified that Liggins suffered from major depressive disorder and generalized anxiety disorder with symptoms of post-traumatic stress disorder stemming from the defendants' treatment of her after she returned from her maternity leave and from the termination of her employment.

Liggins claimed that Tang's actions constituted an intentional infliction of emotional distress, and she sought recovery of punitive damages against Tang as a result of his conduct.

**Result:** On Oct. 31, 2018, the jury found that Liggins was wrongfully terminated and that Tang's actions constituted an intentional infliction of emotional distress. It determined that Liggins' compensatory damages totaled \$3,575,306 and that Liggins should be awarded punitive damages against Tang.

The next day, on Nov. 1, 2018, the jury determined that Liggins' punitive damages against Tang totaled \$87,000. Thus, Liggins' verdict awards totaled \$3,662,306.

### **Kourtney Liggins**

\$171,114 Personal Injury: past economic loss

\$104,192 Personal Injury: future economic loss

\$3,300,000 Personal Injury: past noneconomic loss

\$87,000 Personal Injury: punitive damages (Tang)

### **Trial Information:**

**Judge:** David S. Cunningham, III

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

**Editor's Comment:** This report is based on information that was provided by plaintiff's counsel. Additional information was gleaned from articles that were published by CBS Los Angeles, a division of CBS Broadcasting Inc., and NBC Los Angeles, a division of NBC Universal Inc. Defense counsel did not respond to the reporter's phone calls.

**Writer** Priya Idiculla

## Defense claimed curb's uplift was open and obvious

**Type:** Verdict-Mixed

**Amount:** \$160,558

**Actual Award:** \$96,335

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back* - sprain, lumbar; strain, lumbar
- *neck* - sprain, cervical; strain, cervical
- *other* - fracture, displaced; scar and/or disfigurement
- *face/nose* - fracture, nose
- *surgeries/treatment* - open reduction

**Case Type:**

- *Government* - Municipalities
- *Premises Liability* - Sidewalk; Negligent Repair and/or Maintenance; Dangerous Condition of Public Property
- *Slips, Trips & Falls* - Trip and Fall

**Case Name:** Tanaz Zamani v. City of Redondo Beach, Gilbert Cota, Rosa Cota and Does 1-20, Inclusive, No. BC637727

**Date:** November 01, 2018

**Plaintiff(s):**

- Tanaz Zamani (Female, 38 Years)

**Plaintiff Attorney(s):**

- Paul R. Markley; Law Office of Paul R. Markley; Torrance CA for Tanaz Zamani

- Plaintiff Expert(s):**
- Brad P. Avrit P.E.; Sidewalks/Other Walking Surfaces; Marina del Rey, CA called by: Paul R. Markley
  - Leon F Artzner; Emergency Medicine; Torrance, CA called by: Paul R. Markley
  - Ruben Abrams M.D.; Plastic & Reconstructive Surgery; Beverly Hills, CA called by: Paul R. Markley

- Defendant(s):**
- David Wu
  - Rosa Cota
  - Gilbert Cota
  - Gordon Schaye
  - John Emmerson
  - Ashkan Ghavami
  - City of Redondo Beach
  - Soma Medical Group Inc.
  - Arakelian Enterprises Inc.

- Defense Attorney(s):**
- Ariella E. Perry; Michael Maguire and Associates; Costa Mesa, CA for Gilbert Cota, Rosa Cota
  - Kenton E. Moore; McCune & Harber; Los Angeles, CA for City of Redondo Beach
  - None reported for Arakelian Enterprises Inc., John Emmerson, Ashkan Ghavami, Gordon Schaye, Soma Medical Group Inc., David Wu

- Defendant Expert(s):**
- Peter J. Zande C.S.P.; Safety; Lake Forest, CA called by: for Ariella E. Perry
  - Michael D. Landman M.D.; Otolaryngology; Tarzana, CA called by: for Kenton E. Moore

- Insurers:**
- State Farm Insurance Cos.

**Facts:** On March 10, 2016, plaintiff Tanaz Zamani, 36, was jogging on Clark Lane, near its intersection with Steinhart Avenue, in Redondo Beach, when she tripped on an elevated portion of the curb. She injured her nose, neck and back.

Zamani sued the owner of the sidewalk, the city of Redondo Beach, and the owners of the property adjacent to the sidewalk, Gilbert and Rosa Cota. Zamani alleged that the city and the Cotas were negligent in their repair and/or maintenance of the curb, creating a dangerous condition of public property.

Arakelian Enterprises Inc. (doing business as Athens Services), John Emmerson, Ashkan Ghavami, Gordon Schaye, Soma Medical Group Inc. and David Wu were later added as defendants, but they were ultimately dismissed from the case prior to trial.

Zamani claimed that the Cotas had a tree on their property whose roots caused the elevation on the curb. She also claimed that the Cotas negligently placed their garbage bins on the sidewalk, causing her to run closer to the street, rather than on the sidewalk. She also claimed that the city should have had notice of the condition of the curb, but it failed to repair the dangerous condition.

Plaintiff's counsel presented photographs of the sidewalk to show an uplift in the curb. Counsel contended that the elevation in the curb top was 1 inch to three-quarters of an

inch, depending on where it was measured.

The plaintiff's physical engineering expert opined that the curb's condition was dangerous and that the city should have seen the condition during a regular inspection.

The Cotas' counsel disputed the qualifications of the plaintiff's physical engineering expert and the foundation for the expert's opinions prior to his trial testimony. As a result, the Cotas' counsel was granted a motion for a 402 hearing five days into trial. Plaintiff's counsel contended that the expert was qualified and had specifically testified at least 30 times within the trial court about tree and root uplift. However, the court limited the expert's testimony after determining that the expert could not testify about the California Streets and Highways Code, Redondo Beach ordinance violations, and whether the roots from the Cotas' tree and shrubs caused the uplift.

The Cotas claimed that their tree and shrub roots did not cause any uplift in the cement curb and that they were not responsible for the curb's condition because they did not own the sidewalk or curb where Zamani fell. They also claimed that Zamani was at fault for her own injuries because she was not paying attention to where she was jogging, which caused her to trip and fall.

The Cotas' certified safety expert opined that the curb's uplift was trivial and did not constitute a dangerous condition of public property. The expert also opined that curb's condition was open and obvious. However, in response, plaintiff's counsel argued that the uplift could not be both trivial and obvious.

A nonparty witness, who worked for the city of Redondo Beach, testified that the sidewalk was solely the city's responsibility.

The city's counsel agreed that the Cotas neither controlled nor maintained the sidewalk or curb, and argued that the sidewalk's condition did not constitute a dangerous condition of public property. The city's counsel also argued that Zamani was negligent for failing to pay attention to where she was jogging, thereby causing her own injuries.

The city attempted to present evidence that the Cotas had received notice about the uplift related to their tree, but the court ruled that the evidence was too damaging to the Cotas to be admitted to the jury.

**Injury:**

Zamani sustained a displaced septonasal fracture. She also claimed she suffered cervical and lumbar sprains and strains as a result of the accident. Zamani was transported by ambulance to Providence Little Company of Mary Medical Center Torrance, where she was treated and discharged that same day. Four days later, on March 14, 2016, she underwent open reduction surgery to her nasal septum. Zamani also underwent a couple of months of chiropractic care to treat her spinal injuries.

Following her septonasal surgery, Zamani developed a deformity to her nose that left it crooked and affected her ability to breath. However, her cervical and lumbar injuries healed.

The plaintiff's doctors recommended that Zamani undergo a submucous resection of the nose, which is when the bony and cartilaginous structures of the nasal septum are partially removed surgically from below the mucous membrane, and recommended a secondary septoplasty, along with corrections of the nasal pyramid asymmetry and nose deformity. However, she had not undergone the procedure by the time of trial. Zamani claimed that she had not had the procedure because she needed to wait a few years before undergoing another nose surgery.

The plaintiff's emergency medicine expert opined that Zamani's injuries were serious, and the plaintiff's cosmetic surgery expert opined that Zamani's future medical costs would total \$20,000.

Zamani sought recovery of \$8,058 in past medical costs and \$20,000 in future medical costs. She also sought recovery of damages for her past and future pain and suffering. In total, she sought recovery of \$350,000.

The city's expert otolaryngologist agreed that Zamani would benefit from the follow-up procedures, but opined that the cost of future surgery would only total \$7,500.

The Cotas' counsel did not dispute Zamani's injuries.

**Result:**

The jury rendered a mixed verdict. It found that the Cotas were not responsible for the accident. However, the jury found that the city was 60 percent at fault and that Zamani was 40 percent at fault. It also determined that Zamani's damages totaled \$160,558.

After the comparative fault offset, Zamani should recover \$96,334.80.



**Tanaz Zamani**

\$8,058 Personal Injury: Past Medical Cost

\$12,500 Personal Injury: Future Medical Cost

\$80,000 Personal Injury: Past Pain And Suffering

\$60,000 Personal Injury: Future Pain And Suffering

**Trial Information:**

**Judge:** Mark A. Borenstein

**Demand:** \$100,000 (total, from Gilbert Cota, Rosa Cota and the city of Redondo Beach)

**Offer:** Waiver of costs (from Gilbert Cota, Rosa Cota and the city of Redondo Beach [C.C.P. § 998])

**Trial Length:** 8 days

**Trial  
Deliberations:** 2 hours

**Jury Vote:** 12-0 (Cotas was not liable); 11-1 (all other questions)

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

**Editor's  
Comment:** This report is based on information that was provided by plaintiff's counsel and counsel of Gilbert Cota, Rosa Cota and the city of Redondo Beach. The remaining defendants' counsel were not asked to contribute.

**Writer** Harmony Birch

## Plaintiff claimed family history prolonged chronic pain recovery

**Type:** Verdict-Plaintiff

**Amount:** \$11,821,664

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back* - herniated disc, lumbar; herniated disc at L4-5; herniated disc, lumbar; herniated disc at L5-S1
- *head* - concussion
- *knee* - meniscus, tear
- *other* - microdiscectomy
- *surgeries/treatment* - arthroscopy

**Case Type:**

- *Worker/Workplace Negligence*
- *Slips, Trips & Falls* - Trip and Fall

**Case Name:** Keith Sidlo v. Casa Blanca Builders Inc., Gorham Investments LLC, Hwang Family Partnership and Saul Macias, No. BC538357

**Date:** November 01, 2018

**Plaintiff(s):**

- Keith Sidlo (Male, 25 Years)

**Plaintiff Attorney(s):**

- Mark J. Bringardner; Joye Law Firm LLP; North Charleston SC for Keith Sidlo
- Nicholas C. Rowley; Carpenter, Zuckerman & Rowley, LLP; Beverly Hills CA for Keith Sidlo
- Keith J. Bruno; Carpenter, Zuckerman & Rowley, LLP; Newport Beach CA for Keith Sidlo

**Plaintiff Expert(s):**

- Brad P. Avrit P.E.; Safety; Marina del Rey, CA called by: Mark J. Bringardner, Nicholas C. Rowley, Keith J. Bruno
- Brian F. King M.D.; Neuroradiology; Santa Monica, CA called by: Mark J. Bringardner, Nicholas C. Rowley, Keith J. Bruno
- Lester M. Zackler M.D.; Neuropsychiatry; Sherman Oaks, CA called by: Mark J. Bringardner, Nicholas C. Rowley, Keith J. Bruno
- Stepan O. Kasimian M.D.; Orthopedic Surgery; Glendale, CA called by: Mark J. Bringardner, Nicholas C. Rowley, Keith J. Bruno

**Defendant(s):**

- Saul Macias
- Gorham Investments LLC
- Hwang Family Partnership
- Casa Blanca Builders Inc.

**Defense Attorney(s):**

- Christopher A. White; Morrow & White; Costa Mesa, CA for Casa Blanca Builders Inc., Gorham Investments LLC, Hwang Family Partnership, Saul Macias
- William J. Penisten; Morrow & White; Costa Mesa, CA for Casa Blanca Builders Inc., Gorham Investments LLC, Hwang Family Partnership, Saul Macias

**Defendant Expert(s):**

- Gidon R. Vardi Ph.D.; Construction; Westlake Village, CA called by: for Christopher A. White, William J. Penisten
- Arnold B. Purisch Ph.D.; Neuropsychiatry; Laguna Hills, CA called by: for Christopher A. White, William J. Penisten
- Bradley Rutledge M.S.; Ergonomics/Human Factors; Laguna Hills, CA called by: for Christopher A. White, William J. Penisten
- Stephen L.G. Rothman M.D.; Neuroradiology; Torrance, CA called by: for Christopher A. White, William J. Penisten

**Facts:**

On Sept. 23, 2013, plaintiff Keith Sidlo, 25, a marketing manager, was walking back to his apartment complex when he tripped over a 12-inch hole that was dug around a pole. The hole was dug by Casa Blanca Builders Inc. as part of a project to begin seismic retrofitting the complex. Sidlo claimed injuries to his head, back and a knee.

Sidlo sued Casa Blanca Builders; the owner of Casa Blanca Builders, Saul Macias; and the property managers, Gorham Investments LLC and Hwang Family Partnership.

Gorham Investments settled out of the case, and Hwang Family Partnership and Macias were dismissed. Thus, the matter continued against Casa Blanca Builders only.

Sidlo's counsel contended that Casa Blanca Builders was negligent for creating the dangerous condition of the uncovered hole.

The plaintiff's safety expert opined that the construction contract established that Casa Blanca Builders was responsible for the safety of the site.

Casa Blanca Builders initially claimed that there was no hole and, later, claimed that hole was covered at the time of the alleged incident.

**Injury:**

Sidlo claimed he sustained a concussion, a torn meniscus of a knee, and herniated lumbar discs at that L4-5 and L5-S1 levels. He claimed that although he was in pain, he did not present to a physician until a few days after the incident. He then went to a chiropractor and, three months later, went back to a physician with complaints of knee pain.

Sidlo's concussion resolved, but he required arthroscopic surgery to repair the knee's meniscus. One year later, he underwent a surgical revision on the injured knee. He also underwent a microdiscectomy at L4-5 and L5-S1 in 2015. Sidlo claimed the surgery was a success, but that he will eventually need a lumbar fusion due to disc desiccation.

Plaintiff's counsel contended that Sidlo's injuries caused him pain and that Sidlo will have to continue to live in pain. Counsel also contended that Sidlo used to be very active with cardio exercises and weightlifting, but that the injuries have affected Sidlo's lifestyle. Sidlo's best friend from grammar school testified that while Sidlo seemed physically fit, he was really just a shell of his potential physical self.

The plaintiff's neuropsychiatry expert noted that Sidlo had a childhood filled with abuse that forced his independence, and opined that Sidlo's chronic pain impacted him more due to the abuse he suffered as a child. Specifically, the expert opined that someone who had his only protector abuse him was more susceptible to feeling the setbacks of recovery than someone with an intact support structure.

The plaintiff's orthopedic surgery and neuroradiology experts opined that Sidlo would require future care for his knee and back.

Sidlo sought recovery of \$199,164.14 in past medical costs (after being reduced per Howell) and an unspecified amount of future medical costs. He also sought recovery of damages for his past and future pain and suffering.

Defense counsel presented surveillance and social media photos of Sidlo, including photos of Sidlo shirtless and in Las Vegas. Counsel argued that Sidlo was not injured and that the photos showed that Sidlo was not impacted by any of his alleged injuries.

The defense's neuroradiology expert was called to testify about Sidlo's spine and knee, but during cross-examination, he conceded that he has made \$30 million as an expert over approximately 15 years.

**Result:**

The jury found that Casa Blanca Builders and Gorham Investments were negligent and that their negligence was a substantial factor in causing Sidlo harm. It apportioned 90 percent liability to Casa Blanca Builders and 10 percent liability to Gorham Investments. The jury also determined that Sidlo's damages totaled \$11,821,664.14.

Since Gorham Investments previously settled out of the case, the verdict award would be reduced based on that prior settlement and Casa Blanca Builders' percentage of fault.

**Keith Sidlo**

\$199,164 Personal Injury: Past Medical Cost

\$2,497,500 Personal Injury: Future Medical Cost

\$1,125,000 Personal Injury: past noneconomic loss

\$8,000,000 Personal Injury: future noneconomic loss

**Trial Information:**

**Judge:** Bobbi Tillmon

**Post Trial:** Defense counsel intends to file post-trial motions.

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

**Writer** Priya Idiculla

## Deputy fire marshal fired for pointing out violations: suit

**Type:** Verdict-Plaintiff

**Amount:** \$4,003,000

**State:** California

**Venue:** Los Angeles County

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

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

**Case Type:** • *Employment* - Retaliation; Whistleblower; Wrongful Termination

**Case Name:** Jason Briley v. City of West Covina, No. BC630552

**Date:** October 31, 2018

**Plaintiff(s):** • Jason Briley (Male, 41 Years)

**Plaintiff Attorney(s):** • Gregory W. Smith; Law Offices of Gregory W. Smith; Beverly Hills CA for Jason Briley

**Plaintiff Expert(s):** • Karen Smith M.B.A.; Economics; San Marino, CA called by: Gregory W. Smith

**Defendant(s):** • City of West Covina

**Defense Attorney(s):** • Harold W. Potter, Jr.; Jones & Mayer; Fullerton, CA for City of West Covina

**Defendant Expert(s):** • Carolin Larson; Workers; Newhall, CA called by: for Harold W. Potter, Jr.

**Facts:** In September 2015, plaintiff Jason Briley, 41, a deputy fire marshal for the city of West Covina, was terminated from his position. Briley claimed he was fired for making complaints over the course of two years about some properties owned by the city that were allegedly violating California fire codes.

Briley sued the city of West Covina, alleging that the city retaliated against him for being a whistleblower.

Defense counsel denied the city retaliated against Briley, and contended that Briley was fired for being difficult to work with, dishonest, allegedly engaging in inappropriate behavior and harassing citizens.

**Injury:** Briley, who worked in his position as deputy fire marshal for eight years, sought recovery of lost wages. He also sought recovery of damages for emotional distress that he allegedly suffered as a result of the retaliation and termination.

**Result:** The jury found for Briley on his whistleblower claim. It determined that Briley's damages totaled \$4,003,000.

### **Jason Briley**

\$132,000 Personal Injury: past economic damages

\$371,000 Personal Injury: future economic damages

\$2,000,000 Personal Injury: past noneconomic damages

\$1,500,000 Personal Injury: future noneconomic damages

### **Trial Information:**

**Judge:** Terry A. Green

**Demand:** \$1,500,000

**Offer:** \$400,000

**Trial Length:** 12 days

**Trial Deliberations:** 2.5 hours

**Jury Vote:** 12-0 (liability and economic damages); 10-2 (noneconomic damages)

**Post Trial:** Defense counsel has filed motions for a new trial and for judgment notwithstanding the verdict.

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

**Writer** Priya Idiculla



## Plaintiff claimed broadside collision caused back injury

**Type:** Verdict-Plaintiff

**Amount:** \$507,600

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back* - fusion, lumbar; herniated disc, lumbar
- *neck* - herniated disc, lumbar
- *other* - epidural injections
- *mental/psychological* - emotional distress

**Case Type:**

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

**Case Name:** Mayra Juarez v. Helman Gustavo Gomez, Albert Barkley and Eagle Express Group Inc., No. BC528698

**Date:** October 30, 2018

**Plaintiff(s):**

- Mayra Juarez (Female, 26 Years)

**Plaintiff Attorney(s):**

- Richard M. Foster; Law Offices of Richard M. Foster; North Hollywood CA for Mayra Juarez
- David R. Euredjian; Law Offices of Richard M. Foster; North Hollywood CA for Mayra Juarez

**Plaintiff Expert (s):**

- Levon Margolin Ph.D.; Psychology/Counseling; Colton, CA called by: Richard M. Foster, David R. Euredjian
- Edward T. Chappell M.D.; Neurosurgery; Orange, CA called by: Richard M. Foster, David R. Euredjian
- Herbert R. Summers Ph.D.; Accident Reconstruction; Encino, CA called by: Richard M. Foster, David R. Euredjian

**Defendant(s):**

- Albert Barkley
- Helman Gustavo Gomez
- Worldwide Express Inc.

**Defense  
Attorney(s):**

- Jay T. Rubin; Mark R. Weiner & Associates; Glendale, CA for Helman Gustavo Gomez, Albert Barkley, Worldwide Express Inc.
- Peter K. Diamond; Mark R. Weiner & Associates; Glendale, CA for Helman Gustavo Gomez, Albert Barkley, Worldwide Express Inc.

**Defendant  
Expert(s):**

- Neil I. Chafetz M.D.; Radiology; San Pedro, CA called by: for Jay T. Rubin, Peter K. Diamond
- Tony F. Feuerman M.D.; Neurosurgery; Encino, CA called by: for Jay T. Rubin, Peter K. Diamond

**Insurers:**

- State Farm Insurance Cos.

**Facts:**

On Dec. 9, 2011, plaintiff Mayra Juarez, 26, an airline agent, was driving west on West Century Boulevard, in Los Angeles. When her vehicle entered the intersection with Glasgow Place, it was broadsided by a vehicle operated by Helman Gomez, who entered the intersection from the northbound side of Glasgow Place. Juarez claimed injuries to her back.

Juarez sued Gomez; the owner of Gomez's vehicle, Albert Barkley; and Gomez's employer, Worldwide Express Inc., which was initially erroneously sued as Eagle Express Group Inc. Juarez alleged that Gomez was negligent in the operation of his vehicle and that Barkley and Worldwide Express were vicariously liable for Gomez's actions.

The defendants stipulated that Gomez was in the course and scope of his employment at the time of the crash, making Worldwide Express liable for the entire verdict. As a result, Barkley was removed from the case.

Plaintiff's counsel contended that Juarez had the right of way and that Gomez attempted to make an illegal left turn from a stop sign on the northbound side of Glasgow Place. Counsel also contended that Gomez crossed multiple lanes of traffic before broadsiding Juarez's vehicle.

Defense counsel argued that Juarez caused the accident by speeding.

**Injury:** Juarez claimed he sustained a herniation lumbar disc. She received epidural injections, but she eventually required a lumbar fusion at the L5-S1 level.

Juarez claimed she may eventually need an additional fusion surgery. She also claimed that she suffers from emotional distress as a result of the accident and may eventually need treatment from a psychologist.

Juarez sought recovery of past and future medical costs, and damages for her for past pain and suffering.

Defense counsel argued that Juarez's lumbar injury was caused by a subsequent accident.

**Result:** The jury found that Gomez was negligent and 100 percent liable for the crash. It also determined that Juarez's damages totaled \$507,600.

### **Mayra Juarez**

\$261,600 Personal Injury: past economic damages

\$196,000 Personal Injury: future economic damages

\$50,000 Personal Injury: past noneconomic damages

### **Trial Information:**

**Judge:** Gloria White-Brown

**Demand:** \$199,999 (C.C.P. § 998)

**Offer:** \$150,000

**Trial Length:** 5 days

**Trial  
Deliberations:** 2 days

**Post Trial:** The court awarded Juarez \$187,417.09 in costs and pre-judgment interest, making his recovery total \$695,017.09.

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

**Writer**

Priya Idiculla

## **Mother claimed coroner cremated body without proper notification**

**Type:** Verdict-Plaintiff

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

**Actual Award:** \$605,000

**State:** California

**Venue:** Los Angeles County

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

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

**Case Type:** • *Government* - Counties  
• *Professional Negligence* - Mishandling of Corpses

**Case Name:** Yvette Diaz and Michael Johnston v. County of Los Angeles, No. BC656353

**Date:** October 26, 2018

**Plaintiff(s):** • Yvette Diaz (Female, 38 Years)  
• Michael Johnston (Male)

**Plaintiff Attorney(s):** • Christopher Montes de Oca; Law Offices of Christopher Montes de Oca; Los Angeles CA for Yvette Diaz  
• Eseigbe A. Omofoma; The Omofoma Law Firm; Los Angeles CA for Yvette Diaz  
• None reported; ; for Michael Johnston

**Plaintiff Expert(s):** • Ching H. Shih M.D.; Psychiatry; Monterey Park, CA called by: Christopher Montes de Oca, Eseigbe A. Omofoma  
• David M. Lechuga Ph.D.; Psychology/Counseling; Lake Forest, CA called by: Christopher Montes de Oca, Eseigbe A. Omofoma  
• Bennet I. Omalu M.D., M.P.H.; Forensic Pathology; Stockton, CA called by: Christopher Montes de Oca, Eseigbe A. Omofoma

**Defendant(s):**

- County of Los Angeles

**Defense Attorney(s):**

- Jack M. Schuler; Schuler & Brown; Van Nuys, CA for County of Los Angeles
- Brian T. Chu; Office of the County Counsel; Los Angeles, CA for County of Los Angeles
- Matthew P. Ames; Schuler & Brown; Van Nuys, CA for County of Los Angeles

**Defendant Expert(s):**

- Tat Cheung Ph.D.; Psychology/Counseling; Monterey Park, CA called by: for Jack M. Schuler, Matthew P. Ames

**Facts:**

On May 28, 2016, plaintiff Yvette Diaz learned that her newborn daughter, Auroranne Delatorre, died unexpectedly, while at the hospital, the day after she was born. The Los Angeles County Department of Medical Examiner-Coroner took possession of Auroranne's body the next day.

On June 8, 2016, a representative from the coroner's office contacted Diaz to obtain additional information about the events that occurred just prior to Auroranne's death, along with Diaz's contact information. Diaz called the same representative three additional times, but no one picked up. The office then left a voicemail for Diaz on July 11, 2016. The voicemail stated that the body had been at the office for 30 days and that Diaz should contact the office at her convenience. A letter dated Aug. 24, 2016 was then sent by the office, informing Diaz that it had cremated Auroranne's body on Aug. 10, 2016.

Diaz sued the overseer of the coroner's office, the county of Los Angeles. She alleged that the county's actions constituted a violation of Health and Safety Code § 7104.1.

Michael Johnston was initially named as a plaintiff, but he was ultimately removed from the case.

Plaintiff's counsel noted that § 7104.1 states that the coroner may inter the remains, "[i]f, within 30 days after the coroner notifies or diligently attempts to notify the person responsible for the interment of a decedent's remains which are in the possession of the coroner, the person fails, refuses, or neglects to inter the remains". However, counsel contended that the county's coroner's office failed to properly notify Diaz prior to cremating Auroranne.

Diaz claimed that while what was discussed during the June 8, 2016 call was in dispute, at no point did she indicate that she wanted Auroranne's body to be cremated. She also claimed that she did not hear the July 11, 2016 voicemail because she was still grieving the loss and not listening to her voicemails at that time.

Defense counsel contended that the county coroner notified Diaz on June 8, 2016 that Auroranne's remains were at the office and that Diaz needed to make internment arrangements, but that Diaz failed to do so. Counsel also contended that Diaz was notified again on July 11, 2016 and told that she needed to make internment arrangements, but that she again failed to do so. Defense counsel contended that, as permitted by law, the coroner cremated the allegedly abandon remains 30 days later.

**Injury:** Diaz's first and only child, Auroranne, was cremated. Diaz claimed that, as a Catholic, she had planned to bury Auroranne, pursuant to the customs and practices of her religion. She alleged that she developed emotional distress because she felt she would never be able to properly say goodbye to Auroranne or ever have closure, as she wanted to see Auroranne one last time with an open casket funeral. In addition, Diaz claimed that had to seek the assistance of a psychiatrist to help her cope with her mental trauma and that she continues to see one to this very day.

Diaz sought recovery of damages for her past and future emotional pain and suffering.

**Result:** The jury found that the county violated Health and Safety Code § 7104.1 and that the county's violation was a substantial factor in causing harm to Diaz. It also found that Diaz was negligent and that her own negligence was a substantial factor in causing her harm. The jury apportioned 55 percent fault to the county and 45 percent fault to Diaz. It further determined that Diaz's damages totaled \$1.1 million.

After apportionment, Diaz should recover \$605,000.

According to plaintiff's counsel, as a result of Diaz's lawsuit, the Los Angeles county coroner's office is now, again, sending out letters notifying the next of kin prior to cremating the deceased body. The letter informs the family that the body is in the possession of the coroner's office; ready for pickup; and if the family fails to act within a certain time frame, the coroner's office will move forward with cremation.

## **Yvette Diaz**

\$350,000 Personal Injury: past noneconomic loss

\$750,000 Personal Injury: future noneconomic loss

## **Trial Information:**

**Judge:** Anthony J. Mohr

**Demand:** \$100,000

**Offer:** \$20,000 (C.C.P. § 998)

**Trial Length:** 6 days

**Trial  
Deliberations:** 1 days

**Post Trial:** Diaz, as the prevailing party, is seeking recovery of costs. She is also seeking attorney fees pursuant to C.C.P. § 1021.5, as the lawsuit resulted in the enforcement of an important right affecting the public's interest.

**Editor's Comment:** This report is based on information that was provided by Diaz's counsel and defense counsel. Johnston's counsel was not asked to contribute.

**Writer** Priya Idiculla



## Plaintiff's stop on narrow shoulder contributed to crash: defense

**Type:** Verdict-Plaintiff

**Amount:** \$133,507

**Actual Award:** \$250,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *arm*
- *back* - strain, lumbar
- *knee* - knee contusion; medial meniscus, tear
- *elbow* - fracture, elbow; dislocation
- *other* - laceration; chiropractic; physical therapy; epidural injections
- *shoulder* - frozen shoulder (adhesive capsulitis); adhesive capsulitis (frozen shoulder)
- *neurological* - nerve damage/neuropathy; nerve damage, ulnar nerve

**Case Type:**

- *Motor Vehicle* - Sideswipe; Parked Car; Multiple Vehicle

**Case Name:** Ivan Shulha and Tetyana Shulha v. Eric Flores and Tricon Transportation Inc., No. BC599770

**Date:** October 23, 2018

**Plaintiff(s):**

- Ivan Shulha (Male, 60 Years)
- Tetyana Shulha

**Plaintiff Attorney(s):**

- Robert B. Gibson; Gibson & Hughes; Santa Ana CA for Ivan Shulha, Tetyana Shulha

- Plaintiff Expert(s):**
- V. Paul Herbert C.P.S.A.; Trucking Industry; Quincy, CA called by: Robert B. Gibson
  - Paul Broadus M.A.; Vocational Rehabilitation; Claremont, CA called by: Robert B. Gibson
  - Tamorah G. Hunt M.B.A., Ph.D.; Economics; Santa Ana, CA called by: Robert B. Gibson
  - William L. Van Der Reis M.D.; Orthopedic Surgery; San Clemente, CA called by: Robert B. Gibson

- Defendant(s):**
- Eric Flores
  - Tricon Transportation Inc.

- Defense Attorney(s):**
- Jerri L. Johnson; Acker & Whipple; Los Angeles, CA for Eric Flores, Tricon Transportation Inc.
  - Brendan Smith; Acker & Whipple; Los Angeles, CA for Eric Flores, Tricon Transportation Inc.

- Defendant Expert(s):**
- Larry E. Miller; Trucking Industry; La Verne, CA called by: for Jerri L. Johnson, Brendan Smith
  - Steve Molina Ph.D.; Vocational Rehabilitation; Santa Ana, CA called by: for Jerri L. Johnson, Brendan Smith
  - Jennie M. McNulty C.P.A., M.B.A.; Economics; Los Angeles, CA called by: for Jerri L. Johnson, Brendan Smith

- Insurers:**
- American Group International Inc.

**Facts:** On Dec. 19, 2013, plaintiff Ivan Shulha, 60, a trucker, parked his tractor-trailer on the shoulder of eastbound State Route 60, also known as the Pomona Freeway, in Los Angeles, to clean his mirrors. The truck was sideswiped by a truck operated by Eric Flores. Shulha alleged injuries to his left arm, left knee, and back.

Shulha sued Flores and Flores' employer, Tricon Transportation Inc. Shulha alleged that Flores was negligent in the operation of the truck, causing the collision, and that Tricon Transportation was vicariously liable for Flores' actions.

Vicarious responsibility was not contested. However, defense counsel argued that, rather than pulling off the freeway, Shulha was comparatively at fault for parking his tractor-trailer on a narrow shoulder for a non-emergency reason, which is a violation of California law and the Federal Motor Carrier Safety Administration.

**Injury:**

Shulha was taken by ambulance to the emergency room at Los Angeles County + USC Medical Center, in Los Angeles, where he was treated for a fracture and a dislocation of his left, non-dominant elbow. He was also treated for a lumbar strain, contusions to both knees and a laceration to his right elbow. Shulha was discharged two days later, on Dec. 21, 2013. He then presented to Harborview Medical Center, in Seattle, where he underwent elbow surgery on Dec. 28, 2013.

Shulha developed adhesive capsulitis and ulnar nerve neuropathy of the left shoulder, and underwent further surgery on Nov. 22, 2014. He was later diagnosed with a medial meniscus tear of the left knee. As a result, he received epidural injections to his left shoulder and left knee, and underwent chiropractic treatment and physical therapy.

Shulha claimed that as a result of his injuries, he could not return to work as a truck driver.

Shulha sought recovery of past and future medical costs, past and future loss of earnings, and general damages for his past and future pain and suffering. His wife, Tatyana Shulha, presented a derivative claim, seeking recovery for her alleged loss of consortium. However, she dismissed her claim before trial.

Defense counsel contended that Mr. Shulha's claim of not being able to return to work was not supported by the plaintiff's orthopedic expert.

During trial, the parties established a \$919,441.65/\$250,000 high/low agreement.

**Result:**

The jury apportioned 70 percent fault to Shulha and 30 percent fault to Flores. It also determined that Shulha's damages totaled \$133,507, all for past damages. After apportionment, Shulha would have received \$40,052.10. However, per the parties' prior stipulation, Shulha recovered the high/low agreement's \$250,000 minimum amount.

**Ivan Shulha**

\$50,000 Personal Injury: Past Medical Cost

\$63,507 Personal Injury: Past Lost Earnings Capability

\$20,000 Personal Injury: past general damages

**Trial Information:**

**Judge:** Frederick C. Shaller

**Demand:** \$835,000

**Offer:** \$400,000 (C.C.P. § 998)

**Trial Length:** 6 days

**Trial  
Deliberations:** 3 hours

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

**Writer** Priya Idiculla

## Complaints about aircraft safety resulted in discipline: technicians

**Type:** Verdict-Plaintiff

**Amount:** \$8,009,000

**State:** California

**Venue:** Los Angeles County

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

**Case Type:** • *Employment - Retaliation; Whistleblower; Wrongful Termination*

**Case Name:** Brian Gruzalski v. FedEx Corporation, FedEx Corporate Services, Inc., FedEx Express, Dexter Collier and Kevin Kelly / Stanley V. Langevin and Mark Collins v. FedEx Corporation, Federal Express Corporation, Steven B. Sobczak, William Cusato, Jack Earls, Traci May-Hill, David Logan and Frank Boortz, No. BC512638; BC589594

**Date:** October 19, 2018

**Plaintiff(s):**

- Mark Collins (Male, 60 Years)
- Brian Gruzalski (Male, 50 Years)
- Stanley V. Langevin (Male, 69 Years)

**Plaintiff Attorney(s):**

- Nancy L. Abrolat; Abrolat Law; El Segundo CA for Brian Gruzalski, Stanley V. Langevin, Mark Collins

**Plaintiff Expert (s):**

- Charles R. Mahla Ph.D.; Economics; Sacramento, CA called by: Nancy L. Abrolat

**Defendant(s):**

- Jack Earls
- David Logan
- FedEx Corp.
- Kevin Kelly
- Frank Boortz
- FedEx Express
- Dexter Collier
- Traci May-Hill
- William Cusato
- Steven B. Sobczak
- Federal Express Corp.
- FedEx Corporate Services Inc.

**Defense  
Attorney(s):**

- Frederick L. Douglas; FedEx Express Legal Department; Memphis, TN for FedEx Corp., FedEx Corporate Services Inc., FedEx Express, Dexter Collier, Kevin Kelly, Federal Express Corp., Steven B. Sobczak, William Cusato, Jack Earls, Traci May-Hill, David Logan, Frank Boortz
- Charles W. Matheis, Jr.; FedEx Express Legal Department; Irvine, CA for FedEx Corp., FedEx Corporate Services Inc., FedEx Express, Dexter Collier, Kevin Kelly, Federal Express Corp., Steven B. Sobczak, William Cusato, Jack Earls, Traci May-Hill, David Logan, Frank Boortz
- Jane M. Flynn; FedEx Express Legal Department; Irvine, CA for FedEx Corp., FedEx Corporate Services Inc., FedEx Express, Dexter Collier, Kevin Kelly, Federal Express Corp., Steven B. Sobczak, William Cusato, Jack Earls, Traci May-Hill, David Logan, Frank Boortz
- Seth Jewell; FedEx Express Legal Department; Memphis, TN for FedEx Corp., FedEx Corporate Services Inc., FedEx Express, Dexter Collier, Kevin Kelly, Federal Express Corp., Steven B. Sobczak, William Cusato, Jack Earls, Traci May-Hill, David Logan, Frank Boortz

**Defendant  
Expert(s):**

- Amy M. Aukstikalnis Ph.D.; Economics; Los Angeles, CA called by: for Frederick L. Douglas, Charles W. Matheis, Jr., Jane M. Flynn, Seth Jewell

**Facts:**

In 2013, plaintiffs Brian Gruzalski, an aircraft maintenance technician, Stanley Langevin, a lead aircraft maintenance technician, and Mark Collins, a manager of hangar operations, complained that they believed that their employer, FedEx, failed to maintain its aircraft consistent with Federal Aviation Administration safety requirements. Collins also claimed that FedEx failed to accommodate his disability. Shortly thereafter, Gruzalski was terminated, Langevin was demoted and Collins was refused a promotion.

Gruzalski sued FedEx Corp.; FedEx Corporate Services Inc.; FedEx Express; and his supervisors, Dexter Collier and Kevin Kelly.

Langevin and Collins brought a separate action against FedEx Corp.; Federal Express Corp.; and their supervisors, Steven Sobczak, William Cusato, Jack Earls, Traci May-Hill, David Logan and Frank Boortz.

The cases were ultimately consolidated, and the plaintiffs voluntarily dismissed their claims against FedEx Corporate Services and all the individual defendants. FedEx Corp. was also dismissed pursuant to motions for summary judgment. Thus, the matter continued against Federal Express Corp. and FedEx Express only.

Gruzalski, Langevin and Collins claimed that they were wrongfully disciplined in retaliation for alleging that the company failed to maintain its aircraft consistent with FAA safety requirements.

Defense counsel contended that Gruzalski was fired for repeated violations of the acceptable conduct policy by using inappropriate language in the workplace, including profane and derogatory comments about his co-workers, and that Gruzalski did not deny using inappropriate language. Counsel also contended that it disciplined Gruzalski for raising concerns about aircraft after they departed.

In regard to Langevin, defense counsel contended that Langevin was demoted for admittedly using inappropriate language and racist nicknames in the workplace. Counsel also contended that Langevin was disciplined for moonlighting for other airlines while on the clock and using FedEx's equipment.

In regard to Collins, defense counsel contended that the decision to not promote Collins had nothing to do with his complaint, but was due to Collins not being the most qualified candidate. Counsel further contended that FedEx reasonably accommodated Collins' disability.

In addition, defense counsel argued that although the FedEx airplanes serviced at the Los Angeles International Airport hangar were older than others in its fleet, all of FedEx's aircraft were flightworthy.

**Injury:**

Gruzalski, Langevin and Collins sought recovery of \$109 million in total damages for their past and future lost wages, emotional pain and suffering, and punitive damages against FedEx.

**Result:**

The jury found that each plaintiff was retaliated against. It determined that the plaintiffs' damages totaled \$8,008,817, including \$1,258,817 in total compensatory damages and \$6.75 million in total punitive damages.

**Mark Collins**

\$2,750,000 Personal Injury: Punitive Exemplary Damages

\$130,000 Personal Injury: Past Pain And Suffering

\$130,000 Personal Injury: Future Pain And Suffering

**Brian Gruzalski**

\$3,800,000 Personal Injury: Punitive Exemplary Damages

\$420,000 Personal Injury: Past Lost Earnings Capability

\$210,000 Personal Injury: FutureLostEarningsCapability

\$225,000 Personal Injury: Past Pain And Suffering

**Stanley V. Langevin**

\$200,000 Personal Injury: Punitive Exemplary Damages

\$43,817 Personal Injury: Past Lost Earnings Capability

\$100,000 Personal Injury: Past Pain And Suffering

**Trial Information:**

**Judge:** Victor E. Chavez

**Trial Length:** 30 days

**Trial  
Deliberations:** 6 days

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

**Writer** Priya Idiculla



## Passenger: Speeding bus's accident caused jaw problems

**Type:** Verdict-Mixed

**Amount:** \$60,000

**Actual Award:** \$39,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back* - sprain, lumbar; strain, lumbar
- *head* - TMJ/temporomandibular joint; temporomandibular joint / TMJ
- *wrist*
- *dental* - fractured teeth
- *epidermis* - contusion
- *face/nose* - jaw; face

**Case Type:**

- *Motor Vehicle* - Bus; Speeding; Passenger; Rear-ender; Lane Change; Multiple Vehicle
- *Government* - Counties

**Case Name:** Daniel Marshall v. Los Angeles County Metropolitan Transportation Authority dba Los Angeles Department of Transportation dba LADOT dba Metro, County of Los Angeles, City of Los Angeles, DS Services of America Inc., DS Waters of America Inc., Nadia Banks, Kalvin Labutaong and Trinidad Labutaong, No. BC556082

**Date:** October 02, 2018

**Plaintiff(s):**

- Daniel Marshall (Male, 24 Years)

**Plaintiff Attorney(s):**

- Iverson M. Jackson; Iverson Matthew Jackson Law Firm, PC; North Hollywood CA for Daniel Marshall
- John A. Kawai; Carpenter, Zuckerman & Rowley, LLP; Ojai CA for Daniel Marshall

**Defendant(s):**

- Nadia Banks
- Calvin Labutaong
- Trinidad Labutaong
- City of Los Angeles
- County of Los Angeles
- DS Waters of America Inc.
- DS Services of America Inc.
- Los Angeles County Metropolitan Transportation Authority

**Defense Attorney(s):**

- Peter R. Bing; Wilson Elser Moskowitz Edelman & Dicker LLP; Los Angeles, CA for DS Services of America Inc., DS Waters of America Inc.
- Paul M. O'Reilly; O'Reilly & McDermott; Torrance, CA for Los Angeles County Metropolitan Transportation Authority, County of Los Angeles, City of Los Angeles
- None reported; Torrance, CA for Nadia Banks, Calvin Labutaong, Trinidad Labutaong

**Facts:**

On Sept. 9, 2013, plaintiff Daniel Marshall, 24, an entertainment company's standards-and-practices employee, was a passenger of a Los Angeles County Metropolitan Transportation Authority bus that was being driven by Nadia Banks. The bus was traveling in the number three, far right, bus lane of Wilshire Boulevard, in Los Angeles, when a truck carrying bottled water pulled out in front of it. Banks stopped and turned into the number two (middle) lane. When the bus was near the intersection with South Rampart Boulevard, a vehicle occupied by Calvin Labutaong and Trinidad Labutaong changed lanes from the number one (far left) lane to the number two (middle) lane, causing Banks to suddenly apply the bus's brakes. The bus rear-ended the Labutaong vehicle. During the course of events, Marshall struck his face on a bus pole and sustained injuries to his jaw.

Marshall sued Banks; the Los Angeles County Metropolitan Transportation Authority; the county of Los Angeles; the city of Los Angeles; the Labutaongs; and the owners of the bottled water truck, DS Services of America Inc. and DS Waters of America Inc.

The Labutaongs were never brought into the case; Banks never appeared; and the city and county were removed from the case. The matter only continued against the transportation authority and DS Services (formally known as DS Waters).

Marshall claimed that Banks was negligent for traveling at an excessive rate of speed, braking and swerving suddenly and that the Los Angeles County Metropolitan Transportation Authority was liable for Banks' actions.

The transportation authority's counsel argued that the bottled water truck caused Banks to make a sudden, evasive maneuver.

DS Services' counsel argued that DS Services was not responsible because the bus had plenty of time to stop.

**Injury:** Marshall sustained a contusion on the right side of his jaw, and he claimed he suffered sprains and strains to a wrist and his back. He was treated by paramedics and went to an emergency room. Marshall claimed that he was unable to open his mouth and that he developed permanent temporomandibular joint disorder and craze fractures in some of his teeth. He underwent dental treatment, and had injections to his wrist and back.

Marshall claimed that he is unable to eat the same foods as he did before as a result of his jaw injury. He also claimed his wrist problems set him back in his guitar playing. Marshall further claimed that he would need additional treatment for his jaw.

Marshall sought recovery of damages for his past and future pain and suffering.

**Result:** The jury rendered a mixed verdict. It found that Banks and the operator of the Labutaong vehicle were negligent, and that their negligence was a substantial factor in causing harm to Marshall. It also found that DS Services was not negligent. The jury apportioned 65 percent fault to Banks and 35 percent fault to the operator of the Labutaong vehicle.

The jury also determined that Marshall's damages totaled \$60,000. Since the Los Angeles County Metropolitan Transportation Authority was liable for Banks' actions, it would owe Marshall \$39,000.

### **Daniel Marshall**

\$50,000 Personal Injury: past noneconomic damages

\$10,000 Personal Injury: future noneconomic damages

### **Trial Information:**

**Judge:** Mark A. Borenstein

**Editor's Comment:** This report is based on information that was provided by plaintiff's counsel. Counsel of the city of Los Angeles, Los Angeles County and the Los Angeles County Metropolitan Transportation Authority declined to contribute; counsel of DS Services of America and DS Waters of America did not respond to the reporter's phone calls; and the remaining defendants' counsel were not asked to contribute.

**Writer** Priya Idiculla

## Pedestrian using a crosswalk fatally struck by motorist

**Type:** Verdict-Plaintiff

**Amount:** \$4,528,392

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *head*
- *brain* - traumatic brain injury
- *other* - death

**Case Type:**

- *Motor Vehicle* - Crosswalk; Pedestrian
- *Wrongful Death* - Survival Damages

**Case Name:** Bihn Tieu Tran, Ken Tran and Lawrence Chan v. TNT USA Inc. and Noe Astorga, No. BC645566

**Date:** September 25, 2018

**Plaintiff(s):**

- Ken Tran
- Lawrence Chan
- Bihn Tieu Tran
- Estate of Tien Ahn Chung (Female, 69 Years)

**Plaintiff Attorney(s):**

- William A. Daniels; Bill Daniels | Law Offices APC; Sherman Oaks CA for Estate of Tien Ahn Chung, Bihn Tieu Tran, Ken Tran, Lawrence Chan
- Steven R. Vartazarian; The Vartazarian Law Firm, APC; Sherman Oaks CA for Estate of Tien Ahn Chung, Bihn Tieu Tran, Ken Tran, Lawrence Chan
- Matthew J. Whibley; The Vartazarian Law Firm, APC; Sherman Oaks CA for Estate of Tien Ahn Chung, Bihn Tieu Tran, Ken Tran, Lawrence Chan

**Defendant(s):**

- Noe Astorga
- TNT USA Inc.

**Defense  
Attorney(s):**

- Brandon M. Corday; Kirk & Myers; Los Angeles, CA for TNT USA Inc., Noe Astorga
- Jeffrey Cabot Myers; Kirk & Myers; Los Angeles, CA for TNT USA Inc., Noe Astorga

**Facts:**

On Oct. 24, 2016, plaintiffs' decedent Tien Ahn Chung, 69, a retiree, was walking in a marked crosswalk with a green light and walk signal at the intersection of Main and Third Streets, in Alhambra, when she was struck by a vehicle operated by Noe Astorga. Chung suffered multiple traumatic injuries and died at a hospital that same day.

Chung's adult sons, Bihn Tieu Tran, Ken Tran and Lawrence Chan, sued Astorga and Astorga's employer, TNT USA Inc. The decedent's sons alleged that Astorga was negligent in the operation of his vehicle and that TNT USA was vicariously liable for Astorga's actions while in the course and scope of his employment.

The defendants admitted liability and causation. Thus, the only issue left for the jury to determine was the reasonable value of the loss.

**Injury:**

Chung sustained a traumatic brain injury and blunt force trauma to her body. She was transported to a hospital, but she died that same day.

Chung's adult sons sought recovery of wrongful death damages for the loss of their mother. They also sought recovery of their mother's past medical costs, and of funeral and burial expenses.

Defense counsel contended that the decedent's sons' relationship with their mother was not as close as they claimed. Counsel also argued that the decedent had health issues involving her heart, and asked the jury to award the plaintiffs no more than \$1.5 million.

**Result:**

The jury determined that the plaintiffs' damages totaled \$4,528,391.91.

**Lawrence Chan**

\$1,500,000 Wrongful Death: noneconomic damages

**Estate of Tien Ahn Chung**

\$12,569 Personal Injury: Past Medical Cost

\$15,823 Wrongful Death: Funeral Burial Expense

**Bihn Tieu Tran**

\$1,500,000 Wrongful Death: noneconomic damages

**Ken Tran**

\$1,500,000 Wrongful Death: noneconomic damages

**Trial Information:**

**Judge:** Charles F. Palmer

**Demand:** \$11,000,000 (prior to the trial)

**Offer:** \$5,000,000

**Trial Length:** 3 days

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

**Writer** Priya Idiculla

## Truck driver relied on another driver who waved him on: defense

**Type:** Verdict-Defendant

**Amount:** \$0

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *leg* - fracture, leg; fracture, tibia; fracture, leg; fracture, fibula; scar and/or disfigurement, leg
- *burns*
- *other* - puncture wound; physical therapy; pins/rods/screws; comminuted fracture

**Case Type:**

- *Motor Vehicle* - Left Turn; Motorcycle

**Case Name:** Michael McCamey v. Adalberto Rodriguez, No. BC633583

**Date:** September 21, 2018

**Plaintiff(s):**

- Michael McCamey (Male, 45 Years)

**Plaintiff Attorney(s):**

- Daniel L. Jones; Harris Personal Injury Lawyers, Inc.; Oceanside CA for Michael McCamey
- Ranger J. Wiens; Harris Personal Injury Lawyers, Inc.; San Luis Obispo CA for Michael McCamey

**Plaintiff Expert(s):**

- Eugene M. Vanderpol, II M.S., P.E.; Accident Reconstruction; Carlsbad, CA called by: Daniel L. Jones, Ranger J. Wiens

**Defendant(s):**

- Adalberto Rodriguez

**Defense  
Attorney(s):**

- Robert T. Bergsten; Hosp, Gilbert & Bergsten; Pasadena, CA for Adalberto Rodriguez
- Mary M. Campo; Hosp, Gilbert & Bergsten; Pasadena, CA for Adalberto Rodriguez

**Defendant  
Expert(s):**

- Alvin Lowi, III P.E.; Accident Reconstruction; El Segundo, CA called by: for Robert T. Bergsten, Mary M. Campo
- Stephen Garets; Motorcycles; Corvallis, OR called by: for Robert T. Bergsten, Mary M. Campo

**Insurers:**

- AmeriTrust Group Inc.

**Facts:**

On Sept. 19, 2014, plaintiff Michael McCamey, 45, a UPS delivery driver, was motorcycling at roughly 10 mph in the second of two southbound lanes, in congested, rush-hour traffic, on southbound Valley View Boulevard, in Santa Fe Springs. When McCamey was mid-block, his motorcycle was broadsided by a 35,000-pound tractor-trailer operated by Adalberto Rodriguez, who was attempting to complete a left turn into the driveway of a truck yard. Rodriguez never saw McCamey at any point before or during his turn, so he never braked prior to the front of his tractor-trailer striking the left side of McCamey's motorcycle. As a result, McCamey and his motorcycle were knocked down and pushed roughly 15 feet before Rodriguez stopped because he felt that the forward motion of his rig was being blocked by something. Rodriguez, who still did not know he had struck McCamey and his motorcycle, then drove backward and forward over McCamey and his motorcycle, which had become lodged under the front of the tractor.

McCamey remained trapped under the tractor and unable to move as his left leg was broken and gas from his motorcycle's ruptured gas tank poured over him. Although the gas did not ignite, the engine's contact caused significant burns and scars to McCamey's left leg and foot. He was eventually freed after a forklift from a nearby business lifted the tractor off of him.

McCamey sued Rodriguez, alleging that Rodriguez was negligent in the operation of the tractor-trailer.

Plaintiff's counsel noted that three police officers investigated the collision and that each found that Rodriguez was the sole cause of the collision due to his illegal left hand turn, which violated the applicable vehicle code. The officers testified that McCamey had the right of way and that Rodriguez had the duty to yield to McCamey, but, instead Rodriguez made a left turn when McCamey was too close for the turn to be made safely. The officers also testified that Rodriguez's view of McCamey was blocked by stopped traffic and that Rodriguez should not have started his turn as such. They further testified that Rodriguez was distracted during his turn, as he was looking to his left side, rather than at McCamey's direction of approach, as Rodriguez had to make sure that he cleared stopped traffic on his left as he made his sweeping left turn.

The plaintiff's accident reconstruction expert agreed with the findings of the investigating officers and also found that McCamey did not have any responsibility for the accident. Although plaintiff's counsel never designated the three officers as experts, the court allowed the officers to testify as experts and allowed the officers and accident reconstructionist to testify as to the ultimate questions of liability, neglect and vehicle violations, over defense counsel's objections, as those issues were reserved for the jury to



decide.

Defense counsel argued that Rodriguez made his left turn safely after waiting and watching for the approach of traffic, such as McCamey, who was lane sharing as he rode his motorcycle along the curbside of the second lane on southbound Valley View Boulevard.

Rodriguez claimed that he made his left turn in front of two vehicles that stopped to allow him to make his turn and that he justifiably relied on the driver of the vehicle in the second lane, a large tractor-trailer, whose presence blocked his view of McCamey's approach, to direct him through his turn, as that driver was waiving Rodriguez through.

Defense counsel further argued that McCamey was responsible for stopping and ensuring that there was no cross traffic that could strike him, given that traffic was at a standstill and that other vehicles might be crossing his path, even though McCamey admittedly had the right of way.

**Injury:**

McCamey sustained comminuted fractures of the left tibia and fibula during the process of the tractor's movement. He also remained trapped and unable to move under the tractor as he sustained significant burns and puncture wounds to the left leg, as it was pressed against the motorcycle's hot engine. At the same time, gas from the trapped motorcycle poured out onto the roadway, causing McCamey to believe that he would ignite in flames at any moment.

After a forklift from a nearby business lifted the tractor off of him, McCamey was transported by ambulance to the University of California, Irvine Medical Center, in Orange, where he had rodding and pinning surgery to correct the fractures. He remained at the hospital for one week, and then followed up with physical therapy and orthopedic visits. McCamey also underwent wound care to address the delayed healing from an infection and non-union of the fractures.

McCamey was on disability for one full year. After returning to work for three weeks, McCamey quit, as he claimed his injuries caused him to be unable to perform his duties.

McCamey alleged that his residual injuries limited his work and recreational activities and that he was left with significant scarring to his left leg. He also alleged that his future medical care should include rod removal surgery, which was agreed to cost \$15,000.

McCamey's past medical care, which was stipulated to by the defense as reasonable and necessary, totaled \$132,000. However, prior to trial, the defendant purchased McCamey's lien for his past medical care, so the court ruled that McCamey could not present the past bills to the jury. Further, to limit the impact of two past felony convictions, McCamey limited his claim for past lost earnings to the one year that immediately followed the accident, which allegedly totaled \$73,000.

Plaintiff's counsel asked the jury to award McCamey \$1,588,000 in total damages, including \$73,000 in past lost earnings, \$15,000 in future medical expenses, \$900,000 in general damages for his past pain and suffering, and \$600,000 in general damages for his future pain and suffering.

Defense counsel suggested that if the jury found Rodriguez negligent, it should award McCamey only \$148,000 in total damages, which included \$73,000 in past lost earnings and \$75,000 in past general damages.

**Result:**

The parties agreed to a \$237,500 settlement roughly six months before trial. However, McCamey had second thoughts and refused to sign any enforceable settlement documents. Instead, he advised his attorneys that he preferred to take the matter to trial. He never made a new settlement demand after the settlement fell through, and he never showed any interest in high-low offers.

The jury rendered a defense verdict. It found that Rodriguez was not negligent.

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

H. Chester Horn

**Trial Length:** 5 days

**Trial  
Deliberations:** 1.5 hours

**Jury Vote:** 12-0

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

**Writer** Priya Idiculla

## Failure to properly maintain highway caused crash: bicyclist

**Type:** Verdict-Plaintiff

**Amount:** \$9,118,690

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *head*
- *brain* - brain damage; traumatic brain injury
- *other* - unconsciousness
- *sensory/speech* - hearing, loss of; vision, impairment
- *mental/psychological* - amnesia; cognition, impairment; memory, impairment

**Case Type:**

- *Transportation* - Roadways
- *Motor Vehicle* - Motorcycle
- *Government* - Municipalities; State and Local Government
- *Dangerous Condition of Public Property*

**Case Name:** Robert Jeffrey Watts v. City of Los Angeles, State of California (Caltrans) and Does 1-20, No. BC583821

**Date:** September 20, 2018

**Plaintiff(s):**

- Robert Jeffrey Watts (Male, 58 Years)

**Plaintiff Attorney(s):**

- Boris Treyzon; Abir Cohen Treyzon Salo, LLP; Los Angeles CA for Robert Jeffrey Watts

**Defendant(s):**

- City of Los Angeles
- State of California
- Matthew James Dymond

**Defense Attorney(s):**

- John A. Wright; Office of the City Attorney; Los Angeles, CA for City of Los Angeles
- None reported; Los Angeles, CA for State of California, Matthew James Dymond

**Defendant Expert(s):**

- Stephen A. Blewitt; Accident Reconstruction; Altadena, CA called by: for John A. Wright
- Henricus "Harm" Jansen; Bicycles; El Segundo, CA called by: for John A. Wright

**Facts:**

In July 2014, plaintiff Robert Watts, 58, a camera company owner, was bicycling on Pacific Coast Highway, in Pacific Palisades. As he steered into the main road of travel to avoid debris on the shoulder, Watts was struck by a truck's side mirror, lost control of his bicycle, and sustained injuries to his head.

Watts sued the maintainer of the highway, the city of Los Angeles, and the owner of the highway, the state of California, through the California Department of Transportation.

Watts also brought a claim against the driver of the truck, Matthew Dymond, who agreed to settle with Watts. However, the city brought a cross-claim against Dymond, and a default judgment was entered against him. In addition, the state (Caltrans) settled out of the case prior to trial.

Plaintiff's counsel contended that sand and debris frequently roll down a cliff and onto the pavement, in an area known as the Tramonto slide, and that state and local officials were aware that the debris could create a dangerous condition along a route that was popular for bicyclists. Counsel also contended that since the dangerous condition had been known for years, Caltrans hired the city to sweep the pavement at least once a month to keep it free of debris. However, plaintiff's counsel noted that two city street sweepers testified that they could not sweep at the bottom of the landslide.

The city agreed that the bottom of the landslide blocked the shoulder of the road. However, the city's counsel argued that the subject cliff was on state property and that the city could only sweep trash, as the street sweepers swept debris and could not sweep at the cliff.

**Injury:**

Watts sustained blunt force trauma to his head and was rendered unconscious. He was taken to a hospital, where it was determined that Watts had sustained significant brain damage to the frontal lobe and that he suffered from amnesia for 30 days.

Watts claimed he suffers from brain damage, which left him with memory problems, sensitivity to light, no sense of smell, and hearing problems, which affects his ability to play guitar. He also claimed that he has permanent cognitive diminution, causing him to have stilted conversations. Watts alleged that he can no longer work as a result of his condition.

Watts sought recovery of past and future medical costs, and damages for his past and future pain and suffering. The parties agreed that Watts has moderate to severe brain damage and that he suffered from past and future lost earnings.

**Result:**

Although Caltrans and Dymond had previously settled with the Watts, they were still listed on the verdict sheet. Although Dymond defaulted on the cross-complaint and his negligence was not in dispute, the jury found that Dymond's negligence was not a substantial factor in causing Watts' harm. The jury also found that any negligence on the part of Watts was not a substantial factor in causing his own harm. However, the jury found that the city and Caltrans were both negligent and that their negligence was a substantial factor in causing Watts' harm. It determined that the city was 60 percent liable for Watts' crash and that the state (Caltrans), which had settled out prior to trial, was 40 percent liable. In addition, the jury determined that Watts' damages totaled \$9,118,690.

Based on Proposition 51, or the Multiple Defendants Tort Damage Liability Act, the defendants are joint-and-severally liable for the economic damages award, but the city would only owe 60 percent (its percentage of fault) of the non-economic damages award. However, the city (a non-settling defendant) is also entitled to a setoff for all pre-verdict settlements "in the amount stipulated by the [settlement agreements], or in the amount of the consideration paid for [them], whichever is the greater." (Code of Civil Procedure § 877(a).) Based on those calculations, the total verdict owed by the city of Los Angeles was \$6,957,349.50.

**Robert Jeffrey Watts**

\$199,075 Personal Injury: Past Medical Cost

\$2,173,703 Personal Injury: Future Medical Cost

\$1,041,763 Personal Injury: Past Lost Earnings Capability

\$1,704,149 Personal Injury: FutureLostEarningsCapability

\$2,600,000 Personal Injury: past noneconomic damages

\$1,400,000 Personal Injury: future noneconomic damages

**Trial Information:**

**Judge:** Mark A. Borenstein

**Demand:** \$1,750,000 (from the city of Los Angeles)

**Offer:** \$1,000,000 (from the city of Los Angeles)

**Trial Length:** 3 weeks

**Trial  
Deliberations:** 1 days

**Jury Vote:** 11-1

**Jury  
Composition:** 8 male, 4 female

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

**Writer** Priya Idiculla

## Car crash necessitated two neck surgeries, plaintiff claimed

**Type:** Verdict-Plaintiff

**Amount:** \$858,456

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back*
- *neck*
- *other* - physical therapy; epidural injections; foraminotomy/foraminectomy; aggravation of pre-existing condition

**Case Type:**

- *Motor Vehicle* - Broadside; Right Turn; Intersection; Multiple Vehicle

**Case Name:** Tom Bennett v. Marina Espinoza, No. BC629588

**Date:** September 11, 2018

**Plaintiff(s):**

- Tom Bennett (Male, 48 Years)

**Plaintiff Attorney(s):**

- Aaron M. Brown; California Trial Team P.C.; Long Beach CA for Tom Bennett

**Plaintiff Expert(s):**

- Sanjay Khurana M.D.; Orthopedic Surgery; Marina del Rey, CA called by: Aaron M. Brown

**Defendant(s):**

- Marina Espinoza

**Defense Attorney(s):**

- Marvin Straus; Straus Meyers, LLP; San Diego, CA for Marina Espinoza



**Defendant  
Expert(s):**

- Kenneth L. Nudleman M.D.; Neurology; Santa Ana, CA called by: for Marvin Straus

**Insurers:**

- Loya Insurance Group

**Facts:**

On June 9, 2015, plaintiff Tom Bennett, 48, was driving on the southbound side of Hawthorne Boulevard, near its intersection at 242nd Street, in Torrance. As he entered the intersection, the front left section of his pickup truck collided with the passenger side of a sedan operated by Marina Espinoza, who entered the intersection from the right-turn lane of the westbound side of 242nd Street. Bennett claimed injuries to his neck and back.

Bennett sued Espinoza, alleging that Espinoza was negligent in the operation of her vehicle.

Bennett claimed that Espinoza drove directly in front of his vehicle, causing him to hit the side of her sedan.

Espinoza admitted liability, and the matter proceeded to a trial that addressed causation and damages.

**Injury:**

After the crash, Bennett immediately took his daughter, who was in the car with him, to the doctor. He then presented to his own orthopedist later that day. Bennett had recently undergone lower back surgery, and he claimed the crash aggravated his prior lumbar spine injury. He also claimed a new rupture of a cervical disc at the C4-5 level. Bennett underwent a course of conservative treatment, including pain medication and physical therapy. He also received two epidural injections to his lumbar spine in 2016 and another three lumbar epidural injections in 2018.

In September 2017, Bennett underwent disc replacement surgery on his neck. Approximately five months later, in February 2018, he underwent a foraminotomy, which involved the enlargement of a passage that housed a spinal nerve.

Plaintiff's counsel contended that Bennett may need a cervical fusion or an adjacent-level disc replacement surgery in the future. Counsel also contended that Bennett might require a decompression or fusion surgery to his lower back. Bennett's attorney attributed 50 percent of the cause of the potential lumbar surgery to the subject accident.

Bennett had previously worked as a member of an audio production crew. However, he was out of work recovering from his back surgery at the time of the subject accident. He claimed that after the crash, he had to quit his job entirely and start his own business. He alleged that this led to a loss of earnings. Bennett further claimed that he can no longer go biking or kayaking and that he can't play with his young daughters the way he wants to.

Bennett sought recovery of past and future medical expenses, past and future lost earnings, and damages for his past and future pain and suffering. According to defense counsel, Bennett's attorney asked the jury to award Bennett \$2,364,934.

Defense counsel disputed the lost-earnings claim, arguing that it was unclear whether Bennett would have ever returned to his old job, regardless of the subject car accident.

Defense counsel also disputed the reasonableness of Bennett's medical bills, and the amount of Bennett's pain and suffering. Counsel noted that most of Bennett's initial treatment was to his back, which Bennett had injured before the accident, and not to Bennett's neck, and that Bennett had complained of pain in his neck prior to the crash. In addition, defense counsel presented surveillance video that supposedly showed Bennett lifting and picking up items. Based on the video, defense counsel argued that Bennett's injuries were not that severe.

**Result:**

The jury determined that Bennett's damages totaled \$858,456.03. There was no award for past or future lost earnings.

**Tom Bennett**

\$101,156 Personal Injury: Past Medical Cost

\$135,000 Personal Injury: Future Medical Cost

\$227,500 Personal Injury: Past Pain And Suffering

\$394,800 Personal Injury: Future Pain And Suffering

**Trial Information:**

**Judge:** Stan Blumenfeld

**Post Trial:** Defense counsel's motion to tax costs was denied.

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

**Writer** Melissa Siegel

## Employees removed from schedule after issuing complaints: suit

**Type:** Verdict-Plaintiff

**Amount:** \$11,000,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):** • *mental/psychological* - emotional distress; post-traumatic stress disorder

**Case Type:** • *Employment* - Retaliation; Sexual Harassment; Negligent Retention; Workplace Harassment; Wrongful Termination  
• *Worker/Workplace Negligence* - Negligent Hiring; Negligent Retention; Negligent Supervision

**Case Name:** Megan Meadowcroft and Amber Brown v. Silverton Partners Inc., Essence Business Group Inc., Keyways Vineyard and Winery LLC, Carlos Pineiro and Does 1 through 10, No. BC633239

**Date:** September 11, 2018

**Plaintiff(s):** • Amber Brown (Female, 26 Years)  
• Megan Meadowcroft (Female, 26 Years)

**Plaintiff Attorney(s):** • Martin I. Aarons; The Aarons Law Firm, P.C.; Encino CA for Megan Meadowcroft, Amber Brown  
• Shannon H.P. Ward; The Aarons Law Firm, P.C.; Encino CA for Megan Meadowcroft, Amber Brown

**Defendant(s):** • Carlos Pineiro  
• Silverton Partners Inc.  
• Essence Business Group Inc.

**Defense  
Attorney(s):**

- James A. Kim; Shioda & Kim, A.P.L.C.; Los Angeles, CA for Silverton Partners Inc.
- Heidi M. Cheng; Law Offices of Steven P. Chang; City of Industry, CA for Silverton Partners Inc.
- None reported for Essence Business Group Inc., Carlos Pineiro

**Facts:**

Plaintiffs Amber Brown, 26, and Megan Meadowcroft, 26, employees of Keyways Vineyard and Winery, in Temecula, were both taken off the work schedule shortly after complaining about their new general manager.

Brown worked for Keyways for about nine months when Carlos Pineiro was hired as the new general manager. Meadowcroft began working for the winery shortly after Pineiro was hired. Brown and Meadowcroft claimed that Pineiro made sexually explicit comments to them and touched them inappropriately, but that when they complained about Pineiro to Silverton Partners and the owners and managers of Keyways, Essence Business Group Inc., they were both taken off the work schedule and never put back on.

Meadowcroft and Brown sued Pineiro; the owner of the winery, Silverton Partners Inc.; and the management company, Essence Business Group Inc.

Essence failed to obtain new counsel after their former lawyers were relieved about six months before trial. As a result, it did not appear at trial, and the matter moved forward against them in absentia.

Brown and Meadowcroft claimed that Pineiro sexually harassed them for three to 16 weeks in total. They claimed that while Pineiro was fired two weeks after he started working for Keyways, but that he was rehired as the general manager two months later, after Pineiro reached out to Silverton and Essence about being rehired, allegedly promising additional sales, connections and better behavior.

Brown claimed that when she learned that Pineiro was rehired, she again complained to Silverton and Essence, but that her complaints were ignored. She later obtained a temporary restraining order. Brown claimed that while the final restraining order hearing was pending, she was put on leave while Pineiro continued to work, and that after the restraining order was granted, she was never put back on the schedule, despite following up with Silverton and Essence multiple times.

Meadowcroft claimed that after she complained about Pineiro, she was retaliated against by being left off new work schedules.

Pineiro claimed that he did not engage in any harassment or other inappropriate behavior.

Silverton's counsel contended that Silverton was not the employer and that the employer was Essence.

**Injury:** Brown claimed that she suffers from a panic disorder and post-traumatic stress disorder as a result of the incidents. Meadowcroft described her symptoms, which were allegedly consistent with post-traumatic stress disorder.

Brown and Meadowcroft sought recovery of lost earnings and emotional distress damages.

Defense counsel disputed the extent of the plaintiffs' damages and questioned whether the plaintiffs were harmed at all.

**Result:** A jury found for Meadowcroft and Brown on all causes of action for harassment, retaliation, failure to prevent harassment and/or retaliation, and negligent supervision, retention and/or hiring. It also found that Silverton and Essence were joint employers of Meadowcroft, Brown and Pineiro.

The jury determined that the plaintiffs' damages totaled \$11 million.

### **Amber Brown**

\$3,000,000 Personal Injury: Punitive Exemplary Damages

\$1,000,000 Personal Injury: past emotional distress

\$1,500,000 Personal Injury: future emotional distress

### **Megan Meadowcroft**

\$3,000,000 Personal Injury: Punitive Exemplary Damages

\$1,000,000 Personal Injury: past emotional distress

\$1,500,000 Personal Injury: future emotional distress

### **Trial Information:**

**Judge:** Susan Bryant-Deason

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

**Writer:** Priya Idiculla

## Defense claimed plaintiff's back surgery was unnecessary

**Type:** Verdict-Plaintiff

**Amount:** \$60,800

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back*
- *head* - headaches
- *neck*
- *other* - rhizotomy; soft tissue; chiropractic; epidural injections
- *surgeries/treatment* - laminectomy; laminectomy, lumbar

**Case Type:**

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

**Case Name:** Gabriel Feliciano v. Chad Marc Gonzalez, deceased, No. BC608989

**Date:** September 11, 2018

**Plaintiff(s):**

- Gabriel Feliciano (Male, 30 Years)

**Plaintiff Attorney(s):**

- Jesse E. French; Akiva Niamehr LLP; Los Angeles CA for Gabriel Feliciano

**Plaintiff Expert (s):**

- Kasra Rowshan M.D.; Orthopedic Surgery; Newport Beach, CA called by: Jesse E. French

**Defendant(s):**

- Chad Marc Gonzalez

**Defense  
Attorney(s):**

- K. Robert Gonter; Gates Gonter Guy Proudfoot & Muench; Irvine, CA for Chad Marc Gonzalez
- Vincent H. Brunello; Gates Gonter Guy Proudfoot & Muench; Irvine, CA for Chad Marc Gonzalez

**Defendant  
Expert(s):**

- A. Nick Shamie M.D.; Orthopedic Surgery; Los Angeles, CA called by: for K. Robert Gonter, Vincent H. Brunello
- Stephen L.G. Rothman M.D.; Neuroradiology; Torrance, CA called by: for K. Robert Gonter, Vincent H. Brunello

**Facts:**

On Feb. 22, 2014, plaintiff Gabriel Feliciano, 30, a construction worker, was driving at about 70 mph in the high occupancy vehicle lane of northbound State Route 14, also known as the Antelope Valley Freeway, in Santa Clarita. When he was near Placerita Canyon Road, his pickup truck was rear-ended by a sport utility vehicle operated by Chad Gonzalez. Feliciano claimed injuries to his back.

Feliciano sued Gonzalez, alleging that Gonzalez was negligent in the operation of his vehicle.

Gonzalez passed away from unrelated causes during the course of litigation, so the parties stipulated that Feliciano would proceed against Gonzalez's estate.



**Injury:**

Feliciano claimed he sustained soft tissue injuries to his back and neck, resulting in headaches. He was taken by AMR Ambulance to Henry Mayo Newhall Memorial Hospital, in Valencia, where he was treated and released. Feliciano claimed that he continued to have pain and stiffness in his back, and complained that his pain was a seven out of 10. So, he sought chiropractic care before treating with an anesthesiologist and a pain management physician. Feliciano received epidural steroid injections and facet block injections to his thoracic and lumbar spine, but he claimed he did not have any relief from the injections. He then began a course of treatment with an expert orthopedic surgeon, who believed that Feliciano would benefit from a lumbar rhizotomy procedure and a laminectomy. The treating surgeon estimated the rhizotomy to be about \$64,256 and estimated the laminectomy to be about \$118,330. The expert ultimately performed both procedures.

California Highway Patrol investigated the crash, and Feliciano's vehicle required \$28,391.34 in repairs. Plaintiff's counsel contended that, given the severe impact and significant damage of the vehicles, Feliciano was injured in the crash. Counsel also contended that Feliciano's back surgery was necessary and related to the accident, as his conservative treatment failed. In addition, counsel argued that Feliciano will require future orthopedic therapy and potentially another surgery.

Feliciano sought recovery of \$300,000 in past medical costs, \$480,000 in future medical costs, and \$14,000 in past lost earnings. He also sought recovery of damages for his past and future pain and suffering.

During closing arguments, plaintiff's counsel argued that the collision was a life-changing event and that Feliciano will require treatment for the rest of his life. Counsel also asked the jury to return a verdict of \$1.25 million.

Defense counsel noted that Feliciano had denied all prior back injuries and pain complaints at deposition and in written discovery. He also denied any radicular symptoms at deposition. However, defense counsel noted that Feliciano later contended that his pain following the incident was different than his pre-accident back pain. Defense counsel further contended that Feliciano had consistently treated for his chronic lower back pain from 2008 up until 11 days before the accident. Defense counsel argued that given the extensive history of prior back pain and lack of objective radicular symptoms, Feliciano's condition was not made worse by the subject incident, and his surgery was unnecessary and unrelated to the accident.

The defense's medical experts opined that Feliciano's lumbar spine was completely normal, with the exception of some mild congenital stenosis. The defense's orthopedic surgery expert testified that, if anything, Feliciano suffered a sprain and/or strain of the cervical and lumbar spine, which should have resolved with two to three months of conservative treatment. The expert further opined that there was absolutely no indications for the plaintiff's treating orthopedic expert to perform surgery.

**Result:**

The jury found that the collision was a substantial factor in causing Feliciano's injuries. It determined that Feliciano's damages totaled \$60,800.

## **Gabriel Feliciano**

\$10,800 Personal Injury: economic damages

\$30,000 Personal Injury: past noneconomic damages

\$20,000 Personal Injury: future noneconomic damages

### **Trial Information:**

**Judge:** C. Edward Simpson

**Demand:** \$350,000

**Offer:** None

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

**Writer** Priya Idiculla

## Police misconduct investigator fired for making complaints: suit

**Type:** Verdict-Plaintiff

**Amount:** \$736,000

**State:** California

**Venue:** Los Angeles County

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

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

**Case Type:** • *Employment* - Retaliation; Whistleblower; Wrongful Termination

**Case Name:** Thomas Gonzales v. The Citizens Police Complaint Commission and The City of Long Beach, No. NC053533

**Date:** September 07, 2018

**Plaintiff(s):** • Thomas Gonzales (Male, 59 Years)

**Plaintiff Attorney(s):** • Dustin L. Collier; Collier Law Firm; Corte Madera CA for Thomas Gonzales  
• V. Joshua Socks; Collier Law Firm; Corte Madera CA for Thomas Gonzales

**Plaintiff Expert (s):** • Anthony E. Reading Ph.D.; Psychology/Counseling; Beverly Hills, CA called by: Dustin L. Collier, V. Joshua Socks  
• Charles R. Mahla Ph.D.; Economics; Los Angeles, CA called by: Dustin L. Collier, V. Joshua Socks

**Defendant(s):** • City of Long Beach  
• Citizens Police Complaint Commission

**Defense  
Attorney(s):**

- Irma Rodriguez Moisa; Atkinson, Andelson, Loya, Ruud & Romo; Cerritos, CA for City of Long Beach, Citizens Police Complaint Commission
- Alfonso Estrada; Atkinson, Andelson, Loya, Ruud & Romo; Pasadena, CA for City of Long Beach, Citizens Police Complaint Commission
- Arielle J. Spinner; Atkinson, Andelson, Loya, Ruud & Romo; Cerritos, CA for City of Long Beach, Citizens Police Complaint Commission

**Defendant  
Expert(s):**

- James R. High M.D.; Psychiatry; Santa Monica, CA called by: for Irma Rodriguez Moisa, Alfonso Estrada, Arielle J. Spinner

**Facts:**

In September 2006, plaintiff Thomas Gonzales, 59, a civilian constitutional-rights investigator for the Citizens' Police Complaint Commission, was terminated from his position.

The Citizen Police Complaint Commission was established in 1990 by a vote of the citizens of Long Beach after a particularly violent racial profiling and beating incident allegedly occurred by the Long Beach Police Department. The charter amendment that established the commission empowered it to receive and independently investigate citizen complaints of misconduct against Long Beach police officers. Special review emphasis was placed on allegations of excessive force and false arrest, as well as complaints with racial or sexual overtones. However, after a former police officer became Gonzales' supervisor in 2004, Gonzales noted a series of changes made in his operation of the commission that he claimed resulted in discrimination against the Hispanic community. As a result, Gonzales made a series of complaints to his new supervisor and others up the chain of command, alleging that the complaints filed by Hispanics against the Long Beach Police Department were not being properly or "independently" investigated pursuant to the mandate of the city charter. He claimed that Hispanic citizens' complaints were being summarily marked "no further action," altered by the police department and his new supervisor, and, sometimes, entirely discarded. He claimed that those actions prevented the serious complaints contemplated by the charter from being honestly evaluated by the commission.

Gonzales was terminated from his position in September 2006. He was told that the results of an internal investigation found that he and his wife, a paralegal, were not being truthful when engaging in a for-profit contact with a citizen that they met while the citizen was filing a complaint with the commission through Gonzales. Gonzales claimed that his termination was due to his complaints about discrimination against the Hispanic community.

Gonzales sued the city of Long Beach and the Citizen Police Complaint Commission, alleging race discrimination, a violation of the Whistleblower Protection Act, failure to accommodate, violation of the Family Medical Leave Act, and retaliation.

The trial court dismissed four out of five causes of action on summary judgment, and the matter continued to trial on Gonzales' retaliation claim under FEHA only.

On April 3, 2013, the jury rendered a full defense verdict. However, Gonzales filed an appeal with the Second District Court of Appeal on the grounds of erroneous dismissal of the whistleblower cause of action on summary judgment, prejudicial selection of improper jury instructions, prejudicial exclusion of retaliation evidence, and other issues. In 2016, the Court of Appeal reversed the granting of summary judgment as to Gonzales' cause of

action for whistleblower retaliation under California Labor Code § 1102.5, and the matter proceeded to a new trial on the whistleblower retaliation cause of action.

During the new trial, Gonzales claimed that, prior to his termination, he was pressured to not investigate alleged police misconduct in cases in an attempt to prevent his findings from being included in the official statistics reported to the city council, the public, and the Department of Justice. He claimed that when he complained about the new executive director's alleged attempts to hide citizen complaints against the police, the director attempted to have him removed from his position. Gonzales further claimed that when he continued to complain about citizen complaints against the police not being investigated, city officials hired an independent investigative agency to find misconduct on him so that he could be terminated.

Defense counsel argued that Gonzales was terminated for violating the city's code of ethics. Counsel contended that the investigation included a citizen complaint made at a city public meeting in May 2006, during which the citizen claimed that Gonzales was charging her for the services of the commission. Defense counsel contended that the city investigated the citizen's allegations and that it uncovered that Gonzales had converted an on-the-job contact with the citizen into a for-profit relationship through his wife. After meeting Gonzales at the commission, the citizen entered into a contract with Gonzales' wife for her to provide her legal assistance with a lawsuit she intended to file against her former employer. After the investigation's findings were received, the city made the decision to terminate Mr. Gonzales for his apparent conflict of interest and conversion of an on-the-job contact into a for-profit relationship.

In response, plaintiff's counsel argued that Gonzales' wife was providing legal services to the citizen in an unrelated case against a car company and that neither Mr. Gonzales nor his wife received any compensation for the wife's provision of services, which was done during the course of her services within League of United Latin American Citizens, of which the citizen was a member and Gonzales was president.

**Injury:**

Gonzales worked in his position since 1999. He claimed he received excellent reviews the first five years of his employment, specifically regarding his investigative work. However, he was terminated from his position in September 2006, resulting in a loss of earnings. Gonzales also claimed the retaliation caused him to suffer from emotional distress.

The plaintiff's psychology expert testified that he found, to a reasonable degree of psychiatric probability, that Gonzales developed a depressive disorder arising from his termination, which would fulfill the criteria for adjustment disorder with depressed mood.

Gonzales sought recovery of emotional distress damages and economic damages.

**Result:**

The jury found for Gonzales and determined that Gonzales' damages totaled \$736,000.

**Thomas Gonzales**

\$436,000 Personal Injury: economic damages

\$300,000 Personal Injury: noneconomic damages

**Trial Information:**

**Judge:** Mark C. Kim

**Trial Length:** 3 weeks

**Trial  
Deliberations:** 7 hours

**Jury Vote:** 9-3

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

**Writer** Priya Idiculla

**Plaintiff: Medical care necessary to treat sprains and strains**

**Type:** Verdict-Plaintiff

**Amount:** \$54,375

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back* - sprain, lumbar; strain, lumbar
- *neck* - sprain, cervical; strain, cervical
- *elbow*
- *other* - physical therapy; trigger point injection
- *shoulder*

**Case Type:**

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

**Case Name:** Alexander Mitsicourides v. Rodolfo Salar, Maria Christina Salar and Does 1 to 10, No. BC603361

**Date:** September 07, 2018

**Plaintiff(s):**

- Alexander Mitsicourides (Male, 36 Years)

**Plaintiff Attorney(s):**

- Kyle Schneberg; Schneberg Law PC; Redondo Beach CA for Alexander Mitsicourides
- Steven S. Yamin; M&Y Personal Injury Lawyers; Los Angeles CA for Alexander Mitsicourides

**Plaintiff Expert (s):**

- Ramin Rabbani M.D.; Orthopedic Surgery; Beverly Hills, CA called by: Kyle Schneberg, Steven S. Yamin

**Defendant(s):**

- Rodolfo Salar
- Maria Christina Salar

**Defense  
Attorney(s):**

- Craig D. Nelson; Raffalow, Bretoi & Adams; Los Angeles, CA for Maria Christina Salar, Rodolfo Salar

**Defendant  
Expert(s):**

- Hillel Sperling M.D.; Orthopedic Surgery; Tarzana, CA called by: for Craig D. Nelson

**Insurers:**

- Mercury Insurance Group

**Facts:**

On May 15, 2015, plaintiff Alexander Mitsicourides, 36, a high school teacher, was driving on northbound Interstate 5, also known as the Century Freeway or the Glenn Anderson Freeway, in Los Angeles. When he was just south of the interchange with Interstate 110, also known as the Harbor Freeway and Transit Way, his vehicle was rear-ended by a vehicle operated by Rodolfo Salar. Mitsicourides claimed injuries to his neck, back, left elbow and right shoulder.

Mitsicourides sued Rodolfo Salar and the co-owner of Mr. Salar's vehicle, Maria Salar. Mitsicourides alleged that Mr. Salar was negligent in the operation of his vehicle and that Ms. Salar was vicariously liable for Mr. Salar's actions.

Mitsicourides dismissed the claims against Ms. Salar several months before trial.

Mr. Salar alleged that Mitsicourides had unreasonably stopped in the roadway, causing the crash.

Judge Patrick Madden granted plaintiff's counsel's motion for a directed verdict on liability and causation, so the jury only decided comparative fault and damages.



**Injury:**

Mitsicourides claimed he sustained chronic soft tissue sprains and strains to his neck, back, left elbow and right shoulder. He first treated with an orthopedist two days after the crash. He received physical therapy, orthopedic consultations and three series of trigger point injections.

Mitsicourides claimed that his condition improved after his first three months of medical treatment, but that he continued to experience pain in his neck and lower back after performing certain physical activities.

The plaintiff's expert orthopedic surgeon opined that Mitsicourides suffered sprain injuries to his neck, back, elbow and shoulder. He also opined that the reasonable value of Mitsicourides' past medical treatment amounted to \$14,375 and that Mitsicourides should fully recover within one year after trial.

Mitsicourides sought recovery of \$14,375 in past medical costs, and an unspecified amount of damages for his past and pain and suffering. He did not allege lost earnings or future medical costs.

Defense counsel argued that Mitsicourides should have healed within eight weeks and that Mitsicourides' reasonable medical bills should have totaled only \$4,000.

The defense's expert orthopedic surgeon opined that the reasonable charges for Mitsicourides' medical treatment should have totaled \$7,425 and that Mitsicourides should have healed within eight weeks. He also opined that one of the three trigger point injections, the third injection, was medically unnecessary, while two of the trigger point injections were medically reasonable.

**Result:**

The jury determined that Mitsicourides' damages totaled \$54,375.

**Alexander Mitsicourides**

\$14,375 Personal Injury: Past Medical Cost

\$35,000 Personal Injury: Past Pain And Suffering

\$5,000 Personal Injury: Future Pain And Suffering

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

Patrick T. Madden

**Demand:**

\$27,500 (C.C.P. § 998)

**Offer:** \$12,500

**Trial Length:** 4 days

**Trial  
Deliberations:** 1.5 hours

**Jury  
Composition:** 3 male, 9 female

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

**Writer** Priya Idiculla

## Failure to address known slippery condition caused fall: plaintiff

**Type:** Verdict-Plaintiff

**Amount:** \$3,195,770

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *arm* - fracture, arm; fracture, radius
- *elbow*
- *other* - thumb; deQuervain's tendinitis; epicondylitis; nondisplaced fracture
- *wrist* - carpal tunnel syndrome; scapholunate ligament, tear; triangular fibrocartilage complex, torn
- *epidermis* - contusion
- *hand/finger* - fracture, metacarpal
- *neurological* - reflex sympathetic dystrophy; complex regional pain syndrome

**Case Type:**

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

**Case Name:** Ilona Mikaelian aka Ilona Jamkochian v. General Growth Properties Inc., Glendale I Mall Associates LLP, ERMC Inc., ERMC Property Management Company of Illinois LLC, Brent Gardner, Optimal Biofuels Inc. and Does 1 to 100, No. BC607598

**Date:** August 30, 2018

**Plaintiff(s):**

- Ilona Mikaelian (Female)

**Plaintiff Attorney(s):**

- Margarit K. Mardirosian; Mardirosian & Mardirosian; Glendale CA for Ilona Mikaelian
- Lourdes DeArmas; AlderLaw, P.C.; Los Angeles CA for Ilona Mikaelian
- Ashley A. Laiken; AlderLaw, P.C.; Los Angeles CA for Ilona Mikaelian

**Plaintiff Expert(s):**

- D. Levi Harrison M.D.; Orthopedic Surgery; Glendale, CA called by: Margarit K. Mardirosian, Lourdes DeArmas, Ashley A. Laiken
- Dan T. La M.D.; Rheumatology; Tujunga, CA called by: Margarit K. Mardirosian, Lourdes DeArmas, Ashley A. Laiken
- Mark J. Burns C.X.L.T., C.P.S.I.; Accident Reconstruction; Marina del Rey, CA called by: Margarit K. Mardirosian, Lourdes DeArmas, Ashley A. Laiken
- Paul Broadus M.A.; Vocational Rehabilitation; Claremont, CA called by: Margarit K. Mardirosian, Lourdes DeArmas, Ashley A. Laiken
- David Fish M.D., M.P.H.; Life Care Planning; Santa Monica, CA called by: Margarit K. Mardirosian, Lourdes DeArmas, Ashley A. Laiken
- David T. Fractor Ph.D.; Economics; Pasadena, CA called by: Margarit K. Mardirosian, Lourdes DeArmas, Ashley A. Laiken
- Edwin M. Ashley M.D.; Hand Surgery; Los Angeles, CA called by: Margarit K. Mardirosian, Lourdes DeArmas, Ashley A. Laiken
- Edward Stokes M.D.; Orthopedic Surgery; Glendale, CA called by: Margarit K. Mardirosian, Lourdes DeArmas, Ashley A. Laiken
- Steven D. Lin M.D.; Orthopedic Surgery; Arcadia, CA called by: Margarit K. Mardirosian, Lourdes DeArmas, Ashley A. Laiken
- Steven H. Richeimer M.D.; Pain Management; Los Angeles, CA called by: Margarit K. Mardirosian, Lourdes DeArmas, Ashley A. Laiken
- Kenneth R. Sabbag M.D.; Orthopedic Surgery; Pasadena, CA called by: Margarit K. Mardirosian, Lourdes DeArmas, Ashley A. Laiken

**Defendant(s):**

- ERMC Inc.
- Brent Gardner
- Optimal Biofuels Inc.
- General Growth Properties Inc.
- Glendale I Mall Associates LLP
- ERMC Property Management Company of Illinois LLC

**Defense Attorney(s):**

- Michael F. Moon; Kinkle, Rodiger & Spriggs Inc.; Riverside, CA for Glendale I Mall Associates LLP, ERMC Inc., ERMC Property Management Company of Illinois LLC, Brent Gardner, General Growth Properties Inc., Optimal Biofuels Inc.

**Defendant Expert(s):**

- Alex J. Balian M.B.A.; Retail Industry; West Hills, CA called by: for Michael F. Moon
- Robert M. Wilson M.D.; Orthopedic Surgery; Los Angeles, CA called by: for Michael F. Moon

**Insurers:**

- American International Group Inc.
- Liberty Mutual Insurance Co.

**Facts:**

On Nov. 7, 2014, plaintiff Ilona Mikaelian, an employee at Brighton Collectibles, one of the stores at the Glendale Galleria, a large three-story regional shopping center and office complex located in downtown Glendale, discarded trash and recyclables in a designated trash room. As she was exiting the trash room with a co-worker, Mikaelian slipped and fell backward, landing on both hands. She claimed injuries to her hands and wrists.

Mikaelian sued the owner and manager of the mall, Glendale I Mall Associates LLP, and the companies contracted to maintain and clean the mall, ERMC Inc. and ERMC Property

Management Company of Illinois LLC. Mikaelian alleged that the defendants failed to properly maintain the subject area, creating a dangerous condition.

Brent Gardner, General Growth Properties Inc. and Optimal Biofuels Inc. were also initially named as defendants, but they were ultimately removed from the case.

Mikaelian and her co-worker both claimed that after the accident, they noticed that Mikaelian's clothes were wet with grease and dirt. Mikaelian's co-worker testified that, within the subject trash room, there was a cooking oil recycling bin used by the food court workers to dispose of used cooking oil and that there was an oily substance on the floor at the time of the incident.

Plaintiff's counsel contended that no inspections had occurred on the day of the incident and that Glendale I and the ERMCo entities did not have reasonable inspections of the property to discover unsafe conditions. However, counsel contended that on Oct. 14, 2014, less than month before the incident, an email was sent to Glendale I, advising them that there was oil on the floor. It was also advised that although the cooking oil recycling bin was not leaking, the food court employees were not properly disposing of the oil, "making a mess everywhere." Plaintiff's counsel argued that, based on the email, the defendants knew of the dangerous condition, but failed to take steps to correct it.

The plaintiff's accident reconstruction expert conducted an informal site inspection and a formal one. He opined that the subject trash room was in an unsafe condition and concluded that there was an oily substance at the time of the incident. However, he testified that the substance could be difficult to perceive and could go easily go unnoticed. Based on his findings, the expert opined that the floor of the trash room presented an unreasonable risk of harm and that because of the email, the defendants had actual notice that grease/oil was not being properly disposed of in the trash room. In addition, he opined that the defendants failed to have proper floor inspection procedures to proactively identify.

Plaintiff's counsel noted that despite testifying that housekeeping performed inspections once an hour, the housekeeping manager could not verify that any inspections had occurred on the day of the subject incident.

The defense's retail industry expert opined that Glendale I and the ERMCo entities had proper floor inspection procedures wherein security patrol officers inspected the subject trash room every 15 minutes and the housekeeping manager inspected it every hour. The expert also opined that documentation of inspections was not required.

In response, plaintiff's counsel noted that the defense's liability expert never reviewed nor did he know whether the defendants had any written policies or procedures regarding how and when inspections were to be performed. Counsel also noted that the defense expert did not conduct a site inspection. Plaintiff's counsel also noted that while there was a security guard for Galleria I on duty the day of the incident that was responsible for patrolling the mall, no one could recall the name of that person nor was that guard identified in discovery. In addition, plaintiff's counsel contended that, based on the testimonies of the two managers, it took the security manager seven minutes to cross the entire mall and it took the housekeeping manager 15 minutes to cross the mall. Counsel argued that based on that testimony, there was no way the security guard on patrol could complete his entire round of top and bottom floors of the mall, the food court, the

restrooms, and inspect the subject trash room every 15 minutes.

## **Injury:**

Mikaelian injured her wrists and hands. To her left wrist and hand, she sustained a non-displaced, intra-articular fracture of the distal radius; a scapholunate ligament tear; and triangular fibrocartilage complex (TFCC) tears. To her right wrist and hand, she sustained a bone contusion of the first metacarpal joint, compaction of the hamate, and a non-displaced fracture of the fourth and fifth carpal-metacarpal joint. In addition, she sustained medial epicondylitis to both elbows. Mikaelian claimed that her injuries resulted in carpal tunnel syndrome and early complex regional pain syndrome, also known as reflex sympathetic dystrophy or causalgia, a chronic pain condition, to both hands and wrists. She also claimed her right wrist developed De Quervain's tenosynovitis, a painful condition that affects the tendons on the thumb side of the wrist.

Mikaelian claimed that she felt pain in both of her wrists immediately after the incident. She was transported by ambulance to Glendale Memorial Hospital, in Glendale, where she complained of left wrist and right thumb pain. By the time she got to the emergency room, her left hand and wrist hand become very swollen, but her X-rays were read as normal, so she was discharged with a left hand brace. Three days later, Mikaelian proceeded to an urgent care facility with complaints of continued pain in both hands, with it being worse on the left. X-rays were again performed, which showed a questionable fracture at the base of the fifth metacarpal. Workers' compensation referred Mikaelian to Dr. D. Levi Harrison, an orthopedic hand specialist who reviewed her records and performed an examination. Harrison ultimately determined that Mikaelian suffered a scapholunate ligament tear, TFCC tears, and a non-displaced, intra-articular fracture of the distal radius of the left wrist. Surgery was recommended for the scapholunate ligament tear, but Mikaelian never underwent the procedure.

In his reports, Harrison noted that all of Mikaelian's complaints and injuries were due to her fall and placed Mikaelian on work restriction.

In regard to her complaints of ongoing and persistent pain in her hands and wrists, Mikaelian was examined by another orthopedic hand specialist, Dr. Steven Lin, in the absence of Harrison, in March 2015. Lin noted that there was possibly a "re-injury sometime in January to her right hand." However, Lin indicated in his report that he felt that Mikaelian was developing a "bit of hypersensitivity syndrome of early CRPS." Since Mikaelian only saw Lin once, and her care was transferred from Harrison to a third orthopedic hand specialist, Dr. Kenneth Sabbag, the early CRPS was not explored further.

Mikaelian claimed that by the time she was seen by Sabbag, the symptoms to her right wrist/hand were worse than her left. Sabbag examined Mikaelian and recommended conservative treatment, including physical therapy. In his reports, Sabbag noted that all of Mikaelian's complaints and injuries were due to her fall.

By August 2016, Mikaelian's care was transferred to Dr. Edward Stokes, a general orthopedic surgeon. He examined Mikaelian and recommended continuing conservative treatment. In his reports, Stokes noted that, in his medical opinion, Mikaelian's injury arose out of, and occurred during, the course of Mikaelian's normal employment and that her continuing problems can be "attributed entirely, wholly and solely" to the injuries on Nov. 7, 2014. Stokes also placed Mikaelian on total temporary disability.

Despite ongoing treatment, Mikaelian claimed her pain worsened. All of her doctors,

including the orthopedic hand specialists and her primary care physician, searched for etiology of the continued pain and due to a positive ANA blood test, autoimmune diseases -- such as Raynaud's disease, lupus, and rheumatoid arthritis -- were explored. In addition, diabetic neuropathy was also considered, but no conclusive diagnosis was made.

Due to the alleged worsening of her condition and persistent pain, Mikaelian sought a second opinion outside of workers' compensation. She presented to Dr. Edwin Ashley, an expert orthopedic surgeon with a subspecialty in hands. Ashley ultimately opined that Mikaelian did have CRPS and continued carpal tunnel syndrome to both wrists. However, he determined that Mikaelian was unable to proceed with the carpal tunnel surgery until the CRPS was resolved.

Ashley referred Mikaelian to Dr. Steven Richeimer, a pain management specialist who is also an expert on CRPS, whom the plaintiff retained, but did not call at trial. Richeimer performed tests and also opined that Mikaelian was suffering from early CRPS. Richeimer developed a treatment plan that included ganglion blocks and ketamine infusions. However, he began Mikaelian on a more conservative treatment of ketamine cream and prescription medication.

At trial, Ashley confirmed the CRPS diagnosis and attributed Mikaelian's ongoing symptomology to the incident. He testified that he was unable to proceed with the surgery, as the surgery cannot be performed on patients with CRPS. He also opined that Mikaelian's CRPS could get worse. In addition, he denied that Mikaelian suffered in any way from Raynaud's disease, lupus, or rheumatoid arthritis.

The plaintiff's expert life care planner and pain management specialist, Dr. David Fish, testified about how he examined Mikaelian and also believed the diagnosis of CRPS. He also opined that Mikaelian's condition was worsening and that, to a reasonable degree of medical certainty, the injuries from the incident caused the bilateral CRPS. Fish also denied that Mikaelian suffered in any way from Raynaud's disease, lupus, and rheumatoid arthritis, and dismissed that there was any sort of "re-injury" that occurred in January 2015 as being the cause of the CRPS.

Fish testified that his life care plan for Mikaelian included home care, ketamine infusions and a spinal cord stimulator, among various other items. He explained that he has lectured and written articles on spinal cord stimulators and that he routinely performs the surgery himself. He also stated that everything in the life care plan is identical to what he recommends to his own patients with CRPS. Mikaelian's life care plan totaled \$4.9 million dollars, but she had not yet started the ketamine infusions or had the spinal cord stimulator implanted.

Since the workers' compensation lien amounts for past paid medical costs were not stipulated to, plaintiff's counsel called the director of workers' compensation for Mikaelian's employer to testify about the entire workers' compensation process and the many layers of review. He stated that if medical care and treatment was approved and paid for by workers' compensation, then it was definitely related to the incident. He also testified that under workers' compensation provisions and the laws, injured employees are entitled to recover if the injury was caused as a result of negligence or as a result of a third party. In essence, he told the jury that workers' compensation is seeking recovery for the past medical costs that it paid.

Mikaelian sought recovery of \$78,173 in past medical costs, \$4,930,391 in future medical costs, \$138,117 in past loss of income and \$444,039 in future loss of income. She also sought recovery of \$6.5 million in non-economic damages for her past and future pain and suffering.

Defense counsel cross-examined Harrison, the plaintiff's workers' compensation-referred hand specialist, but the surgeon ultimately testified that it was unsurprising that Mikaelian developed such significant symptoms in her right hand given her initial inability to use her left hand. He explained that it is very common to develop symptoms in the opposite hand, sometimes worse than the initially injured hand, due to overcompensation.

The defense's retained orthopedic expert opined that all of Mikaelian's symptoms should have resolved within six to eight weeks of the incident and that any complaints after that was not due to the incident and possibly due to lupus. The expert also opined that there was no sign of CRPS during his examination of Mikaelian in 2017. The expert further testified that the "re-injury," as noted by Lin, was a fracture to Mikaelian's right hand.

After defense counsel rested, plaintiff's counsel brought in Mikaelian's treating rheumatologist to rebut the defense's insistence that the cause of Mikaelian's ongoing pain was not CRPS, but lupus. The rheumatologist opined that Mikaelian did not have lupus.

Plaintiff's counsel also responded by arguing that there was no "re-injury" and that, consistent with the defense's orthopedic expert's own testimony, an X-ray taken in January 2015 showed that there was a "healing" fracture in the right hand at the base of the fifth metacarpal. During the defense's expert ultimately conceded that the fracture must have occurred six to eight weeks prior to January 2015 for it to be considered "healing."

In closing, plaintiff's counsel noted that seven doctors all concluded that Mikaelian's ongoing and present condition was caused by the subject incident and that the only doctor that disagreed was the defense's expert.

**Result:**

The jury found that Glendale I and the ERMC entities were negligent and that their negligence was a substantial factor in causing Mikaelian's harm. It determined that Glendale I was 70 percent liable for Mikaelian's injuries and that the ERMC entities were 30 percent liable. The jury also determined that Mikaelian's damages totaled \$3,195,770.



## **Iiona Mikaelian**

\$78,173 Personal Injury: Past Medical Cost

\$1,529,480 Personal Injury: Future Medical Cost

\$138,117 Personal Injury: Past Lost Earnings Capability

\$300,000 Personal Injury: FutureLostEarningsCapability

\$437,000 Personal Injury: Past Pain And Suffering

\$713,000 Personal Injury: Future Pain And Suffering

### **Trial Information:**

**Judge:** Michael B. Harwin

**Demand:** \$1,000,000 (C.C.P. § 998)

**Offer:** \$60,000

**Trial Length:** 16 days

**Trial  
Deliberations:** 2 days

**Jury Vote:** 12-0

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

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

**Writer** Priya Idiculla

## Ultimatum email sent rather than accommodate plaintiff: suit

**Type:** Verdict-Mixed

**Amount:** \$1,750,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):** • *mental/psychological* - emotional distress; post-traumatic stress disorder

**Case Type:** • *Employment* - Retaliation; Workplace Harassment; Failure to Accommodate; Disability Discrimination; Sexual Orientation Discrimination  
• *Discrimination* - Fair Housing Act  
• *Intentional Torts* - Assault and Battery

**Case Name:** Tristan Do v. Raytheon Company dba Raytheon Space & Airborne Systems Company, Hector DeSimone, and Does 1 through 50, No. BC603539

**Date:** August 21, 2018

**Plaintiff(s):** • Tristan Do (Male, 45 Years)

**Plaintiff Attorney(s):** • Vida M. Holguin; Law Offices of Vida M. Holguin; Redondo Beach CA for Tristan Do  
• Patricio ("Pat") T.D. Barrera; Barrera & Associates; El Segundo CA for Tristan Do

**Plaintiff Expert (s):** • A. Jubin Merati Ph.D.; Economics; Los Angeles, CA called by: Vida M. Holguin, Patricio ("Pat") T.D. Barrera  
• Sayeh M. Beheshti M.D.; Psychiatry; Newport Beach, CA called by: Vida M. Holguin, Patricio ("Pat") T.D. Barrera

**Defendant(s):** • Hector DeSimone  
• Raytheon Company

**Defense  
Attorney(s):**

- Stephen E. Ronk; Gordon & Rees LLP; Los Angeles, CA for Raytheon Company, Hector DeSimone
- Erika L. Shao; Gordon & Rees LLP; Los Angeles, CA for Raytheon Company, Hector DeSimone

**Facts:**

In April 2017, plaintiff Tristan Do, 45, a mechanical engineer, was terminated from his position at Raytheon Space & Airborne Systems Co., in El Segundo.

Do claimed that his status as a gay male was not an issue at work until Hector DeSimone became his supervisor in October 2012. Do claimed that he, as well as others, reported to human resources that DeSimone was treating him differently than the other engineers. He also claimed he experienced harassing conduct, including a physical confrontation when DeSimone chest bumped him, which he reported to Raytheon management and human resources, but to no avail. Do further claimed that he experienced a debilitating physical condition and mental illness, for which he took a medical leave of absence in December 2015. He alleged that in order to avoid a relapse, he requested to be allowed to return to work part-time at another Raytheon location as an accommodation, but that his transfer request was denied. Do claimed that he was terminated shortly thereafter in retaliation for filing the sexual orientation discrimination complaints and for taking medical leave.

While on medical leave, Do sued DeSimone and the operator of Raytheon Space & Airborne Systems, Raytheon Co. Do alleged Raytheon was liable for the sexual orientation discrimination, and sexual orientation harassment and retaliation under California's Fair Employment and Housing Act. He also alleged that DeSimone was negligent for assault and battery.

Plaintiff's counsel called two former Raytheon employees and one current employee to testify at trial about DeSimone's differential treatment of Do. Counsel also went through over 500,000 pages of documents that were produced by Raytheon and its counsel during discovery and uncovered internal emails showing that DeSimone wanted Do terminated because of Do's complaints. Based on the emails, plaintiff's counsel argued that DeSimone was trying to influence and control the human resources investigation into Do's complaints. In addition, counsel contended that Raytheon sent Do an email informing Do that his request for a reasonable accommodation was denied and that Do must return to work for the same manager or else he would be terminated.

DeSimone and Raytheon denied any liability, and alleged that their actions were due to business reasons unrelated to Do's sexual orientation or physical disability.

Defense counsel argued that the problems between the Do and DeSimone were due to a personality conflict and that all of Do's complaints were fully investigated. Counsel contended that the only accommodation Do ever requested was a transfer to another supervisor and that Raytheon management and human resources fully looked into Do's request, but there was no other position to transfer Do to and Raytheon maintained it does not transfer its employees simply because they do not get along with their supervisor. Defense counsel called numerous Raytheon managers and human resources representatives to testify that Do never complained of any alleged sexual orientation discrimination or harassment while at Raytheon and that all of Do's complaints of not getting along with his manager were fully investigated and found to be unsubstantiated.

In regard to Do's medical leave, defense counsel contended that Do's leave was due to alleged stress and anxiety and that Do did not respond to the emailed ultimatum, so he was administratively terminated in April 2017, pursuant to Raytheon's Medical Leave of Absence policy, after having been on a leave of absence for more than two years.

**Injury:**

Do worked for Raytheon for 10 years, prior to his termination, and during that time, he had no performance problems and received "exceeds expectations" on his performance reviews. He claimed that after he was fired, he suffered a loss of earnings. He also claimed he suffers from emotional distress as a result of the incidents.

The plaintiff's psychiatry expert testified as to her diagnosis of Do's post-traumatic stress disorder and major depressive disorder.

Do claimed that Raytheon's management acted with malice, oppression and fraud by failing to address his complaints about DeSimone and human resources. Do claimed he made four separate complaints to human resources, but Raytheon experienced a lot of turnover in the Human Resources Department and different human resources representatives performed different parts of the investigation into his complaints. Do also claimed that Raytheon acted with malice, oppression and fraud by sending him an ultimatum email, which told him that he must return to work for DeSimone or be terminated.

Do sought recovery of back pay, front pay and damages for his emotional pain and suffering. He also sought recovery of punitive damages against Raytheon.

**Result:**

The jury rendered a mixed verdict. It found that DeSimone did not commit an assault or battery on Do and that DeSimone was not liable for any alleged sexual orientation harassment. It also found that Raytheon was not liable for any alleged discrimination based on Do's sexual orientation, and that Raytheon was not liable for any alleged harassment or retaliation based on Do's sexual orientation. However, the jury found that Raytheon failed to accommodate Do and failed to engage in the interactive process.

The jury determined that Do's compensatory damages totaled \$1 million. It also found that Raytheon acted with malice, oppression and fraud toward Do, and awarded Do \$750,000 in punitive damages. Thus, Do's verdict award totaled \$1.75 million.

**Tristan Do**

\$750,000 Personal Injury: Punitive Exemplary Damages

\$550,000 Personal Injury: economic damages (back pay and front pay)

\$450,000 Personal Injury: emotional distress damages

**Trial Information:**

**Judge:** Michelle Williams Court

**Demand:** \$800,000 (from Raytheon [C.C.P. § 998]); \$200,000 (from DeSimone [C.C.P. § 998])

**Offer:** None

**Trial Length:** 11 days

**Trial  
Deliberations:** 6 hours

**Jury  
Composition:** 7 male, 5 female; one openly gay juror

**Post Trial:** Plaintiff's counsel is filing a motion for attorney fees and costs. Defense counsel has moved for a new trial.

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

**Writer** Priya Idiculla

## Superintendent claimed firing was in retaliation of complaints

**Type:** Verdict-Plaintiff

**Amount:** \$733,000

**State:** California

**Venue:** Los Angeles County

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

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

**Case Type:** • *Employment* - Retaliation; Wrongful Termination; Gender Discrimination

**Case Name:** Irella Perez v. El Monte Union High School District, Maria Elena Talamantes, Carlos Salcedo, Maria Morgan and Does 1 to 25, No. BC657714

**Date:** August 10, 2018

**Plaintiff(s):** • Irella Perez (Female)

**Plaintiff Attorney(s):** • Jamon R. Hicks; Douglas / Hicks Law, APC; Los Angeles CA for Irella Perez  
• Aja M. Mann; Douglas / Hicks Law, APC; Los Angeles CA for Irella Perez

**Defendant(s):** • Maria Morgan  
• Carlos Salcedo  
• Maria-Elena Talamantes  
• El Monte Union High School District

**Defense Attorney(s):** • Dennis J. Walsh; Walsh & Associates, APC; Encino, CA for El Monte Union High School District, Maria-Elena Talamantes, Carlos Salcedo, Maria Morgan

**Facts:**

In August 2016, plaintiff Irella Perez, superintendent of the El Monte Union High School District, was terminated from her position. Perez claimed that, prior to her termination, a board of education member, Maria-Elena Talamantes, discriminated against her based on her gender and that when she complained, she was fired.

Perez sued the El Monte Union High School District; Talamantes; two other board members who also voted to terminate her, Maria Morgan and Carlos Salcedo. Perez alleged that the defendants' actions constituted gender discrimination and retaliation, resulting in her wrongful termination.

Perez's prior additional claims of breach of contract, negligent retention, breach of implied-in-fact contract not to terminate without good cause, breach of implied covenant of good faith and fair dealing, intentional infliction of emotional distress, and unfair business practices in violation of California's Business and Professions Code were dismissed on motions for summary judgment. The claims against the individual defendants were also dismissed, and the matter continued against the school district only.

Perez claimed that Talamantes bullied her and wanted a male as the superintendent, instead of her. She also claimed that since she was a single mother, Talamantes doubted that she could be a good mother and lead the school district. Perez claimed that she complained about Talamantes' actions and that she was fired in retaliation for making the complaints.

Plaintiff's counsel called one current and one former board member to testify at trial. They claimed that Talamantes harassed Perez, made gender derogatory comments to them about her and allegedly wanted Perez "gone." They also testified that they complained about Talamantes' behavior to the other board members and that they believed that Perez was retaliated against because of their complaints to the board. However, during cross-examination, the past and present board members denied ever being made aware of any complaints about Talamantes from Perez or any other board members.

Talamantes denied making any derogatory comments. She also claimed that the board's problems with Perez ranged from improper uses of public funds, Perez's inability to use proper grammar in internal communications and communications sent to the community, and harassing and bullying staff members.

Defense counsel argued that Perez's firing was justified for a number of reasons, including spending thousands of dollars in taxpayer funds to send a mailer to area voters that described the district's achievements and included quotes from board members at the time, one of which was a close friend of Perez who was running for office in September 2015. The mailer prompted the Fair Political Practices Commission to fine the district. Defense counsel contended that the board hired a third-party investigator, who confirmed 21 issues with Perez's job performance, including bullying and harassing staff, and misuse of school funds, and that those issues led to Perez's termination.

In response, Perez denied any wrongdoing regarding any of the alleged 21 issues that led to her termination.



**Injury:** Perez was unanimously approved by the board to be the district's superintendent in March 2015 and received a positive evaluation in October 2015. However, she was put on paid leave in March 2016 and fired five months later. She claimed she suffered a loss of income as a result of the firing. She also claimed that she suffers from emotional distress as a result of the incidents and underwent therapy for depression.

Perez sought recovery of past and future lost wages, damages for her emotional distress and counseling.

Defense counsel argued that Perez did not attempt to mitigate her economic damages, as there were many jobs that were available that Perez could have applied for, but did not. Counsel also argued that although Perez treated with a doctor, there was no medical testimony supporting her alleged emotional distress. Defense counsel further noted that Perez was able to run for political office at the time Perez was allegedly suffering from emotional distress.

**Result:** The jury found that Perez was not discriminated against based on her gender. However, it found that Perez was retaliated against. The jury determined that Perez's damages totaled \$733,000.

## **Irella Perez**

\$383,000 Personal Injury: Past Lost Earnings Capability

\$350,000 Personal Injury: emotional distress

## **Trial Information:**

**Judge:** Michael P. Linfield

**Demand:** \$600,000

**Offer:** \$150,000

**Trial Length:** 5 days

**Trial Deliberations:** 4.5 hours

**Post Trial:** The El Monte Union High School District intends to pursue all post-trial motions, including an appeal.

**Editor's  
Comment:**

This report includes information that was provided by plaintiff's and defense counsel.

**Writer**

Priya Idiculla

## Rear-end collision caused lower back injury, plaintiff alleged

**Type:** Verdict-Plaintiff

**Amount:** \$1,225,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back* - stenosis
- *neck* - stenosis
- *other* - physical therapy; epidural injections
- *surgeries/treatment* - decompression surgery

**Case Type:**

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

**Case Name:** Ashley Allyson Rudmann Chelonis v. Sandra Marie Hekking, Sandy Hekking, Hans Hekking and Does 1 to 100, No. BC642647

**Date:** August 09, 2018

**Plaintiff(s):**

- Ashley Allyson Rudmann Chelonis (Female, 33 Years)

**Plaintiff Attorney(s):**

- Harry Nalbandyan; Carpenter, Zuckerman & Rowley; Beverly Hills CA for Ashley Allyson Rudmann Chelonis

**Plaintiff Expert(s):**

- Erik C. Spayde M.D.; Orthopedic Surgery; Thousand Oaks, CA called by: Harry Nalbandyan
- Arthur C. Croft D.C.; Chiropractic; San Diego, CA called by: Harry Nalbandyan

**Defendant(s):**

- Hans Hekking
- Sandra Marie Hekking

**Defense  
Attorney(s):**

- Thomas Friedman; Brown Bonn & Friedman LLP; Las Vegas, NV for Sandra Marie Hekking, Hans Hekking
- Kristina A. Hoban; Brown Bonn & Friedman LLP; Santa Ana, CA for Sandra Marie Hekking, Hans Hekking

**Defendant  
Expert(s):**

- Scott L. Rosenzweig M.D.; Orthopedic Surgery; Santa Monica, CA called by: for Thomas Friedman, Kristina A. Hoban
- Kenneth A. Solomon Ph.D., P.E.; Biomechanical; Woodland Hills, CA called by: for Thomas Friedman, Kristina A. Hoban

**Insurers:**

- IDS Property Casualty Insurance Co.

**Facts:**

On Dec. 8, 2014, plaintiff Ashley Chelonis, 33, an instructional trainer at Moorpark College, was driving on westbound State Route 118, also known as the Ronald Reagan Freeway, when her vehicle was rear-ended by a vehicle operated by Sandra Hekking. Chelonis claimed an injury to her back.

Chelonis sued Sandra Hekking and the co-owner of Ms. Hekking's vehicle, Hans Hekking. Chelonis alleged that Ms. Hekking was negligent in the operation of her vehicle and that Mr. Hekking was vicariously liable for Ms. Hekking's actions.

The Hekking's admitted liability one month before the trial.

**Injury:**

Chelonis claimed that she mostly suffered from right-sided lumbar stenosis at the L4-5 level as a result of the accident. She underwent 75 physical therapy sessions, and received facet and epidural injections during the next three years. Chelonis ultimately underwent micro-decompression surgery at L4-5 3.5 years after the crash.

Chelonis continued working after the accident, but she claimed she has lingering and constant pain in her lower back. She also claimed she was recommended for artificial disc replacement surgery at the L4-5 level.

Chelonis sought recovery of past and future medical costs, and damages for her past and future pain and suffering.

Defense counsel noted that Chelonis' vehicle only sustained \$100 in property damage. Counsel also contended that reasonable treatment for Chelonis' alleged injury was 20 physical therapy visits. Based on their medical expert's findings, defense counsel argued that Chelonis was lying to her doctors and exaggerating her alleged pain.

Defense counsel asked the jury to only award Chelonis \$20,000 in total damages.

**Result:**

The jury found that Hekking's negligence was a substantial factor in causing Chelonis harm. It determined that Chelonis' damages totaled \$1,225,000.

**Ashley Allyson Rudmann Chelonis**

\$100,000 Personal Injury: Past Medical Cost

\$125,000 Personal Injury: Future Medical Cost

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

\$600,000 Personal Injury: Future Pain And Suffering

**Trial Information:**

**Judge:** Frederick C. Shaller

**Trial Length:** 5 days

**Trial  
Deliberations:** 3 hours

**Jury Vote:** 12-0 (causation); 10-2 (past medical costs, past pain and suffering, and future pain and suffering); 9-3 (future medical costs)

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

**Writer** Priya Idiculla

## Shopper claimed fall in grocery store caused spinal herniations

**Type:** Verdict-Plaintiff

**Amount:** \$1,645,000

**Actual Award:** \$1,250,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back* - fusion, lumbar; herniated disc, lumbar
- *neck* - herniated disc, lumbar; herniated disc, cervical
- *other* - physical therapy; epidural injections
- *neurological* - radicular pain / radiculitis
- *surgeries/treatment* - discectomy; decompression surgery

**Case Type:**

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

**Case Name:** Shahzad Tirmizi v. Kroger West, The Kroger Company, Ralphs Grocery Company, Ralphs, Rigoberto Birruerta and Does 1-50, No. BC598712

**Date:** August 06, 2018

**Plaintiff(s):**

- Shahzad Tirmizi (Male)

**Plaintiff Attorney(s):**

- Robert J. Ounjian; Carpenter, Zuckerman & Rowley, LLP; Beverly Hills CA for Shahzad Tirmizi
- Pejman A. Ben-Cohen; Carpenter, Zuckerman & Rowley, LLP; Beverly Hills CA for Shahzad Tirmizi

**Plaintiff Expert (s):**

- Andrew S. Morris D.C.; Coding & Billing (Medical); Torrance, CA called by: Robert J. Ounjian, Pejman A. Ben-Cohen
- Fardad Mobin M.D.; Neurosurgery; Los Angeles, CA called by: Robert J. Ounjian, Pejman A. Ben-Cohen

**Defendant(s):**

- Kroger Co.
- Kroger West
- Ralphs Grocery Co.
- Rigoberto Birruerta

**Defense Attorney(s):**

- Eric T. Lamhofer; Wolfe & Wyman LLP; Irvine, CA for Kroger Co., Kroger West, Rigoberto Birruerta, Ralphs Grocery Co.

**Defendant Expert(s):**

- Alan M. Strizak M.D.; Orthopedic Surgery; Mission Viejo, CA called by: for Eric T. Lamhofer
- Agnes M. Grogan R.N.; Coding & Billing (Medical); Huntington Beach, CA called by: for Eric T. Lamhofer

**Facts:**

On Oct. 30, 2013, plaintiff Shahzad Tirmizi went to buy flowers at the Ralphs' grocery store, in Torrance. As he left the flower department and was headed to the check stand, he slipped and fell. Tirmizi landed on his back, and he claimed injuries to his neck and back.

Tirmizi sued The Kroger Co., Kroger West, Ralphs Grocery Co. doing business as Ralphs', and Rigoberto Birruerta. Tirmizi alleged that the defendants failed to properly maintain the area, creating the dangerous condition.

Plaintiff's counsel contended that Tirmizi slipped on water and that although, on paper, Ralphs' said its employees did a "sweep" of the floral department, it never happened.

The defendants stipulated to liability.

**Injury:**

Tirmizi claimed he sustained herniated cervical and lumbar discs, resulting in radicular pain into his legs. He was transported by ambulance to Torrance Memorial Medical Center, in Torrance, where he was treated and released. He then treated with physical therapy and epidural injections. In December 2014, Tirmizi underwent a lumbar discectomy, and in June 2017, he underwent a lumbar fusion and decompression at the L4-5 and left L5-S1 levels. He also underwent pain management.

The plaintiff's neurosurgery expert opined that the reasonable value of Tirmizi's future medical care, including the lower back fusion for the adjacent segment disease, totaled \$343,300. The plaintiff's billing expert testified that the reasonable value of Tirmizi's past medical costs totaled \$357,326.34.

Tirmizi claimed that he can no longer run or jog. He also claimed that prior to the fall, he was a devout Muslim who would pray five times a day, during which he would kneel down on the ground and listen to the Namaz prayer, but that the incident affected his ability to do so.

Defense counsel argued that all of Tirmizi's injuries were degenerative and that Tirmizi's alleged back pain was due to him being overweight. Counsel also noted that Tirmizi made no complaints of radicular symptoms early in his medical treatment and that all of the treatment was based on attorney liens and referrals.

The defense's orthopedic surgery expert opined that Tirmizi's degenerative condition was caused by his "genetics" and that sometimes people Tirmizi's age have those problems.

The defense's billing expert testified that the reasonable value of Tirmizi's medical costs totaled \$156,409.39. She also opined that the "reasonable value" of Tirmizi's initial treatment at Torrance Memorial Medical Center was zero because there was no treatment for his lower back. However, on cross-examination, plaintiff's counsel impeached the defense's billing expert with prior testimony and presented a record from the emergency room, which noted that Tirmizi's primary complaint was "low back pain."

Prior to trial, the parties established a \$1.25 million/\$125,000 high/low agreement in exchange for the defendants stipulating to liability.

**Result:**

The jury found that Tirmizi's injuries were related to the fall and determined that Tirmizi's damages totaled \$1,645,000. Thus, Tirmizi recovered the high/low agreement's \$1.25 million maximum amount.



**Shahzad Tirmizi**

\$300,000 Personal Injury: future noneconomic loss

\$325,000 Personal Injury: past economic loss

\$270,000 Personal Injury: future economic loss

\$750,000 Personal Injury: past noneconomic loss

**Trial Information:**

**Judge:** Norman P. Tarle

**Trial  
Deliberations:** 2.5 hours

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

**Writer** Priya Idiculla

## Hit-and-run driver caused severe injuries, bicyclist alleged

**Type:** Verdict-Plaintiff

**Amount:** \$13,241,365

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *arm*
- *leg*
- *head - ear*
- *knee*
- *other - abrasions; scar and/or disfigurement*
- *shoulder*
- *epidermis - degloving*
- *foot/heel - foot*
- *amputation - finger*
- *hand/finger - hand; finger*

**Case Type:**

- *Motor Vehicle - Bicycle; Hit and Run*

**Case Name:** Stephen Wood v. Serapio Venegas, City of Lancaster, Trautwein Construction Inc., Los Angeles County Waterworks District 40, and Does 1-100, No. MC026431

**Date:** July 31, 2018

**Plaintiff(s):**

- Stephen Wood (Male, 19 Years)

**Plaintiff Attorney(s):**

- Ricardo Echeverria; Shernoff Bidart Echeverria LLP; Claremont CA for Stephen Wood
- Mindy S. Bish; Bish Law; Newhall CA for Stephen Wood
- Kristin E. Hobbs; Shernoff Bidart Echeverria LLP; Claremont CA for Stephen Wood

- Plaintiff Expert(s):**
- David J. Weiner M.B.A.; Economics; Los Angeles, CA called by: Ricardo Echeverria, Mindy S. Bish, Kristin E. Hobbs
  - James F. Coleman M.D.; Plastic Surgery/Reconstructive Surgery; Beverly Hills, CA called by: Ricardo Echeverria, Mindy S. Bish, Kristin E. Hobbs
  - Khyber Zaffarkhan D.O.; Life Care Planning; Newport Beach, CA called by: Ricardo Echeverria, Mindy S. Bish, Kristin E. Hobbs

- Defendant(s):**
- Serapio Venegas
  - City of Lancaster
  - Trautwein Construction Inc.
  - Los Angeles County Waterworks District No. 40

- Defense Attorney(s):**
- Thomas W. Shaver; Shaver, Korff & Castronovo LLP; Encino, CA for Serapio Venegas
  - None reported for City of Lancaster, Trautwein Construction Inc., Los Angeles County Waterworks District No. 40

- Defendant Expert(s):**
- Jeffrey L. Rosenberg M.D.; Plastic Surgery/Reconstructive Surgery; Los Angeles, CA called by: for Thomas W. Shaver

- Insurers:**
- Alliance United Insurance Co.

**Facts:** On July 18, 2015, plaintiff Stephen Wood, 19, a retailer's part-time clerk, was bicycling north on 10th Street West, in Lancaster, when he was struck from behind by a pickup truck operated by Serapio Venegas. After the impact, Venegas, who had a suspended license, attempted to flee the scene while Wood remained trapped underneath the truck. Wood was dragged for nearly a half a mile before he became dislodged. He sustained injuries to his head, forearms, left shoulder, left hand, knees, legs and right foot.

Wood sued Venegas, alleging that Venegas was negligent in the operation of his vehicle.

The city of Lancaster, Trautwein Construction Inc. and Los Angeles County Waterworks District No. 40 were also initially named as defendants. However, they were all let out after being granted motions for summary judgment, and the matter continued against Venegas only.

Wood claimed that Venegas rear-ended his bicycle, which was lawfully being ridden on the street.

Venegas claimed that Wood darted out in front of his vehicle while listening to music "turned all the way up" on his on earbuds. He also claimed that Wood knew that it was safer to ride his bike, which had no brakes, on the sidewalk. Venegas further claimed he did not know Wood was underneath his truck when he fled the scene.

**Injury:**

Wood sustained degloving injuries to his left shoulder, left and right forearms, and left hand, resulting in an amputation of the middle finger on his left hand. He also sustained a degloving injury to the bone on the left side of his skull, resulting in the loss of a portion of his left ear. In addition, he sustained abrasions to his right foot, both knees, and left calf. Wood was taken to the emergency room at Antelope Valley Hospital and, the next day, he was transferred to Los Angeles County+USC Medical Center, in Los Angeles. From the date of the accident until Nov. 16, 2016, he underwent six surgeries to repair his injuries.

Despite the surgeries, Wood lost a portion of his left ear and his left hand's middle finger was amputated. He also has extensive scarring on the left side of his head, left shoulder, back, forearms, and left hand. Wood was eventually able to return to work without limitations, and he reported no residual pain. However, Wood claimed that he requires cosmetic surgeries to improve the scarring and surgery to improve the functioning of his left hand.

Wood sought recovery of \$29,973 in past lost earnings, \$116,840 in past medical costs and \$594,552 in future medical costs. He also sought recovery of damages for his past and future pain and suffering. In addition, Wood sought recovery of punitive damages, contending that Venegas knew that he was trapped underneath the truck that Venegas acted with malice and oppression by fleeing the scene.

**Result:**

The jury found that Venegas was negligent. It determined that Wood's compensatory damages totaled \$13,241,365. The jury further found that Venegas acted with malice, oppression or fraud.

Following the jury's finding that Wood was entitled to punitive damages, Wood waived the second phase of trial, which would have determined that amount of punitive damages, since Venegas had no assets and insurance would not have covered Venegas for any punitive damages awarded against him.

**Stephen Wood**

\$116,840 Personal Injury: Past Medical Cost

\$594,552 Personal Injury: Future Medical Cost

\$29,973 Personal Injury: Past Lost Earnings Capability

\$2,500,000 Personal Injury: Past Pain And Suffering

\$10,000,000 Personal Injury: Future Pain And Suffering

**Trial Information:**

**Judge:** Randolph A. Rogers

**Trial Length:** 5 days

**Trial  
Deliberations:** 2.5 hours

**Jury Vote:** Unanimous

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

**Writer** Priya Idiculla

## Social workers failed to stop child's sexual abuse: lawsuit

**Type:** Verdict-Plaintiff

**Amount:** \$45,400,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *mental/psychological* - anxiety; depression; emotional distress; post-traumatic stress disorder

**Case Type:**

- *Professional Negligence* - Social Worker
- *Worker/Workplace Negligence* - Negligent Investigation

**Case Name:** F.M., a minor, by and through her Guardian Ad Litem, D.M. v. County of Los Angeles, Los Angeles County Department of Children and Does 1 through 40, No. BC510993

**Date:** July 26, 2018

**Plaintiff(s):**

- F. M. (Female, 7 Years)

**Plaintiff Attorney(s):**

- David M. Ring; Taylor & Ring; Los Angeles CA for F. M.
- Louanne Masry; Taylor & Ring; Los Angeles CA for F. M.

**Plaintiff Expert (s):**

- Joseph Bongiovanni Ph.D.; Children's Rights; Green Valley Lake, CA called by: David M. Ring, Louanne Masry,
- Anthony E. Reading Ph.D.; Psychology/Counseling; Beverly Hills, CA called by: David M. Ring, Louanne Masry,

**Defendant(s):**

- County of Los Angeles

**Defense  
Attorney(s):**

- Tomas A. Guterres; Collins Collins Muir + Stewart LLP; South Pasadena, CA for County of Los Angeles
- Christie B. Swiss; Collins Collins Muir + Stewart LLP; Carlsbad, CA for County of Los Angeles
- Kristin T. Huynh; Collins Collins Muir + Stewart LLP; South Pasadena, CA for County of Los Angeles
- Megan K. Lieber; Collins Collins Muir + Stewart LLP; Carlsbad, CA for County of Los Angeles

**Defendant  
Expert(s):**

- Joi J. Russell M.S.W., L.C.S.W.; Domestic & Family Issues; Lakewood, CA called by: for Tomas A. Guterres, Christie B. Swiss, Kristin T. Huynh, Megan K. Lieber
- Anne C. Welty M.D.; Psychiatry; Long Beach, CA called by: for Tomas A. Guterres, Christie B. Swiss, Kristin T. Huynh, Megan K. Lieber

**Facts:**

In 2010, the plaintiff, a 7-year-old girl, was allegedly sexually abused while living with her mother in El Monte. Her mother was under the supervision of the Los Angeles County Department of Children and Family Services for another matter that same year. The little girl claimed that the mother's adult, male friend sexually abused her a number of times while he was allowed to live at the house.

In 2012, the little girl, then 9 years old, disclosed the abuse for the first time, causing law enforcement to become involved. Four men and the child's mother were arrested, and they were all convicted of felonies and sent to prison.

The minor plaintiff, through her biological father who gained custody after the child's disclosure, sued the operator of the Los Angeles County Department of Children and Family Services, the county of Los Angeles.

Plaintiff's counsel contended that child protective workers with the DCFS learned that the plaintiff's mother was allowing an adult, male friend to live in the home and share a bedroom with the plaintiff, who was 7, and that the man had a prior criminal charge for sexual battery of a minor, but that the workers failed to intervene. Counsel argued that child protective workers are "mandatory reporters" of suspected child abuse under California law, per the Child Abuse and Neglect Reporting Act, but that the workers failed to report their suspicions of sexual abuse to either the DCFS or law enforcement, as required by law. Instead, the child protective workers told the plaintiff's mother that the man must move out of the house and could not be left alone with the plaintiff. Plaintiff's counsel argued that the workers later learned that the man was still at the home and had never moved out and that rather than reporting their findings, the workers closed the DCFS case without ever reporting suspected child abuse. As a result, the man continued to sexually abuse the plaintiff for another two years. In addition, the plaintiff claimed that her mother allowed other men to either live or hang out in their home and that at least three of those men also sexually abused her, which her mother allowed in exchange for money and drugs, between 2010 and 2012.

The plaintiff's standard of care expert for child protective services testified that the fact that the adult male living in the home in 2010 only had an arrest, and not a conviction, was enough reasonable suspicion to require DCFS to report suspected child abuse. He also opined that although the plaintiff denied that she was abused multiple times, and no other family member or mandated reporter in contact with the family suspected sex abuse of the plaintiff in 2010 he would have requested a forensic interview and medical examination

of the minor. However, during cross-examination, the expert admitted that he had never removed from a home a child whom denied being abused.

Defense counsel argued that there was no evidence that DCFS had any knowledge of anything going on in the home after its case was closed by the Juvenile Court in 2010. Counsel contended that the social workers asked the plaintiff multiple times if she was being molested and that the plaintiff denied multiple times that she was being abused. Counsel also contended that the social workers interviewed the plaintiff's mother, grandmother and aunt and that they all claimed that they did not suspect any abuse. Counsel further contended that although the man never moved out of the home, the social workers were told by the plaintiff and her mother that he had moved out in 2010, and the mother signed an affidavit under penalty of perjury attesting that he had moved out of the home. Defense counsel argued that, based on their findings, the social workers did not suspect child abuse by the adult, male friend and that no other mandatory reporter -- including the plaintiff's teacher, therapist or family preservation worker -- suspected any abuse. Counsel further argued that the social workers were not required to report under CANRA and that they properly fulfilled their mandatory duties as social workers by investigating the alleged abuse, making regular visits to the home and securing the mother's affidavit under penalty of perjury that the male friend had moved out.

The defense's standard of care expert for child protective services opined that the DCFS social workers acted appropriately in their investigation of the plaintiff's family and that they immediately addressed the issue of the man sleeping in the same room as the plaintiff in 2010 by requiring the mother to make other sleeping arrangements, of which the mother agreed. The expert also opined that the DCFS was bound by privacy laws and could not inform the mother of the specifics of the man's prior arrest, but that the DCFS acted appropriately in having the mother request that the man move out and then confirmed that he did move out of the home by making follow up visits, having the mother sign an affidavit that he moved out, and questioning other mandated reporters involved with the family. The expert further opined that as the plaintiff denied being abused and no other mandated reporter had concerns that she was being abused, the social workers did not have reasonable suspicion of child abuse and could not detain the child from her mother. In addition, the expert opined that the DCFS did not have the power or authority to detain a child, or subject them to a forensic interview or medical examination based on the facts known at the time.



**Injury:** The plaintiff claimed she suffered extreme sexual abuse from ages 7 to 9. She claimed that as a result, she suffers from post-traumatic stress disorder, anxiety, depression, and a host of other serious emotional issues. She has undergone extensive therapy since her disclosure of abuse at the age of 9 and she had a six-month stay at a residential facility for treatment of her psychological harm.

The plaintiff, who was 15 years old at the time of trial, now lives with her father and continues to undergo therapy.

The plaintiff's psychology expert testified that the plaintiff suffers from post-traumatic stress disorder and persistent depressive disorder.

The plaintiff waived her claim for past medical costs at trial, but sought recovery of future medical costs and non-economic damages for her past and future emotional harm.

The defense's psychiatry expert opined that the plaintiff suffers from mild post-traumatic stress disorder, attention-deficit/hyperactivity disorder, dysthymia, a persistent depressive disorder and an unspecified anxiety disorder.

**Result:** The jury apportioned 45 percent fault to the county of Los Angeles, 45 percent fault to the plaintiff's mother, and 2.5 percent fault to each of the four, non-party felons who sexually abused the plaintiff. It also determined that the plaintiff's damages totaled \$45.4 million.

## **F. M.**

\$400,000 Personal Injury: Future Medical Cost

\$15,000,000 Personal Injury: past emotional harm

\$30,000,000 Personal Injury: future emotional harm

## **Trial Information:**

**Judge:** Stephen M. Moloney

**Demand:** \$22,100,000

**Offer:** \$1,000,000

**Trial Length:** 20 days

**Trial  
Deliberations:** 4.5 hours

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

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

**Writer** Priya Idiculla

## Plaintiffs claimed they were fired for bringing up misconduct

**Type:** Verdict-Plaintiff

**Amount:** \$3,363,670

**State:** California

**Venue:** Los Angeles County

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

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

**Case Type:** • *Employment* - Retaliation; Whistleblower; Wrongful Termination

**Case Name:** Susanna Contreras Smith and Cleve Pell v. Montebello Unified School District, Benjamin Cardenas, Edgar Cisneros, Lani Cupchoy, Joanna Flores, Ruben J. Rojas and Does 1 to 10, No. BC666775

**Date:** July 24, 2018

**Plaintiff(s):**

- Cleve Pell (Male)
- Susanna Contreras Smith (Female)

**Plaintiff Attorney(s):**

- Matthew D. Umhofer; Spertus, Landes & Umhofer, LLP; Los Angeles CA for Cleve Pell
- Aluyah I. Imoisili; Greenberg Gross LLP; Los Angeles CA for Susanna Contreras Smith
- David M. Stein; Greenberg Gross LLP; Costa Mesa CA for Susanna Contreras Smith
- J. Anthony King; Spertus, Landes & Umhofer, LLP; Los Angeles CA for Cleve Pell

**Plaintiff Expert (s):**

- Karl J. Schulze C.P.A.; Accounting; Los Angeles, CA called by: Matthew D. Umhofer, Aluyah I. Imoisili, David M. Stein, J. Anthony King

**Defendant(s):**

- Lani Cupchoy
- Joanna Flores
- Edgar Cisneros
- Ruben J. Rojas
- Benjamin Cardenas
- Montebello Unified School District

**Defense Attorney(s):**

- Daniel R. Shinoff; Stutz Artiano Shinoff & Holtz, P.C.; San Diego, CA for Montebello Unified School District, Benjamin Cardenas, Edgar Cisneros, Lani Cupchoy, Joanna Flores
- None reported for Ruben J. Rojas

**Facts:**

In November 2016, plaintiff Susanna Contreras Smith, superintendent of schools for the Montebello Unified School District, and plaintiff Cleve Pell, the chief financial and operations officer for the school district, were both terminated from their positions. Smith and Pell claimed they were fired for coming forward about alleged misconduct by the then-chief business officer, Ruben Rojas.

Smith and Pell sued the Montebello Unified School District, Rojas and the trustee members of the school board, Benjamin Cardenas, Edgar Cisneros, Lani Cupchoy and Joanna Flores. Smith and Pell alleged that the defendants' actions constituted retaliation and wrongful termination in violation of public policy.

Rojas was fired by the district in March 2017, and he was dismissed from the case prior to trial. Cisneros and Flores were also dismissed from the case at trial.

Smith and Pell believed that Rojas, who was in charge of the district's \$300 million budget, fraudulently obtained his position with the district by making false representations in his employment application and by falsifying letters of recommendation. They also alleged that Rojas created a system for approving lucrative contracts that ensured the district hired only those companies with ties to Rojas, in violation of public contracting laws. Smith put Rojas on leave, and she and Pell brought their findings to the board. However, Smith and Pell claimed that their efforts were thwarted when the school board members covered up the alleged wrongdoing, sought to have Rojas return and voted to terminate them in retaliation for their whistleblowing.

The district and school board members claimed that Smith and Pell were lawfully fired.

**Injury:**

Smith and Pell were both terminated from their positions in 2016. They sought recovery of compensatory damages for, among other things, their respective loss of earnings and alleged emotional distress.

**Result:** On July 23, 2018, the jury found for Smith and Pell on all of their claims. It determined that the plaintiffs' damages totaled \$3,363,666, which included \$2,781,000 in compensatory damages and civil penalties for Smith and \$582,666 in compensatory damages and civil penalties for Pell. They jury also found that Cupchoy and Cardenas' actions against Smith and Pell constituted malice, oppression or fraud.

On July 24, 2018, the jury ordered Cupchoy and Cardenas to each pay \$1 in punitive damages to each plaintiff, making Smith and Pell's total award amount to \$3,363,670.

### **Cleve Pell**

\$567,666 Personal Injury: compensatory damages

\$15,000 Personal Injury: civil penalties

\$1 Personal Injury: punitive damages (Cupchoy)

\$1 Personal Injury: punitive damages (Cardenas)

### **Susanna Contreras Smith**

\$2,766,000 Personal Injury: compensatory damages

\$15,000 Personal Injury: civil penalties

\$1 Personal Injury: punitive damages (Cupchoy)

\$1 Personal Injury: punitive damages (Cardenas)

### **Trial Information:**

**Judge:** Michael P. Linfield

**Trial Length:** 7 days

**Trial  
Deliberations:** 1 days

**Editor's  
Comment:** This report is based on information that was provided by plaintiffs' counsel. Additional information was gleaned from an article that was published by the Whittier Daily News. Rojas' counsel was not asked to contribute, and the remaining defendants' counsel did not respond to the reporter's phone calls.

**Writer** Priya Idiculla

## Couple discovered hidden cameras in apartment

<b>Type:</b>	Verdict-Plaintiff
<b>Amount:</b>	\$70,000
<b>State:</b>	California
<b>Venue:</b>	Los Angeles County
<b>Court:</b>	Superior Court of Los Angeles County, Pasadena, CA
<b>Injury Type(s):</b>	<ul style="list-style-type: none"><li>• <i>mental/psychological</i> - emotional distress</li></ul>
<b>Case Type:</b>	<ul style="list-style-type: none"><li>• <i>Landlord and Tenant</i></li><li>• <i>Privacy - Invasion of Privacy</i></li><li>• <i>Emotional Distress - Negligent Infliction of Emotional Distress</i></li></ul>
<b>Case Name:</b>	Jeremy Raines and Rebecca Raines v. Daniel N. Lima, David Lima, Ester V. Lima, Leonard Lima and Does 1 to 50, No. BC645671
<b>Date:</b>	July 17, 2018
<b>Plaintiff(s):</b>	<ul style="list-style-type: none"><li>• Jeremy Raines (Male, 35 Years)</li><li>• Rebecca Raines (Female, 35 Years)</li></ul>
<b>Plaintiff Attorney(s):</b>	<ul style="list-style-type: none"><li>• Harry Nalbandyan; Carpenter, Zuckerman &amp; Rowley; Beverly Hills CA for Rebecca Raines, Jeremy Raines</li></ul>
<b>Defendant(s):</b>	<ul style="list-style-type: none"><li>• David Lima</li><li>• Leonard Lima</li><li>• Ester V. Lima</li><li>• Daniel N. Lima</li></ul>
<b>Defense Attorney(s):</b>	<ul style="list-style-type: none"><li>• Steven Shapero; Shapero &amp; Shapero; Woodland Hills, CA for Daniel N. Lima, David Lima, Ester V. Lima, Leonard Lima</li></ul>

**Facts:** On Jan. 17, 2015, plaintiff Jeremy Raines, 35, a retail and theater worker, and his wife, plaintiff Rebecca Raines, 35, a theater worker, discovered hidden cameras installed in their North Hollywood apartment.

The Raineses previously lived in the apartment, which was located in a five bedroom house owned by Daniel Lima, but they moved out for two months. When they moved back in on Jan. 17, 2015, they discovered the cameras in their bedroom and bathroom. The Raineses called the police and moved out that same night, and the cameras were removed once the police arrived.

The Raineses sued Daniel Lima; Daniel Lima's son, who also lived in the house, Leonard Lima; and two other members of the Lima family, David Lima and Ester Lima. The Raineses claimed the Limas' actions constituted an invasion of property and negligent infliction of emotional distress.

David Lima and Ester Lima were dismissed from the case before trial.

Daniel and Leonard Lima denied ever installing the cameras.

**Injury:** The Raineses alleged that they feared they were videotaped for the few hours before the cameras were discovered. They claimed that as a result, they suffered from emotional distress. They did not seek counseling, but they claimed they wanted to.

Defense counsel contended that the Raineses only found cameras on the one occasion and that they only would have been videotaped for a few hours, if at all. Counsel argued that if Daniel and Leonard Lima were found liable, the Raineses should only be awarded a maximum of \$2,500.

**Result:** The jury found Daniel and Leonard Lima negligent. It apportioned 50 percent fault to Daniel Lima and 50 percent fault to Leonard Lima. The jury determined that the Raineses' damages totaled \$70,000.

### **Jeremy Raines**

\$30,000 Personal Injury: Past Pain And Suffering

\$5,000 Personal Injury: Future Pain And Suffering

### **Rebecca Raines**

\$30,000 Personal Injury: Past Pain And Suffering

\$5,000 Personal Injury: Future Pain And Suffering

### **Trial Information:**

**Judge:** Margaret L. Oldendorf

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

**Writer** Priya Idiculla



## Apartment complex owner knew of tenant's vicious dog: plaintiff

**Type:** Verdict-Plaintiff

**Amount:** \$800,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *arm* - fracture, arm; fracture, ulna; fracture, arm; fracture, radius
- *other* - closed reduction; physical therapy; comminuted fracture; nondisplaced fracture
- *wrist* - fracture, wrist

**Case Type:**

- *Animals* - Animal Control

**Case Name:** Francisco Ortega v. William Morgan, Donald R. Ware and Does 1 to 50, No. BC629352

**Date:** July 11, 2018

**Plaintiff(s):**

- Francisco Ortega (Male, 38 Years)

**Plaintiff Attorney(s):**

- Pejman A. Ben-Cohen; Carpenter Zuckerman & Rowley LLP; Beverly Hills CA for Francisco Ortega
- Jake Cohen; Carpenter Zuckerman & Rowley LLP; Beverly Hills CA for Francisco Ortega

**Plaintiff Expert (s):**

- Ron Berman D.A.B.F.E.; Forensic & Applied Animal Behavior; Los Angeles, CA called by: Pejman A. Ben-Cohen, Jake Cohen
- Arthur Kreitenberg M.D.; Orthopedic Surgery; Los Angeles, CA called by: Pejman A. Ben-Cohen, Jake Cohen

**Defendant(s):**

- Donald R. Ware
- William Morgan

**Defense  
Attorney(s):**

- Jeffrey E. Lerman; Hartsuyker, Stratman & Williams-Abrego; Los Angeles, CA for Donald R. Ware
- None reported for William Morgan

**Defendant  
Expert(s):**

- Kenneth R. Sabbag M.D.; Orthopedic Surgery; Pasadena, CA called by: for Jeffrey E. Lerman

**Insurers:**

- Farmers Insurance Group of Cos.

**Facts:**

On May 23, 2015, plaintiff Francisco Ortega, 38, a wire splicer for AT&T, responded to a trouble call at the 6100 block of Crenshaw Boulevard, in South Central Los Angeles, to repair a utility pole located at St. John the Evangelist Catholic Church. Due to the gate of the church begin locked, Ortega went to the apartment complex around the block from the church to ask for permission from one of the tenants to access the utility pole on that property. However, as he walked onto the open driveway of a nearby unit, he heard a bark from what seemed to be a very large dog. Ortega retreated for safety, but as he was standing on the sidewalk apron area of the driveway, texting his boss, a 150 to 200 pound Cane Corso Mastiff breed of dog lunged at him. The dog's paws landed on Ortega's torso, knocking him to the ground. Ortega instinctively placed his hands out to brace his fall and fractured both of his wrists. The dog continued to lunge and attack him for several minutes until Ortega was able to get to his feet and use his pocket knife to keep the dog at bay until its owner came out to the sidewalk to restrain it.

Ortega sued the owner of the dog, a tenant of the apartment complex who also did maintenance work there, William Morgan; and a physician who owned the dedicated Section 8 housing complex and had his practice next door to it, Donald Ware. Ortega alleged that Morgan was negligent for failing to control the dog and Morgan was acting within the scope of his agency during the attack. He also alleged that Ware was vicariously liable for Morgan's actions.

Plaintiff's counsel contended that Ware paid Morgan to do maintenance work around the property and that Ware knew of the presence of dog and authorized it to be used to protect the common area of the property, as well as other tenants, from transients known to be trespassing from Crenshaw Boulevard. Counsel also contended that Ware saw the subject dog a handful of times before the incident, during which time the dog would jump against the screen door of the room where the dog was kept, toward the rear of the property. Plaintiff's counsel further contended that Ware not only knew that the subject dog was present on the property, but must have known of the dog's dangerous and/or vicious propensities before the date of the incident.

Morgan was in default and not present at trial.

Ware admitted he knew the dog was on the property, but claimed he had no knowledge as to whether the dog had any dangerous and/or vicious propensities before the incident. He also claimed that Morgan did not do part-time maintenance work for him at the property.

**Injury:**

Ortega sustained fractures to both wrists, including a comminuted, intra-articular fracture of the left wrist's distal radius and ulnar styloid, and a nondisplaced fracture of the right wrist's distal scaphoid. He was transported by ambulance to the emergency room at a Kaiser Hospital. A closed reduction was performed on his left distal wrist fracture and he was given a splint.

About a week later, Ortega returned to the hospital and it was also determined that he also sustained a fracture of the right distal scaphoid. He continued to treat with Kaiser, and was referred for extensive occupational and physical therapy.

The plaintiff's orthopedic surgery expert opined that Ortega's right wrist had fully resolved following the healing process, but that the left wrist still had a residual displacement and was a step off. The expert also opined that because Ortega had a pre-existing renal condition, Ortega was not a candidate for surgery and that Ortega will continue to have some level of pain for the rest of his life.

Ortega, a 15-year veteran wire splicer for AT&T, testified that he had some difficulty working, but that he was able to carry out his duties despite his limitations.

Ortega sought recovery of past and future medical costs, and damages for his past and future pain and suffering.

The defense's orthopedic surgery expert opined that all of Ortega's treatment was reasonable and necessary, and he agreed that Ortega would not be a candidate for surgery due to his renal condition. However, the expert opined that Ortega should not be experiencing ongoing pain, considering the amount of displacement at the left wrist.

**Result:**

The jury found that Morgan was negligent and that Morgan's negligence was a substantial factor in causing Ortega's harm. It also found that Ware not only knew about the subject dog's presence, but also knew or must have known of the dog's dangerous or vicious propensities before the incident. The jury further found that Ware could have reasonably foreseen the injuries sustained to Ortega and that Ware could have prevented those injuries. The jury apportioned 50 percent liability to Morgan and 50 percent liability to Ware, but also found that Ware was liable under a theory of agency and, therefore, Ware was responsible for 100 percent of the damages.

The jury determined that Ortega's damages totaled \$800,000.

**Francisco Ortega**

\$70,000 Personal Injury: past economic loss

\$365,000 Personal Injury: future economic loss

\$365,000 Personal Injury: past non-economic loss

**Trial Information:**

**Judge:** Gregory W. Alarcon

**Demand:** \$500,000 (insurance coverage's limit)

**Offer:** \$150,000 (after opening statements)

**Trial  
Deliberations:** 45 minutes

**Editor's  
Comment:** This report is based on information that was provided by plaintiff's counsel and Ware's counsel. Morgan's counsel was not asked to contribute.

**Writer** Priya Idiculla

## Husband and wife claimed rear-end crash caused injuries

**Type:** Verdict-Plaintiff

**Amount:** \$823,046

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back* - fusion, lumbar; sprain, lumbar; strain, lumbar; sprain, thoracic; strain, thoracic; herniated disc, lumbar; herniated disc at L5-S1
- *knee* - knee derangement; chondromalacia / chondromalacia patella
- *neck* - sprain, cervical; strain, cervical
- *other* - chiropractic; physical therapy; epidural injections

**Case Type:**

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

**Case Name:** Azucena V. Garcia, Anthony Garcia, Christopher Garcia, Jesus Garcia and Jesus G. Garcia v. Salvador Hernandez, Louis Packaging Inc. and Does 1 to 25, No. BC594703

**Date:** June 28, 2018

**Plaintiff(s):**

- Jesus Garcia (Male, 38 Years)
- Anthony Garcia
- Jesus G. Garcia
- Azucena V. Garcia (Female, 33 Years)
- Christopher Garcia

**Plaintiff Attorney(s):**

- C. Michael Alder; AlderLaw, P.C.; Los Angeles CA for Azucena V. Garcia, Jesus Garcia, Christopher Garcia, Jesus G. Garcia, Anthony Garcia
- Lauri Brenner; AlderLaw, P.C.; Los Angeles CA for Azucena V. Garcia, Jesus Garcia, Christopher Garcia, Jesus G. Garcia, Anthony Garcia
- Daniel S. DeSantis; AlderLaw, P.C.; Los Angeles CA for Azucena V. Garcia, Jesus Garcia, Christopher Garcia, Jesus G. Garcia, Anthony Garcia
- Jennie Levin; Law Offices of Jennie Levin, P.C.; Los Angeles CA for Azucena V. Garcia, Jesus Garcia, Christopher Garcia, Jesus G. Garcia, Anthony Garcia

- Plaintiff Expert(s):**
- Jacob E. Tauber M.D.; Orthopedic Surgery; Beverly Hills, CA called by: Lauri Brenner
- Defendant(s):**
- Salvador Hernandez
  - Louis Packaging Inc.
- Defense Attorney(s):**
- Jack M. Liebhaber; Raffalow, Bretoi & Adams; Sherman Oaks, CA for Salvador Hernandez, Louis Packaging Inc.
  - Dustin E. Thordarson; Raffalow, Bretoi & Adams; Sherman Oaks, CA for Salvador Hernandez, Louis Packaging Inc.
- Defendant Expert(s):**
- A. Nick Shamie M.D.; Orthopedic Surgery; Los Angeles, CA called by: for Jack M. Liebhaber
  - Tamera G. Rockholt R.N.; Coding & Billing (Medical); Beaverton, OR called by: for Jack M. Liebhaber
  - Lawrence P. Harter M.D.; Radiology; Santa Barbara, CA called by: for Jack M. Liebhaber
- Insurers:**
- Mercury Insurance Group

**Facts:**

On Aug. 25, 2014, plaintiff Azucena Garcia, 33, a waitress, was driving a car with her husband, plaintiff Jesus Garcia, 38, a cook at a restaurant, as a front seat passenger. Their three children -- Christopher Garcia, Jesus G. Garcia and Anthony Garcia -- were rear-seat passengers in the vehicle. As they were stopped for a red light on westbound Colima Road, at the intersection with Avalo Drive, in El Monte, their sedan was rear-ended by a box truck operated by Salvador Hernandez. Azucena Garcia claimed injuries to her back and neck. The elder Jesus Garcia claimed injuries to his knee, back and neck. Christopher sustained a scratch to his rib cage, while Jesus Jr. and Anthony were not injured.

Mr. and Ms. Garcia, along with their three children, sued Hernandez and Hernandez's employer, Louis Packaging Inc. The Garcias alleged that Hernandez was negligent in the operation of the box truck and that Louis Packaging was liable for Hernandez's actions while in the course and scope of his employment.

All three children settled out of the case pre-litigation.

The defendants admitted liability and admitted that Hernandez was in the course and scope of his employment at the time of the accident.

**Injury:**

Plaintiffs' counsel noted that the force of the impact caused the back window of Garcia vehicle to shatter as it was pushed into the middle of the intersection. Ms. and Mr. Garcia both sought emergency care at Cedars-Sinai Medical Center, in Los Angeles, the day after the crash.

Ms. Garcia claimed she sustained sprains and strains to her neck and back. She underwent imaging studies, and treated with chiropractic care, physical therapy and epidural injections. Her medical care lasted from Aug. 26, 2014 to June 8, 2016.

Ms. Garcia alleged that she will require conservative care in the future.

Ms. Garcia sought recovery of \$50,921.86 in economic damages for her past medical expenses, \$15,000 in economic damages for her future medical expenses, \$150,000 in non-economic damages for her past pain and suffering, and \$50,000 in non-economic damages for her past pain and suffering.

Mr. Garcia claimed he sustained injuries to his right knee, neck, and lower back. Specifically, he claimed he sustained a herniated lumbar disc at the L5-S1 level, a derangement of the right knee with chondromalacia, and sprains and strains to his cervical and thoracic spine. He underwent imaging studies and treated with chiropractic care and physical therapy. He also received an injection to his right knee, and epidural injections to the cervical, thoracic and lumbar levels of his spine. Mr. Garcia eventually underwent a lumbar interbody fusion at the L5-S1 level and a lumbar decompression at the L4-5 level. His medical care lasted from Aug. 26, 2014 to June 15, 2016.

Mr. Garcia did not allege he will require any additional surgical intervention, but claimed he will need conservative care for the rest of his life.

Mr. Garcia sought recovery of \$221,124.07 in economic damages for his past medical expenses, \$26,000 in economic damages for his future medical expenses, \$1 million in non-economic damages for his past pain and suffering, and \$1 million in non-economic damages for his future pain and suffering.

Defense counsel denied that the motor vehicle accident on Aug. 25, 2014 caused the Garcias' alleged damages. Counsel contended the Garcias were involved in a subsequent accident on April 1, 2015, five months before Mr. Garcia underwent the lumbar fusion and decompression. Defense counsel also disputed the reasonableness and necessity of both plaintiffs' medical care, and the reasonable value of the plaintiffs' medical care, based on any alleged injury they might have actually sustained on Aug. 25, 2014.

**Result:**

The jury found that Hernandez's negligence was a substantial factor in causing Mr. and Ms. Garcia harm. It determined that the couple's damages totaled \$823,045.93.

**Azucena V. Garcia**

\$50,922 Personal Injury: past economic damages

\$65,000 Personal Injury: past noneconomic damages

\$60,000 Personal Injury: future noneconomic damages

**Jesus Garcia**

\$221,124 Personal Injury: past economic damages

\$26,000 Personal Injury: future economic damages

\$150,000 Personal Injury: past noneconomic damages

\$250,000 Personal Injury: future noneconomic damages

**Trial Information:**

**Judge:** Michele E. Flurer

**Demand:** \$850,000 (by Mr. Garcia, C.C.P. § 998); \$150,000 (by Ms. Garcia, C.C.P. § 998)

**Offer:** \$250,000 (for Mr. Garcia, C.C.P. § 998); \$50,000 (for Ms. Garcia, C.C.P. § 998)

**Trial Length:** 4 days

**Trial  
Deliberations:** 1 days

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

**Writer** Priya Idiculla



## Former partner owed royalties on headphones: lawsuit

**Type:** Verdict-Plaintiff

**Amount:** \$25,247,350

**State:** California

**Venue:** Los Angeles County

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

**Case Type:**

- *Contracts - Breach of Contract*

**Case Name:** Hinrichs & Associates and Pentagram Design, Inc. v. Beats Electronics, LLC; Andre Young p/k/a Dr. Dre, an individual; Jimmy Iovine, an individual; Steven Lamar, an individual; Jibe Audio, LLC; and Does 1 through 30, inclusive, No. BC533089

**Date:** June 27, 2018

**Plaintiff(s):**

- Steven Lamar (Male)
- Jibe Audio, LLC
- Hinrichs & Associates
- Pentagram Design Inc.

**Plaintiff Attorney(s):**

- Stephen E. Morrissey; Susman Godfrey LLP; Seattle WA for Jibe Audio, LLC, Steven Lamar
- Brian D. Melton; Susman Godfrey LLP; Houston TX for Jibe Audio, LLC, Steven Lamar
- Chanler A. Langham; Susman Godfrey LLP; Houston TX for Jibe Audio, LLC, Steven Lamar
- Davida Brook; Susman Godfrey LLP; Los Angeles CA for Jibe Audio, LLC, Steven Lamar
- Steven Seigel; Susman Godfrey LLP; Seattle WA for Jibe Audio, LLC, Steven Lamar
- None reported; ; Los Angeles CA for Hinrichs & Associates, Pentagram Design Inc.

**Plaintiff Expert (s):**

- Michael J. Wagner M.B.A., J.D.; IP Damages; Walnut Creek, CA called by: Stephen E. Morrissey, Brian D. Melton, Chanler A. Langham, Davida Brook, Steven Seigel

**Defendant(s):**

- Andre Young
- Jimmy Iovine
- Robert Brunner
- Ammunition, LLC
- Beats Electronics, LLC

**Defense Attorney(s):**

- Arturo J. Gonzalez; Morrison & Foerster LLP; San Francisco, CA for Beats Electronics, LLC, Andre Young, Jimmy Iovine
- Wendy J. Ray; Morrison & Foerster LLP; Los Angeles, CA for Beats Electronics, LLC, Andre Young, Jimmy Iovine
- David M. Walsh; Morrison & Foerster LLP; Los Angeles, CA for Beats Electronics, LLC, Andre Young, Jimmy Iovine
- Bitu Rahebi; Morrison & Foerster LLP; Los Angeles, CA for Beats Electronics, LLC, Andre Young, Jimmy Iovine
- Christopher J. Wiener; Morrison & Foerster LLP; San Francisco, CA for Beats Electronics, LLC, Andre Young, Jimmy Iovine
- Andrew C. Stanley; Morrison & Foerster LLP; Los Angeles, CA for Beats Electronics, LLC, Andre Young, Jimmy Iovine
- None reported for Ammunition, LLC, Robert Brunner

**Defendant Expert(s):**

- Elizabeth Dean; IP Damages; San Francisco, CA called by: for Arturo J. Gonzalez, Wendy J. Ray, David M. Walsh, Bitu Rahebi, Christopher J. Wiener, Andrew C. Stanley

**Facts:**

In 2006, plaintiff Pentagram Design Inc., a California-based firm, was hired by Steven Lamar, president of SLS International Ltd. and founder of Jibe Audio, LLC, to design a line of headphones.

Lamar claimed he took his concept for celebrity, musical artist-endorsed headphones to Jimmy Iovine, the co-founder of Interscope Records and that Iovine proposed that Andre Young, professionally known as Dr. Dre, be the celebrity musical artist to endorse the headphones. Lamar then engaged Pentagram to design a line of headphones and worked with Robert Brunner, a renowned industrial designer and partner at Pentagram at that time. Lamar also claimed that he identified a Chinese manufacturing partner and could arrange financing and that they ultimately decided to go with Monster, LLC as their distribution partner.

In July 2006, Dr. Dre and Iovine filed a lawsuit against Pentagram, Lamar, Jibe Audio and SLS International, accusing them of failing to perform under the contract, filing a trademark application for the name "BEATS," and intending to come out with their own "Beats" headphones without Dr. Dre's involvement even though he allegedly came up with the name. In response, counterclaims were brought in the interest of settling contractual rights and intellectual property ownership over the design of the headphones.

The 2006 lawsuit was ultimately settled. Under the terms of the agreement, Iovine and Dr. Dre agreed to pay Pentagram four percent royalty on the sale of any headphones that used the design developed by the company, while Pentagram agreed to turn over half of the royalty that it "actually received" to Lamar and Jibe Audio. However, Lamar claimed that despite entering into a separate contract with him and Jibe Audio, Pentagram failed to pay him certain royalties.

In January 2015, Pentagram and its successor-in-interest, Hinrichs & Associates, a design firm that was assigned Pentagram's rights, sued Lamar; Jibe Audio; Beats Electronics, LLC; Dr. Dre and Iovine, seeking declaratory relief.

Lamar and Jibe Audio filed cross-complaint against Beats Electronics, LLC; Dr. Dre; and Iovine. They also brought third-party claims against Brunner and his design group, Ammunition, LLC. Lamar claimed that he was entitled to a royalty on all Beats headphones because they had the same design language. He also claimed that Brunner breached a fiduciary duty because Brunner negotiated a separate agreement with Iovine, Dr. Dre and/or Beats Electronics to allegedly cut him and Jibe Audio out of royalties.

Prior to trial, Pentagram, Hinrichs & Associates, Lamar and Jibe Audio settled their respective claims against each other. Lamar and Jibe Audio also settled their third-party claims against Brunner before trial. Ultimately, the matter proceeded to trial only on Lamar's cross-complaint against Beats Electronics, Iovine and Dr. Dre.

At trial, Lamar claimed Iovine, Dr. Dre and Beats Electronics breached the terms of the settlement agreement and royalty agreement by failing to pay royalties on headphones released after the original headphone model -- the Beats Studio make. Specifically, he claimed that while the later headphone models were slightly different, the minor cosmetic changes were still covered by the royalty agreement, as every make of Beats headphones shared the same unique design characteristics.

Defense counsel for Iovine, Dr. Dre and Beats Electronics acknowledged that Lamar was involved in initial discussions regarding the Beats Studio model, but argued that all parties to the contract understood that it was a one product deal, that Lamar had waived his right to sue Iovine and Dr. Dre, and that Lamar was already paid for the first product.

**Injury:** Lamar claimed he was owed over \$130 million for 12 different models of headphones.

**Result:** The jury found that Iovine, Young (Dr. Dre) and Beats Electronics breached their duties under the agreement. It also found that Lamar and Jibe Audio were owed royalties on three of the 12 models of headphones, specifically Beats' flagship Studio line of products, including the recently released Studio 3. The jury determined that Lamar and Jibe Audio's damages totaled \$25,247,350.

### **Steven Lamar**

\$7,448,838 Personal Injury: royalties (Studio2/Remastered)

\$14,856,721 Personal Injury: royalties (Studio 2 Wireless)

\$2,941,791 Personal Injury: royalties (Studio 3)

## **Trial Information:**

**Judge:** David S. Cunningham, III

**Trial Length:** 13 days

**Trial  
Deliberations:** 2 days

**Jury Vote:** 9-3

**Jury  
Composition:** 4 male, 8 female

**Post Trial:** Lamar will be seeking more than \$5 million in prejudgment interest, attorney fees and ongoing royalties.

**Editor's  
Comment:** This report is based on information that was provided by counsel of Jibe Audio, Lamar, Beats Electronics, Iovine and Young. Additional information was gleaned from articles that were published by The Hollywood Reporter. The remaining parties' counsel were not asked to contribute.

**Writer** Priya Idiculla

## Employers failed to address new supervisor's ageist comments: suit

**Type:** Verdict-Plaintiff

**Amount:** \$31,089,793

**State:** California

**Venue:** Los Angeles County

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

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

**Case Type:** • *Employment* - Retaliation; Age Discrimination; Workplace Harassment; Gender Discrimination; Constructive Discharge; Disability Discrimination

**Case Name:** Codie Rael v. Axis SybronEndo, Sybron Dental Specialties Inc., Danaher Corporation, Fernando Estavillo, Kavco Kerr Group, Kerr Corporation, Ormco Corporation and Does 1 to 100, No. BC 584994

**Date:** June 26, 2018

**Plaintiff(s):** • Codie Rael (Female, 54 Years)

**Plaintiff Attorney(s):** • Carney R. Shegerian; Shegerian & Associates, Inc.; Santa Monica CA for Codie Rael  
• Anthony Nguyen; Shegerian & Associates, Inc.; Santa Monica CA for Codie Rael  
• Mark I. Lim; Shegerian & Associates, Inc.; Santa Monica CA for Codie Rael

**Plaintiff Expert(s):** • Craig Snyder Ph.D.; Psychology/Counseling; Beverly Hills, CA called by: Carney R. Shegerian, Anthony Nguyen, Mark I. Lim  
• David N. Glaser M.D.; Psychiatry; Encino, CA called by: Carney R. Shegerian, Anthony Nguyen, Mark I. Lim  
• Heather R. Halpern M.S.W., L.C.S.W.; Psychotherapy; South Pasadena, CA called by: Carney R. Shegerian, Anthony Nguyen, Mark I. Lim

**Defendant(s):**

- Kerr Corp.
- Ormco Corp.
- Danaher Corp.
- Axis SybronEndo
- Kavo Kerr Group
- Fernando Estavillo
- Sybron Dental Specialties Inc.

**Defense  
Attorney(s):**

- Jon D. Meer; Seyfarth Shaw LLP; Los Angeles, CA for Axis SybronEndo, Sybron Dental Specialties Inc., Danaher Corp., Fernando Estavillo, Kavo Kerr Group, Kerr Corp., Ormco Corp.
- Jamie C. Pollaci; Seyfarth Shaw LLP; Los Angeles, CA for Axis SybronEndo, Sybron Dental Specialties Inc., Danaher Corp., Fernando Estavillo, Kavo Kerr Group, Kerr Corp., Ormco Corp.

**Facts:**

In March 2014, plaintiff Codie Rael, 54, a materials buyer and planner for Ormco Corp., began to be directly supervised by Fernando Estavillo, who was under 40 years old. Rael claimed that after Estavillo was hired, numerous ageist comments were made about her, her workload was suddenly increased, and she was refused training, despite it being freely available to younger employees. She also claimed that she was treated noticeably different by her supervisors, in comparison to the younger employees, and that her applications for higher positions were denied under false pretenses.

In October 2014, Rael quit her position at Ormco. She claimed that she was forced to quit because of the stress of her job and that she was replaced by a man in his 20s.

Rael sued Estavillo; Ormco; Ormco's parent company, Danaher Corp.; and Danaher's other subsidiaries, Kavo Kerr Group, Axis SybronEndo, Sybron Dental Specialties Inc. and Kerr Corp. Rael alleged that the defendants' actions constituted age discrimination and harassment, gender discrimination and harassment, retaliation, and constructive discharge in violation of public policy.

Rael claimed her work record was stellar, but once Estavillo and Estavillo's supervisor came into the picture, she began to be victimized by frequent harassing and offensive comments, including, "You are outdated," "We need younger workers in here," "You are part of the old culture," "You are unwilling to follow the new culture," "You are resistant to change," and "You need to change." Rael also claimed that when her applications for higher positions were denied and the positions were filled by younger employees, Estavillo told her, "We just didn't want you."

Defense counsel argued that Rael voluntarily resigned from her employment and that the alleged comments either were not said or were taken out of context. Counsel also argued that Rael was held to the same standard as all other employees with respect to "on-time delivery," or "OTD," requirements for shipping dental supplies.

Defense counsel contended that because Rael's previous supervisor was located in Canada while Rael worked in Orange County, Calif., Rael was subject to absentee management, which caused her department to not meeting the OTD standard set by the company. Counsel contended that in order to remedy the issue, a new supervisor, Estavillo, was assigned to Rael's department in March 2014 and that Estavillo set up daily meetings with Rael to review OTD status updates, asked Rael to use sophisticated proprietary business tools to increase her performance, and held Rael accountable for meeting OTD requirements. However, defense counsel argued that Rael resisted the new level of accountability and resisted making any change in her work habits. Counsel also argued that when Rael complained to human resources about having an excessive workload, she received a response within 10 minutes and that one of Rael's largest projects was assigned to a different employee approximately four days later so that Rael's workload would be more manageable. However, when human resources checked-in with Rael, she claimed that she was still "overwhelmed" by her work. Defense counsel contended that, in response, human resources asked Rael to prepare a list of her current job assignments so that it could set up a series of meetings with her and her supervisor to help prioritize her work and that Rael agreed to participate in the meetings, but then resigned the very next day.

**Injury:**

Beginning in November 1978, Rael worked for various Danaher entities in various plant locations, including Glendora, San Dimas and Orange, until she was a materials buyer and planner during her final two years of employment. Rael claimed that Estavillo put extreme pressure on her to perform exactly as he demanded or else she would be fired. She claimed that as a result, she suffered from emotional distress until she was forced to quit in October 2014.

The plaintiff's expert witnesses opined that Rael suffered from major depressive disorder as a result of her alleged treatment and constructive termination from the defendants.

Rael sought recovery of approximately \$16 million in total compensatory damages, including past and future economic damages for her alleged loss of earnings, and past and future non-economic damages for her alleged emotional pain and suffering. In addition, Rael sought recovery of approximately \$78 million in punitive damages based on the alleged involvement of several high level management and human resources personnel who were allegedly aware of her concerns and complaints, but failed to take any action and, instead, sided with management.

Defense counsel argued that Rael did not suffer any loss of wages because she quickly accepted a job with another company for more money. Specifically, counsel contended that Rael is in a similar position with another large, international company, earning a higher rate of compensation, and that Rael has been working for her new employer for almost four years, during which time she received additional pay raises.

Defense counsel contended that Rael was diagnosed with emotional distress by two expert witnesses who were hired by plaintiff's counsel and who first saw Rael in November 2016, more than two years after the separation of her employment from Ormco and the other Danaher entities. Defense counsel also contended that the plaintiff's experts, a psychiatrist and a licensed clinical social worker, testified that Rael had an excellent prognosis for remission of her major depressive disorder, if Rael had weekly therapy for approximately 18 to 24 months. The cost of that therapy would be approximately \$11,000 to \$22,000. However, defense counsel noted that Rael did not seek treatment, as her two expert witnesses recommended.

**Result:**

On June 21, 2018, the jury found for Rael on her claims of age discrimination and harassment, retaliation, and constructive discharge in violation of public policy. However, it did not find in favor of Rael on her claims of gender discrimination and disability discrimination. The jury determined that Rael's compensatory damages totaled \$3,089,793. I also determined that Sybron Dental Specialties Inc. and KaVo Kerr Group acted with malice, oppression or fraud against Rael. However, it also determined that there was no malice, oppression or fraud on the part of Danaher Corp., Kerr Corp., or Ormco Corp.

On June 26, 2018, the jury determined that Rael's punitive damages against Sybron Dental Specialties and KaVo Kerr totaled \$28 million, making Rael's recovery total \$31,089,793.



## **Codie Rael**

\$5,282 Personal Injury: past economic loss

\$2,084,511 Personal Injury: past noneconomic loss

\$1,000,000 Personal Injury: future noneconomic loss

\$16,000,000 Personal Injury: punitive damages (Sybron Dental Specialties)

\$12,000,000 Personal Injury: punitive damages ( KaVo Kerr Group)

## **Trial Information:**

**Judge:** Susan Bryant-Deason

**Trial Length:** 9 weeks

**Trial  
Deliberations:** 4 days

**Jury Vote:** 9-3

**Post Trial:** Defense counsel has expressed an intention to challenge the verdict.

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

**Writer** Priya Idiculla

## Improper security at center led to molestation, minor claimed

**Type:** Verdict-Plaintiff

**Amount:** \$10,004,871

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *other* - sexual assault
- *mental/psychological* - emotional distress; post-traumatic stress disorder

**Case Type:**

- *Premises Liability* - Swimming Pool; Inadequate or Negligent Security
- *Worker/Workplace Negligence* - Negligent Supervision

**Case Name:** John Doe, a minor, by and through his Guardian Ad Litem, Jane L. Doe and Jane S. Doe v. Rose Bowl Aquatics Center and Leslie Adam Dittert, No. BC661096

**Date:** June 25, 2018

**Plaintiff(s):**

- "John Doe" (Male, 11 Years)

**Plaintiff Attorney(s):**

- Stephen G. Larson; Larson O'Brien LLP; Los Angeles CA for "John Doe"
- Jonathan E. Phillips; Larson O'Brien LLP; Los Angeles CA for "John Doe"
- Steven E. Bledsoe; Larson O'Brien LLP; Los Angeles CA for "John Doe"

**Plaintiff Expert (s):**

- Gilbert W. Kliman M.D.; Child Psychiatry; San Francisco, CA called by: Stephen G. Larson, Jonathan E. Phillips, Steven E. Bledsoe

**Defendant(s):**

- Leslie Adam Dittert
- Rose Bowl Aquatics Center

**Defense Attorney(s):**

- David B. Madariaga; Fowler Law Group; Los Angeles, CA for Rose Bowl Aquatics Center
- None reported; Los Angeles, CA for Leslie Adam Dittert

**Defendant  
Expert(s):**

- Stan J. Katz Ph.D.; Psychology/Counseling; Beverly Hills, CA called by: for David B. Madariaga

**Facts:**

On May 18, 2015, the plaintiff, an 11-year-old boy, was at a swim team practice at the Rose Bowl Aquatics Center, in Pasadena, when he told his mother that an older man inside the facility had sexually molested him. During a police investigation, it was determined that the boy had allegedly been repeatedly sexually abused by Leslie Dittert, who was then 57 years old. It was also determined that the alleged abuse had occurred at various locations inside the Rose Bowl Aquatic Center since December 2014.

The plaintiff, acting through his guardians, sued Rose Bowl Aquatics Center and Leslie Dittert.

Dittert did not appear at trial, as it is believed that Dittert fled the country shortly after the molestation was discovered in May 2015, and a default judgment was entered against him. The plaintiff will be seeking to an actual default judgment award in the near future.

Plaintiff's counsel argued that the Rose Bowl Aquatics Center had inadequate and/or negligent security and that it failed to adequately monitor and supervise the children under its care, custody and control. Counsel also argued that the aquatics center's negligence allowed another patron to sexually abuse and molest the boy in the men's locker room, family changing rooms, and the jacuzzi on multiple occasions over a period of six months.

Defense counsel for the Rose Bowl Aquatics Center argued that only Dittert was at fault and that the facility was safe.

**Injury:**

The plaintiff claimed he was sexually abused and molested several times when he was 11 years old. He alleged that due to the incidents, he suffers from emotional distress and post-traumatic stress disorder.

The plaintiff's experts opined that, in addition to the trauma of the molestation itself, the plaintiff suffered from PTSD and that the plaintiff would likely need a lifetime of therapy. Plaintiff's counsel noted that although all of the experts agreed that the plaintiff suffered from PTSD after the molestation, there was some disagreement about whether the plaintiff was still suffering from the symptoms of PTSD.

**Result:**

The jury found that both Dittert and the Rose Bowl Aquatics Center were negligent. It apportioned 70 percent fault to Rose Bowl Aquatics Center and 30 percent fault to Dittert. The jury also determined that the plaintiff's damages totaled \$10,004,871.

**"John Doe"**

\$9,500,000 Personal Injury: pain and suffering

\$504,871 Personal Injury: past and future medical costs and other economic damages

**Trial Information:**

**Judge:** James A. Kaddo

**Editor's Comment:** This report is based on information that was provided by plaintiff's counsel. Rose Bowl Aquatics Center's counsel did not respond to the reporter's phone calls. Dittert was not asked to contribute.

**Writer** Priya Idiculla

## Plaintiff claimed he was arrested without probable cause

**Type:** Decision-Plaintiff

**Amount:** \$30,000

**Actual Award:** \$300,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *mental/psychological* - anxiety; depression; emotional distress

**Case Type:**

- *Government* - Police; Municipalities
- *Civil Rights* - 42 USC 1983; Unlawful Arrest; Police as Defendant

**Case Name:** Fredy Torres v. City of Los Angeles, Officer Steven Alaniz, Officer Gina Bracht, Sergeant Roberto Calderon, Officer Anna McKinley, Ruben Padilla, Officer Steven Ruiz and Douglas Westphal, No. BC654320

**Date:** June 25, 2018

**Plaintiff(s):**

- Fredy Torres (Male, 27 Years)

**Plaintiff Attorney(s):**

- John C. Burton; Law Offices of John C. Burton; Pasadena CA for Fredy Torres
- Matthew A. Sahak; Law Offices of John C. Burton; Pasadena CA for Fredy Torres

**Plaintiff Expert (s):**

- Anthony E. Reading Ph.D.; Psychology/Counseling; Beverly Hills, CA called by: John C. Burton, Matthew A. Sahak
- Dewayne K. Beckner; Alcohol Toxicology; Northridge, CA called by: John C. Burton, Matthew A. Sahak

**Defendant(s):**

- Gina Bracht
- Steven Ruiz
- Anna McKinley
- Ruben Padilla
- Steven Alaniz
- Douglas Westphal
- Roberto Calderon
- City of Los Angeles

**Defense Attorney(s):**

- Geoffrey R. Plowden; Office of the City Attorney; Los Angeles, CA for City of Los Angeles, Steven Alaniz, Gina Bracht, Roberto Calderon, Anna McKinley, Ruben Padilla, Steven Ruiz, Douglas Westphal

**Facts:**

On March 12, 2016, plaintiff Fredy Torres, 27, a councilman's field deputy, was arrested near 43rd and McKinley streets, in South Los Angeles. Torres claimed that he had just parked a city car when he was arrested on suspicion of driving under the influence of alcohol or drugs. He was ultimately not charged with a DUI after his drug test came back negative.

Torres sued the arresting police officers, Steven Alaniz, Gina Bracht, Anna McKinley, Ruben Padilla, Steven Ruiz and Douglas Westphal; the officers' supervisor, Sergeant Roberto Calderon; and the officers' employer, the city of Los Angeles. Torres alleged that the defendants' actions constituted an unlawful arrest, in violation of his civil rights.

Several defendants were voluntarily dismissed during discovery. The matter proceeded to a bench trial against Ruiz and the city only.

Torres claimed that he was arrested without probable cause. His counsel argued that video from body cameras showed that Torres was clearly and coherently communicating with Ruiz and that Torres was following Ruiz's instructions at the time of the stop. Counsel also questioned the alleged results of the field sobriety tests, noting that a urine analysis later found no trace of a controlled substance in Torres' system.

Defense counsel noted that when the officers first spotted Torres, they ran the license plate and found that the car was city owned and had not been reported stolen. However, counsel argued that the officers decided to pull Torres over because the license plate appeared to be scratched, which indicated to the officers that it could be evidence of an attempt to conceal a vehicle that had been stolen.

Ruiz claimed that Torres was not cooperative, causing him to believe that Torres was under the influence of alcohol or drugs. He also claimed that he placed Torres under arrest after Torres failed field sobriety tests.

In response, plaintiff's counsel argued that Ruiz's claims were not corroborated by body camera footage or by other officers.

**Injury:** Torres claimed that as a result of the arrest, he was let go from his position, which he had since 2015. He also claimed the incident caused him to suffer emotional distress.

The plaintiff's psychology expert testified about Torres' emotional distress, as well as the anxiety and depression Torres allegedly suffered.

Torres sought recovery of emotional distress damages as a result of the incident.

**Result:** Judge William Fahey determined that Torres' damages totaled \$30,000, including \$25,000 in compensatory damages against both Ruiz and the city, and \$5,000 in punitive damages against Ruiz only.

## **Fredy Torres**

\$25,000 Personal Injury: compensatory damages (Ruiz and city of Los Angeles)

\$5,000 Personal Injury: punitive damages (Ruiz)

## **Trial Information:**

**Judge:** William F. Fahey, Richard Copeland

**Post Trial:** A motion for attorney fees was filed. On Dec. 12, 2018, prior to the motion being decided, the parties agreed to a \$300,000 settlement, which was established via the guidance of mediator Richard Copeland, of Conflict Solution Services.

**Editor's Comment:** This report is based on information that was provided by plaintiff's and defense counsel. Additional information was gleaned from court documents and from an article that was published by the Los Angeles Times.

**Writer** Priya Idiculla

## Defense disputed plaintiff's alleged need for surgery

**Type:** Verdict-Plaintiff

**Amount:** \$138,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *back* - herniated disc, lumbar; herniated disc at L5-S1
- *neck* - disc protrusion, cervical
- *other* - chiropractic; microdiscectomy; epidural injections
- *surgeries/treatment* - discectomy

**Case Type:**

- *Motor Vehicle* - Broadside; Intersection; Multiple Vehicle; Question of Lights

**Case Name:** Artavazd Hovhannisyan v. Empire Chaffeur, Empire International, Empire CLS  
Worldside Chauffeured Services, Michael D. Abouhalaka and Does 1 to 20 / Michael D.  
Abouhalaka v. Artavazd Hovhannisyan and Does 1 to 25, No. BC566096; BC587852

**Date:** June 25, 2018

**Plaintiff(s):**

- Artavazd Hovhannisyan (Male, 25 Years)

**Plaintiff Attorney(s):**

- Robert M. Ehrenreich; Robert M. Ehrenreich, Attorney at Law; Santa Monica CA for Artavazd Hovhannisyan
- Victor Alexandroff; Law Offices of Victor Aexandroff; Encino CA for Artavazd Hovhannisyan

**Plaintiff Expert (s):**

- Jamshid J. Hekmat M.D.; Orthopedic Surgery; Los Angeles, CA called by: Robert M. Ehrenreich, Victor Alexandroff
- Christopher D. Wilhelm M.S.M.E.; Accident Reconstruction; El Segundo, CA called by: Robert M. Ehrenreich, Victor Alexandroff



**Defendant(s):**

- Michael D. Abouhalaka
- Empire International Ltd.
- EmpireCLS Worldwide Chauffeured Services

**Defense  
Attorney(s):**

- Sean T. Cahill; Cahill & Associates; San Diego, CA for Empire International Ltd., EmpireCLS Worldwide Chauffeured Services, Michael D. Abouhalaka

**Defendant  
Expert(s):**

- Thomas J. Grogan M.D.; Orthopedic Surgery; Santa Monica, CA called by: for Sean T. Cahill
- Stephen M. Werner P.E., Ph.D.; Accident Reconstruction; Phoenix, AZ called by: for Sean T. Cahill
- Stephen L.G. Rothman M.D.; Radiology; Torrance, CA called by: for Sean T. Cahill

**Insurers:**

- Farmers Insurance Group of Cos.
- Lancer Insurance Co.

**Facts:**

On July 20, 2013, plaintiff Artavazd Hovhannisyan, 25, a stock clerk, was driving a 2013 Hyundai Genesis sedan on northbound Cahuenga Boulevard, in Hollywood, when it entered the intersection with Hollywood Boulevard and broadsided a 2011 Cadillac Escalade sport utility vehicle operated by Michael Abouhalaka, who was headed west on Hollywood Boulevard. Hovhannisyan claimed injuries to his neck and back, and Abouhalaka claimed injuries to his back.

Hovhannisyan sued Abouhalaka and Abouhalaka's employer, EmpireCLS Worldwide Chauffeured Services. (EmpireCLS's prior company name, Empire International, and its prior operating name, Empire Chauffeur Services, were incorrectly named in the initial complaint.) Hovhannisyan alleged that Abouhalaka was negligent in the operation of his SUV and that EmpireCLS was vicariously liable for Abouhalaka's actions.

EmpireCLS Worldwide Chauffeured Services filed a counterclaim against Hovhannisyan, seeking recover for the property damage related to its Cadillac Escalade.

Abouhalaka filed his own personal injury action against Hovhannisyan, alleging that Hovhannisyan was negligent in the operation of his car.

On Oct. 14, 2015, the parties stipulated to consolidate Abouhalaka's case with Hovhannisyan's case and the related counterclaim. However, prior to trial, Hovhannisyan's insurance carrier agreed to tender its \$100,000 policy limits to settle Abouhalaka's personal injury claim and pay \$45,000 to settle EmpireCLS's property damage claim. The matter continued with Hovhannisyan's claims against Abouhalaka and EmpireCLS only.

Hovhannisyan claimed Abouhalaka ran a red light, causing the collision in the middle of the intersection.

Abouhalaka claimed Hovhannisyan jumped a red light approximately five seconds early, causing the accident.

The traffic investigation was unable to determine fault due to conflicting statements. Causation was further complicated by the mechanical failure of the DriveCam video camera on Abouhalaka's SUV.

**Injury:**

Hovhannisyan claimed the accident caused an 8 millimeter lumbar disc herniation at the L5-S1 level and a 2 to 3 millimeter cervical disc protrusion at the middle and lower regions. He received chiropractic treatment and three epidural injections for pain.

Hovhannisyan claimed that his cervical pain resolved with conservative treatment, but that he continued to have pain in his lower back with numbness and pain in his lower extremities. He eventually underwent a microdiscectomy on his lumbar spine on May 13, 2014.

Hovhannisyan claimed he was unable to work for approximately five years due to the pain in his lower back, neck and legs. He also claimed he was prevented from playing sports.

The plaintiff's treating orthopedic surgeon opined that Hovhannisyan requires a cervical discectomy, which would have significantly increase Hovhannisyan's medical specials.

Hovhannisyan sought recovery of \$1,830,585 in total damages at trial.

Defense counsel argued that Hovhannisyan's lumbar disc herniation was pre-existing, that it resolved after treating with chiropractic care and that the microdiscectomy was not related to the accident.

Defense counsel also disputed the amounts of Hovhannisyan's alleged past and future medical costs. The defense noted that plaintiff's counsel never presented several medical specials, such as evidence showing the cost of MRI's and X-rays, and that despite the plaintiff's treating orthopedic surgeon's recommendation that Hovhannisyan undergo a cervical discectomy, Hovhannisyan did not go forward with the procedure.

**Result:**

The jury found that Abouhalaka's negligence was a substantial factor in causing Hovhannisyan harm. It determined that Hovhannisyan's damages totaled \$138,000.

**Artavazd Hovhannisyan**

\$68,000 Personal Injury: Past Medical Cost

\$30,000 Personal Injury: Past Lost Earnings Capability

\$10,000 Personal Injury: FutureLostEarningsCapability

\$10,000 Personal Injury: Past Pain And Suffering

\$20,000 Personal Injury: Future Pain And Suffering

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

Lawrence Cho

**Demand:** \$250,000 (at mediation)

**Offer:** \$25,000 (at mediation)

**Trial Length:** 6 days

**Trial  
Deliberations:** 4.5 hours

**Jury Vote:** 11-1

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

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

**Writer** Priya Idiculla