



## Govt worker ran light, causing crash that paralyzed 4-year-old

**Type:** Decision-Plaintiff

**Amount:** \$55,184,288

**State:** California

**Venue:** Federal

**Court:** United States District Court, Central District, Santa Ana, CA

**Injury Type(s):**

- *hip*
- *brain* - edema, cerebral; traumatic brain injury; subarachnoid hemorrhage
- *other* - spleen, laceration
- *abdomen*
- *mental/psychological* - post-traumatic stress disorder
- *pulmonary/respiratory* - collapsed lung
- *paralysis/quadriplegia* - paralysis; tetraplegia

**Case Type:**

- *Government*
- *Motor Vehicle* - Broadside; Red Light; Intersection

**Case Name:** Leilani Gutierrez, a minor, by and through her Guardian ad Litem, and June Gutierrez v. the United States of America, No. SA CV 04-1045-AHS

**Date:** September 27, 2007

**Plaintiff(s):**

- June Gutierrez (Female, 26 Years)
- Leilani Gutierrez (Female, 4 Years)

**Plaintiff Attorney(s):**

- Darren O. Aitken; Aitken, Aitken & Cohn; Santa Ana CA for Leilani Gutierrez, June Gutierrez
- Wylie A. Aitken; Aitken, Aitken & Cohn; Santa Ana CA for Leilani Gutierrez, June Gutierrez
- Steven D. Lansford; Stody Mills Lansford Wlaker & Doyle; Newport Beach CA for Leilani Gutierrez, June Gutierrez

**Plaintiff Expert  
(s):**

- Jan Roughan; Life Care Planning; Arcadia, CA called by: Darren O. Aitken, Wylie A. Aitken, Steven D. Lansford
- Joel S. Rosen; Physical Medicine; Northridge, CA called by: Darren O. Aitken, Wylie A. Aitken, Steven D. Lansford,
- Colin G. Koransky; Post Traumatic Stress Disorder; Newport Beach, CA called by: Darren O. Aitken, Wylie A. Aitken, Steven D. Lansford
- Keiko Johnson; Video Production; Pasadena, CA called by: Darren O. Aitken, Wylie A. Aitken, Steven D. Lansford
- Wayne H. Lancaster Ph.D.; Economics; Fullerton, CA called by: Darren O. Aitken, Wylie A. Aitken, Steven D. Lansford
- Edward Fatzinger Jr.; Accident Reconstruction; Los Angeles, CA called by: Darren O. Aitken, Wylie A. Aitken, Steven D. Lansford
- Robert Feldman; Video Production; Pasadena, CA called by: Darren O. Aitken, Wylie A. Aitken, Steven D. Lansford
- Jeffrey B. Wheeler M.S.; Injury Biomechanics; Los Angeles, CA called by: Darren O. Aitken, Wylie A. Aitken, Steven D. Lansford
- William Loudon M.D.; Pediatric Neurosurgery; Orange, CA called by: Darren O. Aitken, Wylie A. Aitken, Steven D. Lansford

**Defendant(s):**

- United States of America

**Defense  
Attorney(s):**

- Keith M. Staub; Hewitt & Prout; Los Angeles, CA for United States of America

**Facts:**

On May 12, 2002, June Gutierrez, 26, a waitress, was driving southbound on Newport Boulevard in Costa Mesa, with her 4-year-old daughter, Leilani Gutierrez in the back seat on the driver's side. She entered Newport's intersection with Wilson Street on a green light, and was hit by Michael Leinert, who, while driving east on Wilson, ran a red light. Leinert was in the course and scope of his employment with the United States Department of Defense. Leinert hit Gutierrez's vehicle on the right passenger side at a speed of about 30 mph, causing Gutierrez to lose control of her car. The car left the road, struck a utility pole on the passenger side and turned onto the driver's side. Gutierrez and her daughter sued the United States for negligent operation of a motor vehicle by its employee. They alleged that Leinert violated California Vehicle Code 21453(a) in running the red light.

After several depositions, the U.S. admitted liability.

**Injury:**

As a result of the accident, Leilani suffered a number of injuries. She had a head injury with subarachnoid and intraventricular hemorrhages, a right brain stem contusion, a craniocervical dislocation at the atlanto-occipital and atlanto-axial areas, diffuse cerebral edema, a parietal lesion. She suffered a spinal cord injury the cervical C2 disc which led to tetraplegia. She also suffered traumatic instability at C6-7, severe respiratory failure, a collapsed left lung, chest wall trauma, abdominal trauma, a pulmonary contusion, splenic laceration and right hip bruising.

After the crash, Leilani spent the next six months at a series of hospitals and rehabilitation centers. In total, she has had 25 surgeries and medical procedures and spent approximately 250 days in the hospital since the accident. She requires a ventilator to breathe.

The plaintiffs contended that due to her permanent disability, Leilani will never be able to work, will require continuous medical care and will suffer emotional distress over her condition. They submitted a life care plan.

Gutierrez claimed that she developed severe post-traumatic stress disorder as a result of seeing her daughter injured.

The U.S. disputed the need for an extensive life care plan and argued that Leilani has a life expectancy of no more than 32.5 years.

**Result:**

Following a bench trial, Judge Alicemarie Stotler awarded \$54,143,370 to Leilani and \$1,040,918 to Gutierrez.

**June Gutierrez**

\$29,132 Personal Injury: Past Medical Cost

\$212,500 Personal Injury: Future Medical Cost

\$49,286 Personal Injury: Out of Pocket Expenses

\$750,000 Personal Injury: Non-Economic Damages

**Leilani Gutierrez**

\$3,840,350 Personal Injury: Past Medical Cost

\$18,667,553 Personal Injury: Future Medical Cost

\$635,467 Personal Injury: FutureLostEarningsCapability

\$31,000,000 Personal Injury: Non-Economic Damages

**Trial Information:**

**Judge:** Alicemarie H. Stotler

**Writer:** Brian Carreira

## Drunk driver plowed into motorist turning left

**Type:** Decision-Plaintiff

**Amount:** \$53,161,966

**State:** California

**Venue:** Alameda County

**Court:** Superior Court of Alameda County, Berkeley, CA

**Injury Type(s):**

- *leg*
- *head* - headaches
- *knee*
- *other* - obesity; infection; scar tissue; soft tissue; sacroiliac joint; scar and/or disfigurement
- *pelvis*
- *neurological* - nerve damage/neuropathy; nerve damage, femoral nerve
- *arterial/vascular* - thrombosis/thrombus; thrombus/thrombosis
- *surgeries/treatment* - open reduction; internal fixation
- *mental/psychological* - depression; emotional distress
- *pulmonary/respiratory* - lung, puncture

**Case Type:**

- *Motor Vehicle* - Speeding; Broadside; Left Turn; Center Line; Alcohol Involvement-Defendant

**Case Name:** Theresa Johnson v. Tyrone Hazel, No. C843284

**Date:** February 28, 2005

**Plaintiff(s):**

- Theresa Johnson (Female, 30 Years)

**Plaintiff Attorney(s):**

- Robert C. Cheasty; Cheasty & Cheasty; Berkeley CA for Theresa Johnson

**Plaintiff Expert (s):**

- Mark A. Reiley; Orthopedic Surgery; Berkeley, CA called by: Robert C. Cheasty
- Ellen Gurian; Pain Management; Berkeley, CA called by: Robert C. Cheasty

- Defendant(s):**
- Tyrone Hazel
- Defense Attorney(s):**
- Pro Se for Tyrone Hazel
- Insurers:**
- Uninsured

**Facts:** About 2 a.m. on July 15, 2000, plaintiff Theresa Johnson, 30, a manager at a clothing store and a mail sorter for FedEx, was driving southbound on Market Street in Oakland. She stopped at 52nd Street in preparation for turning left. At the same time, Tyrone Hazel, 22, was driving a sportscar southbound on Market Street about 60 to 80 mph, more than twice the 25 mph speed limit. As Hazel, who was drunk, approached the 52nd Street intersection, he saw Johnson's car ahead of him and attempted to pass her on the left, crossing the double yellow line to do so. Meanwhile, Johnson had begun her turn and he broadsided her sedan, propelling it a distance of about 185 feet into a parked car. Johnson sustained critical injuries.

Johnson sued Hazel, alleging that he was negligent in driving while intoxicated, crossing the center line and exceeding the speed limit.

Hazel pled guilty to criminal charges of driving under the influence and causing bodily harm. He was given a 10-month work furlough sentence.

In the instant case, Hazel, who was representing himself, initially denied liability but did not offer an alternate theory as to the cause of the accident. During trial, he conceded liability.

**Injury:** Hazel broadsided Johnson so hard that the front of his Camaro made a 3-foot intrusion into the driver's side of Johnson's car, crushing her pelvis and puncturing her lungs, forcing her car seat over the console into the passenger side. The paramedics had difficulty extracting her from the wreckage.

Initially, doctors did not expect Johnson to live. She sustained multiple fractures to her pelvis in the accident. The femoral nerve to her left leg was damaged, and she damaged her left knee and was given a lidocaine and saline injection in the emergency room. On July 17, 2000, she underwent a dangerous 14-hour open reduction internal fixation surgery on her pelvis. A metal plate was placed in her pelvis, and the sacroiliac joints were reconstructed. On Aug. 25, she had to undergo a second surgery to further repair the left sacroiliac joint. The ilium was displaced anteriorly and displaced vertically with regards to the sacrum. A shand screw was placed in the ilium and pelvic reduction clamps were used to provide reduction. She was later hospitalized at Alta Bates Summit Medical Center for a severe infection due to the blood clot in her leg from the collision and was also hospitalized there for two additional surgeries on her hip. She suffered pulmonary contusions or bilateral pneumothoraces that had to be treated with chest tubes, and suffered left distal venous thrombosis which coagulated. Due to the dangerous condition of this coagulation, which shifted and caused fear that the clot might break off and lodge elsewhere, she was kept on blood thinners for approximately a year-and-a-half.

Due to the femoral damages, Johnson initially had no control of her left leg. For nearly a year after the accident, she was in a wheelchair and doctors were not certain whether she

would ever walk again. She gradually regained the use of her legs, using a walker for two months after getting out of the wheelchair, then finally walking with the aid of a cane but for no more than approximately 150 feet at a time. This limitation that was permanent at the time of the trial.

She is constantly in pain, particularly in her pelvic area and also in her neck, shoulder and lower back. Her doctor stated that she will probably continue to have pelvic pain for the rest of her life. Johnson cannot stay in either a standing or a sitting position for a long of time or her left leg goes numb and she develops severe cramps. As a result, she must constantly alternate between the two positions. Johnson's left knee is in daily pain and she continues to experience swelling and tightness. She leans heavily on her right knee for support. Unfortunately, this dependence has caused her right knee to ache constantly. Due to her severe pain, Johnson has not slept through an entire night without the aid of pain medication since the accident. In addition, she cannot sleep on her left side at all due to pain.

The trauma from the accident additionally affected Johnson's memory, making it necessary for her to repeat things over and over in order to retain them.

Johnson has a number of permanent and disfiguring scars. The largest scar transverses her back along her waistline, from a gaping wound caused by the collision. It was so large that the surgeons were not able to sew it up. Instead, the wound had to be kept open for months and treated daily with antiseptic bandaging while it gradually healed. At its onset the wound was about a foot long and almost two inches wide at the widest point. She is now left with a buckled scar, about ten inches in length and half an inch. wide. The next largest scar is the abdominal scar from her first surgery. This cuts across her abdomen, slightly above her pubic area. She also has large surgical scars along her left buttock, silver-dollar sized scars on each side of her rib cage, two small scars on her neck and another small scar on the left side of her upper chest area near the collarbone.

The accident also caused Johnson great emotional distress. Prior to the collision she had an outgoing and confident personality and an active social life, including a fiance. At the time of trial, she suffered from depression, was no longer engaged, felt unattractive and was unable to participate in a number of activities she once enjoyed, including dancing and aerobics. She had gained approximately 25 pounds since the accident, due to her inability to be as active as she was prior to the accident.

Johnson is also unable work in either of the two jobs she held prior to the accident, as a mail handler at FedEx and a manager at Lane Bryant.

Johnson sought \$338,143.02 for past medical expenses, \$500,000 for future medical expenses, \$1,313,823.30 for past and future lost earnings, unspecified damages for pain and suffering, and \$10,000 for the damage to her car. She also sought punitive damages.

**Result:**

At the conclusion of the bench trial, the judge awarded Johnson \$52,161,966.32 in compensatory damages and \$1 million in punitive damages.

**Trial Information:**

**Judge:** William McInstry

**Demand:** \$10 million

**Post Trial:** Hazel appealed the judgment, but in November 2005, the California Court of Appeals, First Appellate District in San Francisco, dismissed the appeal.

**Writer** Lisa Braunstein



## Family claimed losses as a result of woman's murder

**Type:** Decision-Plaintiff

**Amount:** \$41,600,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *other* - death; scar and/or disfigurement
- *arterial/vascular* - blood loss; exsanguination

**Case Type:**

- *Intentional Torts* - Assault
- *Wrongful Death* - Survival Damages

**Case Name:** Diana Kasian, by and through her Guardian ad Litem, Olga Kasian; Olga Kasian, individually and as successor in interest to the Estate of Iana Kasian v. Blake Leibel and Does 1 through 50, No. BC624321

**Date:** February 15, 2019

**Plaintiff(s):**

- Olga Kasian
- Diana Kasian
- Estate of Iana Kasian (Female, 30 Years)

**Plaintiff Attorney(s):**

- Thomas J. Conroy; The Simon Law Group, LLP; Hermosa Beach CA for Diana Kasian, Olga Kasian, Estate of Iana Kasian
- Siannah I. Collado-Boutte; The Simon Law Group, LLP; Hermosa Beach CA for Diana Kasian, Olga Kasian, Estate of Iana Kasian
- Jake D. Finkel; Law Offices of Jake D. Finkel; Los Angeles CA for Diana Kasian, Olga Kasian, Estate of Iana Kasian

**Plaintiff Expert (s):**

- Enrique N. Vega M.S.; Economics; Woodland Hills, CA called by: Thomas J. Conroy, Siannah I. Collado-Boutte, Jake D. Finkel
- Constantine M. Boukidis M.A.; Economics; Los Angeles, CA called by: Thomas J. Conroy, Siannah I. Collado-Boutte, Jake D. Finkel

**Defendant(s):**

- Blake Leibel

**Defense  
Attorney(s):**

- None reported for Blake Leibel

**Facts:**

On May 26, 2016, plaintiff's decedent Iana Kasian, 30, was discovered dead in the bedroom of the West Hollywood apartment that she shared with Blake Leibel. Her body was discovered after a standoff between Leibel and the police.

Leibel was arrested and charged with first-degree murder, aggravated mayhem and torture of Kasian, who had given birth to their daughter, plaintiff Diana Kasian, a few weeks before her death, on May 3, 2016. Leibel was ultimately convicted of the criminal homicide in June 2018.

The decedent's mother, Olga Kasian, acting individually, as Diana's guardian ad litem and as the successor in interest of the decedent's estate, sued Leibel.

Leibel was not represented and elected not to participate in the trial. The court made its findings, confirming both, and the matter proceeded as an uncontested bench trial.

**Injury:**

Iana Kasian was tortured, mutilated and ultimately killed by Leibel over the course of several hours sometime between May 24 and May 26, 2016. Kasian's cause of death was ultimately ruled to be comprehensive exsanguination.

Plaintiffs' counsel contended that Kasian lived for a prolonged period of time after Leibel began inflicting the gruesome trauma and that Kasian fought back against her assailant.

Plaintiffs' counsel noted that Iana Kasian was an educated, industrious and ambitious woman with a facility for languages who held the goal of becoming an interpreter after arriving in the United States. The decedent's mother, Olga Kasian, who was 60 at the time of her daughter's death, claimed that she is now raising her granddaughter, Diana, who turns 3 in May 2019, the way Iana Kasian would have wanted and that they now live in Ukraine.

The plaintiffs' expert vocational analyst testified as to the measure of the loss of financial support to be sustained by Diana over her lifetime.

The decedent's family sought a survivorship action as well as recovery of wrongful death damages. They also sought recovery of \$10 million in punitive damages.

For purpose of supporting the plaintiffs' punitive damages claim, the plaintiffs' expert forensic economist testified as to the nature of Leibel's assets and finances in his possession at and around the time of the murder.

**Result:**

Judge Bobbi Tillmon determined that the plaintiffs' damages totaled \$41.6 million.

Tillmon's decision, read from the bench in open court, awarded \$30 million in combined noneconomic, wrongful death damages for the pain and suffering of the decedent, her mother and her daughter. Tillmon also awarded Kasian's estate \$10 million in punitive damages and awarded Diana \$1.6 million in economic, wrongful death damages.

**Trial Information:**

**Judge:** Bobbi Tillmon

**Demand:** \$31,250,000

**Offer:** None

**Editor's Comment:** This report is based on information that was provided by plaintiffs' counsel. The pro se defendant was not asked to contribute.

**Writer** Priya Idiculla

## **Bicyclist crippled after hitting illegally parked truck in bike lane**

**Type:** Decision-Plaintiff

**Amount:** \$34,500,000

**Actual Award:** \$25,875,000

**State:** California

**Venue:** Orange County

**Court:** Superior Court of Orange County, Santa Ana, CA

**Injury Type(s):** • *paralysis/quadriplegia* - quadriplegia

**Case Type:** • *Motor Vehicle* - Truck; Bicycle

**Case Name:** Thomas Gregory v. Arizona Pipeline Company and Eduardo Rodriguez, No. 02CC02955

**Date:** July 09, 2003

**Plaintiff(s):** • Thomas Gregory (Male, 40 Years)

**Plaintiff Attorney(s):**

- William R. Chapman; Grassini & Wrinkle; Woodland Hills CA for Thomas Gregory
- Lawrence P. Grassini; Grassini & Wrinkle; Woodland Hills CA for Thomas Gregory
- Roland Wrinkle; Grassini & Wrinkle; Woodland Hills CA for Thomas Gregory

**Plaintiff Expert(s):**

- George Lightner; Construction; Pasadena, CA called by: William R. Chapman, Lawrence P. Grassini, Roland Wrinkle,
- Sharon Kawai; Life Care Planning; Fullerton, CA called by: William R. Chapman, Lawrence P. Grassini, Roland Wrinkle,
- Bernard Jr. Pettingill Ph.D.; Economics; Palm Beach Gardens, FL called by: William R. Chapman, Lawrence P. Grassini, Roland Wrinkle,

- Defendant(s):**
- Eduardo Rodriguez
  - Arizona Pipeline Company
- Defense Attorney(s):**
- Michael A. Byrne; McKay, Byrne & Graham; Los Angeles, CA for Arizona Pipeline Company
  - James R. Hammerton; Law Offices of James R. Hammerton; Fallbrook, CA for Eduardo Rodriguez
- Defendant Expert(s):**
- Tom Gravitt; Life Care Planning; Lexington, KY called by: for , Michael A. Byrne, , , James R. Hammerton
  - George M. Brinton Ph.D.; Economics; Los Angeles, CA called by: for , Michael A. Byrne, , , James R. Hammerton
- Insurers:**
- Zurich Insurance Co. (primary)
  - Kemper/Lumbermen's Insurance Co. (excess)

**Facts:** On the morning of April 10, 2001, Eduardo Rodriguez, an employee of Arizona Pipeline Co., Hesperia, parked his company truck in the bike lane of Superior Avenue in Costa Mesa so he could walk across the street and get some materials from the company's staging area. At this same time, plaintiff Tom Gregory, 40, a high school biology teacher, was riding his bike down Superior on his way to work when he ran into the back of the parked truck. Gregory sued Arizona Pipeline and Rodriguez, alleging vehicular negligence.

Gregory contended that Rodriguez illegally parked the truck blocking the bicycle lane and was negligent in doing so. Gregory also maintained that Arizona Pipeline negligently selected the site of its staging area in such close proximity to a main thoroughfare.

The defense contended that Gregory could see the truck 200 feet ahead of him but negligently failed to stop.

**Injury:** Gregory was rendered an incomplete quadriplegic with partial use of his hands and arms. While able to drive and return to teaching high school biology, Gregory claimed that he has been severely limited and restricted in what was previously a very active lifestyle (e.g., surfing, skiing, bicycling, mountain climbing, etc.). He claimed past medical costs of \$634,269 and loss of earnings of \$1,292,191.

**Result:** Prior to trial, Rodriguez was dismissed, leaving Arizona Pipeline Co. as the only defendant. After an 8-day bench trial, Judge Robert Monarch found in favor of Gregory and awarded him \$34.5 million gross (general award with no economic/noneconomic breakdown). After finding Arizona Pipeline 75% negligent and Gregory 25% comparatively negligent, the award was reduced to \$25,875,000 net. The court then awarded Gregory \$1,704,230 in prejudgment interest and costs, which created a total judgment of \$27,579,230.

**Thomas Gregory**

\$34,500,000 Personal Injury: bench award (general award)

**Trial Information:**

**Judge:** Robert D. Monarch

**Demand:** \$21,000,000 policy limits CCP 998 § 998 (\$1,000,000 from primary carrier, Zurich Insurance, and \$20,000,000 from excess carrier, Kemper Insurance. Offer expired on Feb. 14, 2003.)

**Offer:** \$8,000,000; raised to \$10,300,000 two weeks before trial; raised to \$12,000,000 several days before trial; raised to \$15,000,000 during trial; raised to \$21,000,000 policy limits the day of judgment; raised to \$23,000,000 during first post-trial mediation (all rejected)

**Trial Length:** 8 days

**Writer** Randy Stewart

## Motorcycle accident rendered plaintiff a quadriplegic

**Type:** Decision-Plaintiff

**Amount:** \$25,139,438

**Actual Award:** \$16,340,634

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):** • *paralysis/quadriplegia* - quadriplegia

**Case Type:** • *Motor Vehicle* - Left Turn; Motorcycle; Alcohol Involvement-Plaintiff

**Case Name:** Trevor Edward Pullen v. Henry Thomas Lemasters, No. EC-037670

**Date:** November 24, 2004

**Plaintiff(s):** • Trevor Edward Pullen (Male, 24 Years)

**Plaintiff Attorney(s):** • Bruce Palumbo; Ammirato & Palumbo; Pasadena CA for Trevor Edward Pullen  
• Mark S. Algorri; Dewitt . Algorri . Algorri; Pasadena CA for Trevor Edward Pullen

**Plaintiff Expert(s):**

- Dr. Mike Adams; Economics; Pasadena, CA called by: Bruce Palumbo, Mark S. Algorri
- David Patterson M.D.; Physical Medicine; Pomona, CA called by: Bruce Palumbo, Mark S. Algorri
- Gerry Aster; Life Care Planning; South Pasadena, CA called by: Bruce Palumbo, Mark S. Algorri
- Eugene M. Vander Pol II; Biomechanical; Carlsbad, CA called by: Bruce Palumbo, Mark S. Algorri
- Darrell Clardy; Drug Toxicology (Drug Testing); Brea, CA called by: Bruce Palumbo, Mark S. Algorri

**Defendant(s):**

- Henry Thomas Lemasters

**Defense Attorney(s):**

- Craig L. Hartsuyker; Law Offices of Craig Hartsuyker; Thousand Oaks, CA for Henry Thomas Lemasters
- Robert A. Cohen; Law Offices of Craig Hartsuyker; Thousand Oaks, CA for Henry Thomas Lemasters

**Defendant Expert(s):**

- Jeff Victoroff M.D.; Physical Rehabilitation; Rancho Los Amigos, CA called by: for Craig L. Hartsuyker, Robert A. Cohen
- Lisa Randall; Life Care Planning; Los Angeles, CA called by: for Craig L. Hartsuyker, Robert A. Cohen
- Mark S. Sanders PhD; Human Factors -- See also TECHNICAL-Engineering-Ergonomics; Claremont, CA called by: for Craig L. Hartsuyker, Robert A. Cohen
- Thomas D. Murtaugh; Accident Reconstruction; Century City, CA called by: for Craig L. Hartsuyker, Robert A. Cohen
- Ashcock Jane M.D.; Drug Toxicology (Drug Testing); Los Angeles, CA called by: for Craig L. Hartsuyker, Robert A. Cohen

**Insurers:**

- Safeco



**Facts:**

On July 14, 2003, plaintiff Trevor Pullen, 23, was riding his 2001 Buell motorcycle eastbound on Foothill Boulevard in Tujunga. As he approached the Commerce Avenue intersection, Henry Lemasters attempted to make a left turn from the westbound lane of Foothill. Lemasters' 1989 Nissan pick-up crossed in front of Pullen, who was unable to stop in time to avoid a collision.

Pullen sued Lemasters for negligence. He contended that Lemasters was negligent because he made the left-hand turn with knowledge that Pullen was approaching the intersection and that a collision could result. He contended that making the left turn at that point was illegal, because Pullen could only make the turn when it was safe.

Lemasters argued that numerous factors contributed to the crash which were beyond his control. First, he argued that Pullen was drunk at the time of the incident. He contended that Pullen claimed at the scene of the accident to have consumed "seven beers" before the accident. Second, he claimed that Pullen had been speeding, perhaps in excess of 81 miles per hour in a 35-mph zone. Finally, he contended that Foothill Boulevard had a curve west of the intersection, which when combined with Pullen's speed, made it impossible to see him coming.

The plaintiff acknowledged that he had been speeding and had been drinking before the incident, but disputed the defendant's claims. He claimed that he had just two beers four hours before the accident and was travelling much slower than 81 miles per hour. He also introduced expert testimony that the accident would have also occurred had he been travelling at 25 mph.

**Injury:**

Pullen suffered broken C-4 and C-5 vertebrae in the accident, which rendered him a quadriplegic, and a broken leg. He claimed that he spent \$750,000 on his medical bills before trial.

He asked the jury for just \$350,000 of his past medical bills, but asked for a life plan in excess of \$10.6 million.

**Result:**

In a bench trial, Judge William D. Stewart found Lemasters 65% at fault and Pullen 35% at fault. He found \$25,139,438 in damages, which was reduced to \$16,340,634 as per the fault apportionment.

Plaintiff's attorney claimed that the defendant's Safeco insurance policy provided coverage only up to \$15,000, but the company refused to disclose that figure before litigation had commenced. He claimed that he and intends to file a bad faith lawsuit against Safeco seeking part of the damages and \$1.3 million in prejudgment interest. Lemasters may join in the suit against Safeco as well.

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

William D. Stewart

**Demand:**

\$7,500,000

**Offer:** \$15,000

**Trial Length:** 30 days

**Post Trial:** The plaintiff made a motion for costs under C.C.P. section 998, because the final verdict exceeded his settlement offer.

**Writer** James Brennan

## Girl, 9, run over by rig operated by her father

**Type:** Verdict-Plaintiff

**Amount:** \$24,300,000

**State:** California

**Venue:** Sacramento County

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

**Injury Type(s):**

- *hip*
- *ankle* - fracture, ankle
- *other* - thigh; buttocks; scar and/or disfigurement
- *pelvis* - fracture, pelvis
- *epidermis* - degloving
- *surgeries/treatment* - skin graft

**Case Type:**

- *Motor Vehicle* - Pedestrian; Tractor-Trailer; Common Carrier Liability

**Case Name:** Malaquias Mejia, as Guardian as Litem for Diana Loza-Jimenez v. Freeway Transport Inc., Loza Trucking and Simon Loza-Mejia, No. 06AS00067

**Date:** March 08, 2010

**Plaintiff(s):**

- Malaquias Mejia (Male)
- Diana Loza-Jimenez (Female, 9 Years)

**Plaintiff Attorney(s):**

- Robert A. Buccola; Dreyer, Babich, Buccola & Wood; Sacramento CA for Diana Loza-Jimenez, Malaquias Mejia
- Steven M. Campora; Dreyer, Babich, Buccola & Wood; Sacramento CA for Diana Loza-Jimenez, Malaquias Mejia

**Defendant(s):**

- Loza Trucking
- Simon Loza Mejia
- Freeway Transport Inc.

**Defense Attorney(s):**

- Gary C. Ottoson; Bacalski & Ottoson LLP; Los Angeles, CA for Freeway Transport Inc.

**Insurers:**

- Confidential
- Travelers Insurance Co.
- Carolina Casualty Insurance Co.

**Facts:**

In November 2004, plaintiff Diana Loza-Jimenez, 9, was on a long-distance trucking haul trip with her father Simon Loza-Mejia, an independent contractor for Freeway Transport Inc., and other family members. The family decided to take a break off northbound Highway 5 in Siskiyou County, near the Deetz 27 Road under-crossing, and Diana exited the vehicle. As the family got ready to depart again, her father did not notice that Diana was still outside of the vehicle and ran over her with the rig's wheel.

Diana's uncle and guardian ad litem, Malaquias Mejia, sued Loza-Mejia and Freeway Transport, alleging negligence. Freeway Transport was a family company related to United Salad Co., whose product it was hauling. Mejia claimed that Freeway Transport was a "common carrier" pursuant to federal trucking regulations, and was accountable for hauling the load in a safe manner, as well as for the actions of its independent contractor. Mejia further contended that if Freeway Transport had been acting as a broker and not a common carrier, its conduct in relation to insuring the cargo load was illegal.

The father's commercial policy paid his \$1 million policy limit and a good faith order was obtained.

Freeway Transport contended that it was a broker, and not a common carrier respect to the transaction involving Diana, though the company also carried common carrier authority sanctioned by the federal government. Freeway Transport argued that as a common carrier, the company was therefore not liable for the incident. It also contended that insurance of the cargo did not make it liable for personal injury.

In an earlier bench trial, the court determined that Freeway Transport was a common carrier, and the jury trial proceeded on damages only.

All parties agreed that Loza-Mejia was the sole cause of the accident.

**Injury:**

Diana suffered a severe pelvic degloving injury, as well as degloving injuries to her buttocks, left and right thighs. She also suffered an ankle fracture, an "open book" pelvic fracture and a displaced right hip.

Diana underwent emergency surgery at Mercy Hospital in Redding -- a pinning of her ankle and a grafting of a vein in that same ankle to stop bleeding. She was then flown to the U.C. Davis Medical Center where she underwent several skin grafts and orthopedic operations. She was then transferred to Shriners' Hospital in Sacramento.

Due to significant muscle loss in her thigh and buttocks, Diana will suffer from progressive musculoskeletal weakening for the rest of her life as a result of the accident. Additionally, she walks with an altered gait now, and that condition is likely to worsen as she ages. She will undergo numerous surgeries throughout her lifetime, including three hip replacement surgeries and a plastic surgery procedure to her buttocks due to loss of tissue. The plastic surgery, which involves expanders, will be required every 10 years from now until age 45. She also will require plastic surgery to her right thigh to attempt to remove scar tissue.

The plaintiffs sought recovery of damages for Diana's past and future pain and suffering and medical bills. The plaintiffs' counsel asked the jury for \$30.4 million.

The defense counsel argued for an award of \$8.6 to \$8.8 million.

**Result:**

The jury found for the plaintiff and determined her damages totaled \$24.3 million.

**Diana Loza-Jimenez**

\$2,200,000 Personal Injury: Past Medical Cost

\$2,100,000 Personal Injury: FutureLostEarningsCapability

\$8,000,000 Personal Injury: Past Pain And Suffering

\$12,000,000 Personal Injury: Future Pain And Suffering

**Trial Information:**

**Judge:** David W. Abbott

**Demand:** \$24,000,000

**Offer:** \$10,000,000

**Trial Length:** 12 days

**Trial  
Deliberations:** 1 days

**Editor's  
Comment:** This report is based on information gleaned from court documents and provided by plaintiffs' counsel and defense counsel.

**Writer** Kristen Brown

## Quadriplegic blamed instability, weakness of his vehicle's roof

**Type:** Decision-Plaintiff

**Amount:** \$21,654,000

**Actual Award:** \$21,154,000

**State:** California

**Venue:** Los Angeles County

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

**Injury Type(s):**

- *urological* - urinary tract infection
- *mental/psychological* - depression
- *paralysis/quadriplegia* - quadriplegia
- *gastrointestinal/digestive* - diarrhea

**Case Type:**

- *Motor Vehicle* - SUV; Rollover
- *Products Liability* - Design Defect; Failure to Warn

**Case Name:** Sukhskagar Pannu v. Land Rover North America Inc., also known as Jaguar Land Rover North America, LLC; Land Rover; and Terry York Motor Cars Ltd. d/b/a Land Rover Encino, No. LC069992

**Date:** March 23, 2009

**Plaintiff(s):**

- Sukhskagar Pannu (Male, 47 Years)

**Plaintiff Attorney(s):**

- Garo Mardirossian; Mardirossian & Associates Inc.; Los Angeles CA for Sukhskagar Pannu
- Stanley K. Jacobs; Jacobs, Jacobs & Eisfelder, LLP; Los Angeles CA for Sukhskagar Pannu
- Armen K. Akaragian; Mardirossian & Associates Inc.; Los Angeles CA for Sukhskagar Pannu

**Plaintiff Expert  
(s):**

- Ed Heitzman; Design Testing & Analysis; Pennington, NJ called by: Garo Mardirossian, Armen K. Akaragian
- Ted M. Kobayashi P.E.; Accident Reconstruction; Livermore, CA called by: Garo Mardirossian, Armen K. Akaragian
- John Marcosky; Design; Wixom, MI called by: Garo Mardirossian, Armen K. Akaragian
- Brian Herbst; Design Testing & Analysis; Santa Barbara, CA called by: Garo Mardirossian, Armen K. Akaragian
- Joseph L. Burton M.D.; Biomechanics; Alpharetta, GA called by: Garo Mardirossian, Armen K. Akaragian
- Lester M. Zackler M.D.; Neuropsychiatry; Sherman Oaks, CA called by: Garo Mardirossian, Armen K. Akaragian
- Robert W. Johnson M.B.A., C.P.A.; Economics; Los Altos, CA called by: Garo Mardirossian, Armen K. Akaragian
- Richard H. Andersen; Vocational Rehabilitation; Westminster, CA called by: Garo Mardirossian, Armen K. Akaragian
- Lawrence Miller M.D.; Physical Medicine; Los Angeles, CA called by: Garo Mardirossian, Armen K. Akaragian

**Defendant(s):**

- Land Rover
- Terry York Motor Cars Ltd.
- Land Rover North America Inc.

**Defense  
Attorney(s):**

- Warren E. Platt; Snell & Wilmer L.L.P.; Irvine, CA for Land Rover North America Inc., Land Rover, Terry York Motor Cars Ltd.
- Lee A. Mickus; Snell & Wilmer L.L.P.; Denver, CO for Land Rover North America Inc., Land Rover, Terry York Motor Cars Ltd.

**Defendant  
Expert(s):**

- Lee C. Carr; Automotive; Houston, TX called by: for Warren E. Platt, Lee A. Mickus
- Garry S. Bahling; Crashworthiness; Detroit, MI called by: for Warren E. Platt, Lee A. Mickus
- Jeffrey J. Croteau; Roofs; Maynard, MA called by: for Warren E. Platt, Lee A. Mickus
- Elizabeth H. Raphael; Biomechanics; San Carlos, CA called by: for Warren E. Platt, Lee A. Mickus



**Facts:**

On Dec. 14, 2003, at about 10 a.m., plaintiff Sukhsagar Pannu, 47, self-employed, was driving his 1998 Land Rover Discovery I in the number two westbound lane of the 118 Freeway near Northridge when his driver side was struck by a car driven by Bret Lusic, 16, who had been in the number one westbound lane. Pannu veered into the number four lane, where it collided with a westbound sport utility vehicle. This collision caused Pannu to lose control. He went into a counter-clockwise yaw and rolled over 3.5 times, finally coming to rest on its roof. During the roll sequence, the Land Rover's roof crushed, and Pannu struck it. He was rendered a quadriplegic.

Pannu sued Lusic for vehicular negligence and Land Rover for strict products liability, alleging defective design and failure to warn. The parties waived a jury trial and the case proceeded as a bench trial.

Before trial, Pannu and Lusic settled for an undisclosed amount. A witness stated that he was speeding and weaving in and out of traffic lanes just before the collision.

Pannu alleged that the sport utility vehicle had defective stability and handling characteristics and insufficient roof strength. He also alleged that the SUV experienced two-wheel lift when subjected to foreseeable accident avoidance maneuvers, such as those that Pannu performed at the time of his accident. He also alleged that, if Land Rover had widened the track width of the SUV by 2 inches and lowered the center of gravity by 0.4 inches via the installation of lower profile tires, his vehicle wouldn't have rolled over during the accident.

Plaintiff's counsel also alleged that the I roof structure had defective hinge points at the base of the A-pillar, roof bow, and header-A-pillar junction. He also alleged that, if Land Rover had strengthened the roof structure of the Discovery I with an alternate design, the extent of roof deformation that caused Pannu's injuries during the rollover would not have occurred.

Land Rover argued that Lusic's vehicular negligence caused Pannu's injuries.

Land Rover claimed that Pannu's Discovery I was not defective and that it rolled over because it tripped on a curb at the north edge of the 118 Freeway. The defense argued that the roof strength was irrelevant because Pannu struck the roof and sustained his injuries before any significant roof deformation occurred.

On Dec. 14, 2003, Sukhsagar Pannu, then 47, was driving his 1998 Land Rover Discovery I on the 118 Freeway near Northridge. He was struck by another vehicle and went into a counter-clockwise yaw, rolling over 3.5 times before coming to rest on its roof. Pannu, who sustained a flexion injury at C6-7 with permanent spinal cord injury, alleged that the sport utility vehicle had defective stability and handling characteristics and insufficient roof strength. Land Rover blamed the other driver for Pannu's injuries. The defense argued that the roof strength was irrelevant because Pannu struck the roof and sustained his injuries before any significant roof deformation occurred.

**Injury:** Pannu sustained a flexion injury at C6-7 with permanent spinal cord injury, rendering him a partial quadriplegic. He was taken by ambulance to a hospital, where he underwent fusion surgery and was admitted for two months. In addition, he experienced constant pain, numerous urinary infections, chronic diarrhea, depression and high blood pressure.

He cannot get out of bed, shower, get dressed or use the bathroom on his own, but instead is dependent upon his children and mother. His wife took care of him after his release from the hospital, but the magnitude of his injuries caused her to divorce him.

Plaintiff's counsel did not disclose the amount that Pannu sought.

**Result:** Judge Robert H. O'Brien ruled that the Discovery I was designed defectively pursuant to the consumer expectation and risk-benefit tests, and that the defendants failed to warn about the SUV's inadequate stability and roof strength. The judge also found that Land Rover was 95 percent liable and that Lulis was 5 percent liable. Thus, the judge's \$21,654,000 award was reduced to \$21,154,000.

### **Sukhskagar Pannu**

\$11,654,000 Personal Injury: economic damages

\$10,000,000 Personal Injury: general damages

### **Trial Information:**

**Judge:** Robert H. O'Brien

**Trial Length:** 5 weeks

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

**Writer** Joseph Falso

## Max Factor cosmetics heir videotaped GHB date rape

**Type:** Decision-Plaintiff

**Amount:** \$20,529,774

**Actual Award:** \$20,529,774

**State:** California

**Venue:** Ventura County

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

**Case Type:** • *Intentional Torts - Sexual Assault; Intentional Infliction of Emotional Distress*

**Case Name:** Tonya Doe v. Luster, No. CIV204853

**Date:** October 02, 2003

**Plaintiff(s):** • Tonja Doe (Female, 19 Years)

**Plaintiff Attorney(s):** • William A. Daniels; Mazursky & Schwartz; Los Angeles CA for Tonja Doe

**Plaintiff Expert (s):** • Jo Ellen Dyer; Pharmacology; San Francisco, CA called by: William A. Daniels  
• David T. Fractor; Economics; Pasadena, CA called by: William A. Daniels  
• Susan Lesnik Ph.D.; Neuropsychology; Ventura, CA called by: William A. Daniels

**Defendant(s):** • Andrew Luster

**Defense Attorney(s):** • Harold Greenberg; Law Office of Harold Greenberg; Los Angeles, CA for Andrew Luster

**Insurers:**                   • None

**Facts:**                   The plaintiff, permitted to proceed anonymously as "Tonya Doe", was involved in a dating relationship and lived with defendant Andrew Luster for several months from November 1996 through early 1997. She was 19 years old at the time of the relationship.

Luster videotaped himself sexually assaulting Doe while she was under the influence of Gamma Hydroxy Butyrate (GHB), also known as the "date rape drug." The videotape of the assault was introduced as evidence at trial. That tape, noted defense counsel Harold Greenberg, had been edited and redacted.

Both sides waived a jury and the matter was tried to the court. Because Luster, who is a great- grandson of makeup legend Max Factor, and an heir to his fortune, this case drew considerable media attention.

Doe maintained that Luster videotaped himself raping and assaulting her while she was unconscious. She further maintained that she did not consent to Luster having sexual relations with her on the night in question, nor did she consent to Luster videotaping sex acts with her.

The defendant maintained that the plaintiff consented to the sex acts portrayed on videotape and consented to being videotaped. He also maintained that the plaintiff's civil action was barred by the statute of limitations.

**Injury:**                   The plaintiff contended that she suffered severe emotional distress and post-traumatic stress disorder due to the assault. She also suffered a loss of earning capacity due to her emotional disability. She claimed past medical expenses of \$4,000, future psychological counseling expenses of \$50,000 and future lost earnings of \$475,774.

**Result:**                   The court found for the plaintiff and awarded her \$20,529,774 total, plus attorneys fees and costs. The award was broken down as follows:

\$10,000,000 general damages

\$10,000,000 punitive damages

\$529,774 economic damages

During his criminal trial, which preceded this civil action, Luster jumped bail and fled the country before being found by bounty hunters in Puerto Vallarta, Mex. In absentia, he had been found guilty of drugging and date raping three women, and was sentenced to 124 years on multiple counts.

**Tonja Doe**

\$10,000,000 Personal Injury: General damages

\$529,774 Personal Injury: Economic damages

\$10,000,000 Personal Injury: Punitive damages

**Trial Information:**

**Judge:** Barbara A. Lane

**Trial Length:** 3 days

**Jury  
Composition:** Bench trial.

**Post Trial:** No post-trial motions.

**Writer** Sidney Bernstein