



"Roll off" Container Spills Concrete Debris Across Highway

Type: Verdict-Plaintiff

Amount: \$14,285,692

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *knee*
- *other - soft tissue*
- *paralysis/quadriplegia - quadriplegia*

Case Type:

- *Motor Vehicle*

Case Name: Gustavo Juarez, et al. v. Arrow Disposal Service Inc., et al., No. KC 028 814

Date: March 04, 2002

Plaintiff(s):

- Rosa Juarez (Female, 0 Years)
- Thomas Dailey (Male, 0 Years)
- Gustavo Juarez (Male, 42 Years)
- Rosa Marie Bravo (Female, 0 Years)

Plaintiff Attorney(s):

- Lee G. Lipscomb; Engstrom Lipscomb & Lack; Los Angeles CA for Gustavo Juarez, Rosa Juarez
- Daniel T. Pierson; Law Ofcs of Daniel T. Pierson; Los Angeles CA for Thomas Dailey, Rosa Marie Bravo

**Plaintiff Expert
(s):**

- Jan Roughan; Life Care Planning; Pasadena, CA called by: Lee G. Lipscomb, Daniel T. Pierson
- Joel S. Rosen; Physical Medicine; Northridge, CA called by: Lee G. Lipscomb, Daniel T. Pierson
- Ross Nathan M.D.; Hand Surgery; Long Beach, CA called by: Lee G. Lipscomb, Daniel T. Pierson
- Peter Formuzis; Economics; Santa Ana, CA called by: Lee G. Lipscomb, Daniel T. Pierson
- Robert Gallucci; Construction; Huntington Beach, CA called by: Lee G. Lipscomb, Daniel T. Pierson
- Steven E. Meyer; Accident Reconstruction; Goleta, CA called by: Lee G. Lipscomb, Daniel T. Pierson
- Kenneth Allison; Waste Disposal; Newport Beach, CA called by: Lee G. Lipscomb, Daniel T. Pierson

Defendant(s):

- Jose Pena
- Godbey Monroe Inc.
- Arrow Disposal Service Inc.

**Defense
Attorney(s):**

- Todd A. Norton; Norton & Norton; Los Angeles, CA for Arrow Disposal Service Inc., Jose Pena
- James R. York; Gray York & Duffy; Encino, CA for Godbey Monroe Inc.

**Defendant
Expert(s):**

- Richard W. Rauseo; Construction; Los Angeles, CA called by: for Todd A. Norton, James R. York

Facts:

Plaintiff Gustavo Juarez, a 42-year-old equipment operator, was commuting to work in his 1989 Mercury Sable. His only passenger was a co-worker plaintiff Thomas Dailey. While westbound in the number two lane of State Route 60 in the City of Industry, Calif., Juarez was unexpectedly confronted with a large, airborne 40 yard "roll-off" refuse container coming toward him from the opposite side of the freeway. Juarez avoided the container itself, but he struck spilling concrete debris. His car overturned and slid to rest on its roof. During the crash, Juarez' spinal cord was severed at the C6-C7 level, rendering him quadriplegic.

The loaded debris container was being transported on a roll-off truck owned by defendant Arrow Disposal Service Inc. Arrow had never obtained liability insurance for the truck. Without liability coverage, Arrow's haulers permit was invalid. While the uninsured truck was eastbound on State Route 60, its left front tire failed. The driver, defendant/cross complainant Jose Pena, lost control and collided with the center median wall, flinging the loaded container over the center barrier and into oncoming traffic. The airborne container was struck by a 1989 Honda, operated by plaintiff Rosa Maria Bravo, as the Juarez vehicle overturned in the debris.

The plaintiffs contended that defendant Godbey Monroe Inc., a commercial construction company, bore substantial liability under two negligence theories: one for improperly loading a large quantity of concrete waste into a roll-off container intended only for use with lighter materials; the other and for negligence in retaining Arrow Disposal on the basis of price alone without any inquiry as to its fitness to perform roll-off hauling or confirmation of insurance coverage and licensing.

Under cross-examination, the Arrow Disposal manager allegedly admitted that Godbey Monroe was Arrow's first roll-off customer, that the accident truck was Arrow's first roll-off truck and that the price paid by Godbey Monroe was approximately 60 percent of the going market rate, an accommodation made to attract the large multi-job Godbey Monroe account. He also confirmed the truck was not insured and Arrow did not have a permit to haul in Torrance where the load originated.

Godbey Monroe contended that it contracted with Arrow as a vendor and had no responsibility to ascertain Arrow's fitness, ability to perform, or insurance and license status. Godbey Monroe further contended there was no significant quantity of concrete waste in the container, no evidence that any impact with concrete debris had caused the Juarez vehicle to overturn and that the load in question had not originated from any Godbey Monroe site.

Arrow Disposal contended that while it had no insurance or permit, its alleged oral agreement with Godbey Monroe was one of hired truck and driver, with Godbey Monroe to provide insurance coverage and permits in consideration for the below market hauling rates. Arrow also contended that the roll-off container had originated from either of two Godbey Monroe operations in Torrance where concrete waste had been improperly dumped into the container without Arrow's knowledge, thereby contributing to the loss of control.

Injury:

Quadriplegia with complete severing of the spinal cord at C6-C7 level (Gustavo Juarez).

Loss of consortium for wife who was six months' pregnant with fifth child on date of husband's injury

Injury to right knee (Rosa Juarez).

Soft tissue injury to neck and low back (Rosa Marie Bravo).

Injury to left leg (defendant Jose Pena)

Economic damages were claimed as follows:

Gustavo Juarez: past medicals in excess of \$343,000; past and future loss of earnings of \$890,000, future life care of some \$4,800,000.

Thomas Dailey: past medicals and wage loss \$10,752.

Rosa Marie Bravo: ast medical and wage loss of \$5,024.

Jose Pena: past medical and wage loss pf \$19,066.

Result: The jury returned a plaintiffs' verdict of \$14,285,692.

Gustavo Juarez \$11,630,850

Rosa Juarez \$2,500,000

Thomas Dailey \$70,752

Rosa Marie Bravo \$65,024

Jose Pena \$19,066

In its special verdict, the jury apportioned fault as 50 percent upon Arrow Disposal, 25 percent upon Godbey Monroe, and 25 percent upon non-parties uninvolved in the trial proceedings, and judgment was entered accordingly.

Motion for Judgment Notwithstanding Verdict and Motion for New Trial by defendant Godbey Monroe Inc. denied July 16, 2002.

Final Judgment entered July 19, 2002.

DEMAND \$900,000 (Gustavo Juarez)

\$100,000 (Rosa Juarez)

OFFER \$100,000 to Gustavo Juarez (from Godbey Monroe)

\$30,000 to Rosa Juarez (from Godbey Monroe) On two occasions prior to trial, plaintiff Gustavo

Trial Information:

Judge: Robert M. Martinez

Trial Length: 25 days

**Trial
Deliberations:** 3.5 days

Writer

Motorcyclist struck paper roll on road, causing traumatic injuries

Type: Settlement

Amount: \$8,100,000

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *leg* - fracture, leg; fracture, femur; fracture, leg; fracture, fibula
- *back* - fracture, back; fracture, L3; fracture, back; fracture, T7; fracture, vertebra; fracture, L3; fracture, vertebra; fracture, T7
- *knee* - fracture, patella; fracture, tibial plateau
- *brain* - traumatic brain injury
- *chest* - fracture, rib
- *other* - fracture, distal; comminuted fracture
- *wrist* - fracture, wrist
- *shoulder* - fracture, shoulder; fracture, scapula
- *hand/finger* - fracture, thumb
- *neurological* - brachial plexus; nerve damage/neuropathy; reflex sympathetic dystrophy; complex regional pain syndrome
- *arterial/vascular* - internal bleeding
- *mental/psychological* - anxiety; depression

Case Type:

- *Motor Vehicle* - Motorcycle; Tractor-Trailer; Dangerous Condition

Case Name: Sergio Augusto Jolon and Rosilma Jimenez v. Wildwood Express, Inc.; Harold Joseph Augustine; Van-G Trucking Inc. dba Van-G Logistics, Inc. and Van-G Leasing, Inc.; and Does 1 through 100 / Wildwood Express, Inc. v. Van-G Trucking Inc. dba Van-G Logistics, Inc. and Van-G Leasing, Inc.; State of California Department of Transportation (Caltrans); and Roes 1 through 100, No. BC480081

Date: May 05, 2014

Plaintiff(s):

- Rosilma Jimenez (Female, 39 Years)
- Sergio Augusto Jolon (Male, 47 Years)

**Plaintiff
Attorney(s):**

- Gregory R. Vanni; Thon Beck Vanni Callahan & Powell; Pasadena CA for Sergio Augusto Jolon, Rosilma Jimenez
- Deborah Chang; Panish Shea & Boyle LLP; Los Angeles CA for Sergio Augusto Jolon, Rosilma Jimenez
- Brian Panish; Panish Shea & Boyle LLP; Los Angeles CA for Sergio Augusto Jolon, Rosilma Jimenez

**Plaintiff Expert
(s):**

- H. Ronald Fisk M.D., Ph.D.; Neurology; Los Angeles, CA called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- P. Richard Emmanuel M.D.; Orthopedic Surgery; Culver City, CA called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- Jan Roughan R.N., B.S.N.; Life Care Planning; Monrovia, CA called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- Mark Shattuck Ph.D.; Biomechanics; Woodside, CA called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- Paul V. Herbert C.P.S.A.; Trucking Industry; Quincy, CA called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- Paul Kayfetz; Photography; Bolinas, CA called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- Rene A. Castaneda P.E.; Engineering; Clovis, CA called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- Sher Paul Singh Ph.D.; Securements; East Lansing, MI called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- Keith McKibben; Motorcycles; Santa Ana, CA called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- Peter Formuzis Ph.D.; Economics; Santa Ana, CA called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- Edward Stevens; Road/Highway; Olympia, WA called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- Lester M. Zackler M.D.; Neuropsychiatry; Sherman Oaks, CA called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- Sanjog Pangarkar M.D.; Pain Management; Los Angeles, CA called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- Thomas J. Ayres Ph.D.; Ergonomics/Human Factors; Kensington, CA called by: Gregory R. Vanni, Deborah Chang, Brian Panish
- Jeffrey A. Schaeffer Ph.D.; Neuropsychology; Los Angeles, CA called by: Gregory R. Vanni, Deborah Chang, Brian Panish

Defendant(s):

- Van-G Trucking Inc.
- Wildwood Express, Inc.
- Harold Joseph Augustine
- State of California Department of Transportation

**Defense
Attorney(s):**

- Christopher Hiddleston; CalTrans Legal Division; Los Angeles, CA for State of California Department of Transportation
- James M. Baratta; Grant, Genovese & Baratta, LLP; Irvine, CA for Wildwood Express, Inc., Harold Joseph Augustine
- Dana Alden Fox; Lewis Brisbois Bisgaard & Smith LLP; Los Angeles, CA for Van-G Trucking Inc.
- Jeffrey P. Magwood; Grant, Genovese & Baratta, LLP; Irvine, CA for Wildwood Express, Inc., Harold Joseph Augustine
- Stefano G. Formica; Lewis Brisbois Bisgaard & Smith LLP; Los Angeles, CA for Van-G Trucking Inc.
- David C. Rodriguez; CalTrans Legal Division; Los Angeles, CA for State of California Department of Transportation
- Paul R. Brown; CalTrans Legal Division; Los Angeles, CA for State of California Department of Transportation

**Defendant
Expert(s):**

- Jon B. Landerville M.S., P.E.; Trucking Industry; Torrance, CA called by: for Dana Alden Fox, Stefano G. Formica
- Ron Nelson; Road/Highway; Gridley, CA called by: for , David C. Rodriguez, Paul R. Brown
- Ted Vavoulis M.S.; Economics; Los Angeles, CA called by: for , David C. Rodriguez, Paul R. Brown
- Clay Campbell; Accident Reconstruction; Livermore, CA called by: for , David C. Rodriguez, Paul R. Brown
- Eric S. Deyerl P.E.; Accident Reconstruction; Culver City, CA called by: for Jeffrey P. Magwood
- Gene Bruno M.S.; Life Care Planning; Encino, CA called by: for , David C. Rodriguez, Paul R. Brown
- John W. Moore; Trucking Industry; Scottsdale, AZ called by: for Jeffrey P. Magwood, David C. Rodriguez, Paul R. Brown
- Kyle Brauer Boone Ph.D.; Neuropsychology; Torrance, CA called by: for , David C. Rodriguez, Paul R. Brown
- Mark S. Sanders Ph.D.; Ergonomics/Human Factors; Encino, CA called by: for Dana Alden Fox, Stefano G. Formica
- Barry I. Ludwig M.D.; Neurology; Los Angeles, CA called by: for , David C. Rodriguez, Paul R. Brown
- Frank A. Perez Ph.D.; Ergonomics/Human Factors; Livermore, CA called by: for , David C. Rodriguez, Paul R. Brown
- James E. Rosenberg M.D.; Forensic Psychiatry; Woodland Hills, CA called by: for , David C. Rodriguez, Paul R. Brown
- Larry Miller; Trucking Industry; La Verne, CA called by: for , David C. Rodriguez, Paul R. Brown
- Arthur Kreitenberg M.D.; Orthopedic Surgery; Long Beach, CA called by: for , David C. Rodriguez, Paul R. Brown
- Edward Ruzak P.E.; Road/Highway; Fountain Valley, CA called by: for Dana Alden Fox, Stefano G. Formica
- Edward C. Fatzinger Jr.; Motorcycles; Torrance, CA called by: for Dana Alden Fox, Stefano G. Formica
- Merlyn Robert Wilson; Transportation; Placerville, CA called by: for Dana Alden Fox, Stefano G. Formica
- Matthew D. Manjarrez P.E.; Road/Highway; Laguna Hills, CA called by: for Jeffrey P. Magwood
- Genevieve M. Nauhaus Ph.D.; Ergonomics/Human Factors; Los Angeles, CA called by: for Jeffrey P. Magwood

Insurers:

- self-insured
- Monterey Insurance Co.
- Lexington Insurance Co.

Facts:

On Dec. 6, 2011, plaintiff Sergio Jolon, 47, a parking enforcement officer, was riding his motorcycle on southbound Interstate 5 in Los Angeles, on his way to work at the San Gabriel Police Department. At approximately 5:25 a.m., while negotiating a curve on the connecting ramp to Interstate 10, Jolon allegedly encountered a massive 5-foot x 8-foot roll of paper, which weighed more than three tons and was partially obstructing his lane of travel. The force of the crash catapulted the helmeted Jolon into the air and across two lanes of travel before he plummeted to the ground. He claimed multiple fractures

throughout his body, a traumatic brain injury, and permanent nerve damage to his left arm, hand and leg. Jolon claimed his left side struck the paper roll with such force that a piece of bone fragment from his left leg became embedded in the paper roll.

Jolon sued Wildwood Express Inc.; Harold Augustine; and Van-G Trucking Inc., which was doing business as Van-G Logistics Inc. and Van-G Leasing Inc.

Wildwood Express and Van-G trucking subsequently brought cross-complaints against each other. Wildwood Express also brought a third-party claim against the State of California Department of Transportation (Caltrans).

Jolon later amended his complaint to add Caltrans as a direct defendant.

Jolon claimed that because he was going around a curve in a dark and unlit area, he was unable to see the paper roll or react in sufficient time to avoid the unanticipated and unusual obstruction.

Jolon's counsel contended that the paper roll was one of three rolls that had fallen onto the dark highway from an overturned trailer approximately 10 minutes prior to the incident. Counsel asserted that the paper rolls had been negligently loaded and secured onto the trailer by Van-G Trucking and that the trailer and load were, thereafter, negligently strapped to the tractor by Wildwood Express. Counsel further contended that the tractor-trailer was negligently operated on the night of the incident by Harold Augustine, a driver for Wildwood Express. In addition, Jolon's counsel asserted that, at the time of the incident, the roadway in question had been the subject of at least seven Table C Investigations by Caltrans from 2001 to 2011 because the roadway's accident rates were higher than the statewide average.

The plaintiffs' engineering, biomechanics, road/highway, trucking industry and motorcycle experts allegedly would have testified that several factors caused the roadway to be a dangerous condition. They opined that vegetation and a dirt mound obstructed the line of sight around the curve, resulting in a deficient stopping sight distance. They also opined the three streetlight poles around the curve were down and not operating at the time of the incident. They further opined that there was a substandard compound curvature as a result of negligently re-painted center lines. In addition, the plaintiffs' experts opined that there was insufficient signage at night and that there was improper placement of advisory signs and Moskowitz signs (truck tipping advisory speed signs). The plaintiffs' experts would have allegedly testified that under the conditions that existed on the roadway at the time of the incident, there was insufficient time for Jolon to perceive, react and avoid the paper roll. They also agreed that with the streetlights on and the vegetation removed, Jolon would have had plenty of time to see and avoid the paper roll.

Defense counsel contended that the subject paper roll was almost entirely on the shoulder with only 1 foot to 1.5 feet protruding into Jolon's lane of travel. Counsel also contended that had Jolon been riding in the center of the lane, instead of hugging the side on his motorcycle, he would have had enough time and space to avoid the paper roll and prevent the accident.

Caltrans' experts claimed that the roadway was reasonably safe for vehicles and operators. It emphasized that nearly 40,000 vehicles used the roadway daily and that over 137

million vehicles had used the roadway in the last 10 years.

Both Caltrans and Jolon claimed that the Wildwood Express' flatbed trailer was improperly loaded and secured, causing the load to shift at a certain speed, causing the large paper rolls to fall out onto the roadway. Moreover, Caltrans claimed that Augustine had a duty to set out reflective triangles or flares -- which Augustine was supposed to carry -- to warn drivers such as Jolon of the presence of the dangerous paper rolls. Caltrans alleged that Augustine's failure to do so prevented Jolon from either striking the paper roll at a lower speed or avoiding the accident entirely.

Injury:

Jolon was taken by ambulance to an emergency room, where he underwent numerous surgeries for multiple fractures throughout his body. The fractures to the left leg included a comminuted distal femur fracture, and fractures of the femoral shaft, patella, tibial plateau and shaft, and fibula. Jolon also suffered fractures of his left wrist, right thumb, left ribs two through eight, transverse vertebra at L3, spinal process at T7, and left glenoid/scapula (shoulder blade). In addition, he suffered a brain contusion and a moderate to severe traumatic brain injury from the accident, as well as abdominal trauma with internal bleeding and a left, upper extremity brachial plexus injury. Jolon was subsequently kept on a respirator until Dec. 17, 2011, and remained in the hospital for a full month. After his discharge, he returned to the hospital for two additional surgeries.

Jolon remained restricted to a wheelchair for more than a year. He claimed his left knee remains frozen in an extended position and he is required to wear a permanent foot and ankle brace. In April 2014, Jolon was admitted to Centre for Neuro Skills (CNS) in Bakersfield for evaluation and treatment, where he remained for several weeks.

Jolon claimed he is unable to return to work due to his condition. He also claimed he deals with an ongoing mood disorder, and with depression, anxiety and an adjustment disorder. Jolon further claimed he suffers from complex regional pain syndrome, also known as reflex sympathetic dystrophy or causalgia, a chronic pain condition, and suffers permanent nerve damage to his left arm, hand and leg.

Jolon claimed he previously enjoyed running and had trained with his daughters to run the Los Angeles Marathon. He alleged that because of his injuries, he can no longer run, and cannot walk or stand for long periods of time. (His daughters completed the year's marathon without him and dedicated it to him.) The plaintiffs' medical experts opined that Jolon will require future surgeries, rehabilitation, therapy and medication.

Thus, Jolon sought recovery of \$292,515 in stipulated past medical costs, \$74,003 to \$148,331 in past lost earnings, \$4,757,079 in future medical costs, \$426,033 in future lost earnings, and several millions of dollars for his past and future pain and suffering.

Defense counsel contended that Jolon made a significant recovery from his injuries and that, based on evidence accumulated and current medical science, Jolon would not require any future surgery or in-facility treatment.

Result:

On Feb. 27, 2014, Van-G Trucking agreed to settle for \$5 million. On May 5, 2014, the night before jury selection, Caltrans agreed to settle for \$2.1 million and Wildwood Express agreed to settle for \$1 million. Thus, Jolon's settlement recovery totaled \$8.1 million.

Trial Information:

Judge: J. Stephen Czuleger

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

Writer: Dan Israeli

Defective Road Design Blamed for Fatal Accident

Type: Settlement

Amount: \$3,000,000

Actual Award: \$3,000,000

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *leg* - fracture, leg; fracture, femur; fracture, leg; fracture, fibula
- *back* - fracture, back; fracture, L1; fracture, back; fracture, L2; fracture, back; fracture, T4; fracture, back; fracture, T5; fracture, back; fracture, T6; fracture, vertebra; fracture, L1; fracture, vertebra; fracture, L2; fracture, vertebra; fracture, T4; fracture, vertebra; fracture, T5; fracture, vertebra; fracture, T6
- *head* - concussion
- *ankle* - fracture, ankle; fracture, malleolus
- *chest* - fracture, rib
- *other* - fracture, coccyx; compression fracture
- *pelvis* - fracture, pelvis; fracture, pubic bone
- *shoulder* - fracture, shoulder; fracture, clavicle
- *epidermis* - contusion
- *foot/heel* - foot
- *arterial/vascular* - hemorrhage
- *mental/psychological*

Case Type:

- *Motor Vehicle* - Head-On; Center Line; Alcohol Involvement
- *Premises Liability* - Dangerous Condition of Public Property

Case Name: Maria Mata Marquez, individually, Miriam Mata, a minor, by and through her Guardian ad Litem, Maria Mata Marquez, and Edgar Mata, a minor, by and through his Guardian ad Litem, Maria Mata Marquez, sole surviving heirs of Hilario Mata Hernandez; Salvador Flores, individually, and Jonathan Flores, a minor, by and through his Guardian ad Litem, Salvador Flores, sole surviving heirs of Norma Flores; Fernando Marquez Acosta, Luz Marquez Acosta; Yaneri Marquez, a minor, by and through his Guardian ad Litem, Fernando Marquez Acosta; Fernando Marquez, Jr., a minor, by and through his Guardian ad Litem, Fernando Marquez Acosta; Lolis Marquez, a minor, by and through her Guardian ad Litem, Fernando Marquez Acosta; Maria Mata, individually; Elizabeth Mata, a minor, by and through her Guardian ad Litem, Maria Mata v. State of California-Department of Transportation (CalTrans), No. MC 007 452

Date: October 09, 2002

Plaintiff(s):

- Edgar Mata (Male, 5 Years)
- Miriam Mata (Female, 9 Years)
- Lolis Marquez (Female, 2 Years)
- Yaneri Marquez (Female, 8 Years)
- Jonathan Flores (Male, 2 Years)
- Salvador Flores (Male, 28 Years)
- Luz Marquez Acosta (Female, 26 Years)
- Maria Mata Marquez (Female, 28 Years)
- Fernando Marquez, Jr. (Male, 7 Years)
- Fernando Marquez Acosta (Male, 29 Years)
- Elizabeth Guadalupe Mata (Female, 12 Years)
- Maria de Los Angeles Mata (Female, 45 Years)

Plaintiff Attorney(s):

- William R. Chapman; Grassini & Wrinkle; Woodland Hills CA for Fernando Marquez Acosta, Maria Mata Marquez, Miriam Mata, Edgar Mata, Luz Marquez Acosta, Fernando Marquez, Jr., Yaneri Marquez, Lolis Marquez, Maria de Los Angeles Mata, Elizabeth Guadalupe Mata, Jonathan Flores, Salvador Flores
- Lawrence P. Grassini; Grassini & Wrinkle; Woodland Hills CA for Fernando Marquez Acosta, Maria Mata Marquez, Miriam Mata, Edgar Mata, Luz Marquez Acosta, Fernando Marquez, Jr., Yaneri Marquez, Lolis Marquez, Maria de Los Angeles Mata, Elizabeth Guadalupe Mata, Jonathan Flores, Salvador Flores

Plaintiff Expert(s):

- Harry J. Krueper, Jr. P.E.; Accident Investigation & Reconstruction/ Failure Analysis/Product Liability; San Bernardino, CA called by: William R. Chapman, Lawrence P. Grassini
- Sandy Browne; Biomechanical; Pine Mountain, CA called by: William R. Chapman, Lawrence P. Grassini
- Richard Pratt; Transportation; Walnut Creek, CA called by: William R. Chapman, Lawrence P. Grassini

Defendant(s):

- State of California-Department of Transportation

Defense Attorney(s):

- Jill Siciliano; Department of Transportation; Los Angeles, CA for State of California-Department of Transportation

**Defendant
Expert(s):**

- Ed Nababedian; Traffic; La Crescenta, CA called by: for Jill Siciliano
- Clay Campbell; Accident Investigation & Reconstruction/ Failure Analysis/Product Liability; Livermore, CA called by: for Jill Siciliano
- Janet Jhong Ph.D.; Biomechanical; Livermore, CA called by: for Jill Siciliano

Insurers:

- self-insured

Facts:

At approximately 1:00 a.m., eleven individuals from three families were returning to Los Angeles from Las Vegas in a pick-up truck being driven by Hilario Mata Hernandez. In addition to Hernandez, the cab of the vehicle was occupied by Norma Flores, Jonathan Flores and Fernando Marquez Acosta. The remaining seven occupants rode in the back of the truck, which was covered with a camper shell. The truck was traveling westbound on State Route 138, a two-lane highway in northern Los Angeles County. The truck came upon an area known as "Twin Bridges" (the location is highlighted by two bridges within approximately 100 yards of each other and which pass over a culvert). According to the plaintiffs, as Hernandez approached the bridges, he was unable to see any oncoming traffic due to the undulating contour of the road. Once at the bridges, Hernandez noticed that another vehicle, driven by Michael Parra, had crossed over the center line and was coming toward him. Due to the narrow shoulders of the roadway, Hernandez had nowhere to go and the two vehicles collided head-on. Hernandez, Norma Flores (who were not wearing seatbelts) and Parra (who was determined to have been intoxicated at the time of the accident) were killed and the other occupants in the truck were severely injured.

The plaintiffs contended that the design of the roadway at the the location of the accident was dangerous and defective. The plaintiffs claimed that first of all, the "Twin Bridges" undulating contour of the road cause visibility restrictions, particularly at night. Also, as drivers reach the site of the bridges, the roadside shoulders suddenly shrink form eight feet to two feet.

The defendant maintained that the road design at the "Twin Bridges" location was not dangerous or defective. The defendant argued that the cause of the accident was the intoxication and gross negligence of Michael Parra.

Injury:

Plaintiff Maria Mata Marquez sustained a fracture of her coccyx, a fracture of her pubis, a left malleolar fracture, a cervical concussion and an intra-cranial hemorrhage. She claimed past medical expenses of \$31,752, as well as damages for the wrongful death of her husband.

Plaintiff Miriam Mata suffered a compression fracture of her spine at the L-1 level, a posterior displacement at the T-12 level and a fractured pelvis. She claimed past medical expenses of \$76,866, as well as damages for the wrongful death of her father.

Plaintiff Edgar Mata sustained a fractured pelvis and a vertebral fracture. He claimed past medical specials of \$44,393, as well as damages for the wrongful death of his father.

Plaintiff Fernando Marquez Acosta sustained a fractured right fibula and pulmonary/cardiac contusions. He claimed past medical expenses of \$14,627.

Plaintiff Luz Marquez Acosta claimed damages for negligent infliction of emotional distress.

Plaintiff Fernando Marquez, Jr. suffered a fractured femur and foot injuries. He claimed past medical specials of \$20,446.

Plaintiff Yaneri Marquez sustained a compression spinal fracture at T4-5-6 and a foot injury that required a walking cast. Her past medical specials were \$17,694.

Plaintiff Lolis Marquez claimed damages for negligent infliction of emotional distress.

Plaintiff Maria de Los Angeles Mata suffered a fractured pelvis, a fractured left clavicle (collarbone) and fractured ribs. Her past medical specials were \$47,000.

Plaintiff Elizabeth Mata sustained a severe and unstable fracture at the L-1 and L-2 level. Her past medical specials were \$39,263.

Plaintiff Jonathan Flores claimed damages for the wrongful death of his mother.

Plaintiff Salvador Flores claimed damages for the wrongful death of his wife.

Result:

The plaintiffs settled their claims for a total of \$3 million.

Fernando Marquez Acosta

\$80,000 Personal Injury: settlement

Luz Marquez Acosta

\$10,000 Personal Injury: settlement

Jonathan Flores

\$240,000 Wrongful Death: settlement

Salvador Flores

\$500,000 Wrongful Death: settlement

Lolis Marquez

\$10,000 Personal Injury: settlement

Maria Mata Marquez

\$1,095,000 Personal Injury: settlement

Yaneri Marquez

\$70,000 Personal Injury: settlement

Fernando Marquez, Jr.

\$90,000 Personal Injury: settlement

Edgar Mata

\$330,000 Personal Injury: settlement

Elizabeth Guadalupe Mata

\$105,000 Personal Injury: settlement

Maria de Los Angeles Mata

\$105,000 Personal Injury: settlement

Miriam Mata

\$365,000 Personal Injury: settlement

Trial Information:

Judge: Randolph Rogers

Writer Randy Stewart

Motorcycle rider blamed crash on steering sector shaft failure

Type: Verdict-Plaintiff

Amount: \$2,601,058

State: California

Venue: Orange County

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

Injury Type(s):

- *leg* - fracture, leg; fracture, tibia
- *back* - fracture, vertebra; fracture, spinous process
- *neck* - fracture, vertebra; fracture, spinous process
- *ankle* - fracture, ankle
- *other* - loss of consortium; chronic pain syndrome
- *pelvis* - fracture, pelvis
- *urological* - kidney
- *surgeries/treatment* - open reduction; internal fixation

Case Type:

- *Motor Vehicle* - Truck; Motorcycle; Multiple Vehicle
- *Products Liability* - Manufacturing Defect
- *Agency/Apparent Agency* - Vicarious Liability

Case Name: Jane Doe and John Doe v. Ford Motor Company, Jose Manuel Reyes Barajas, HOL Construction Inc., No. 07CC12691

Date: November 02, 2009

Plaintiff(s):

- Jane Doe (Female, 42 Years)
- John Doe (Male, 40 Years)

Plaintiff Attorney(s):

- Darren O. Aitken; Aitken * Aitken * Cohn L.C.; Santa Ana CA for Jane Doe, John Doe
- Michael A. Penn; Aitken * Aitken * Cohn LC; Santa Ana CA for Jane Doe, John Doe

Plaintiff Expert(s):

- Colin G. Koransky Ph.D.; Neuropsychology; Newport Beach, CA called by: Darren O. Aitken, Michael A. Penn
- Larry E. McKnight; Metallurgy; Santa Fe Springs, CA called by: Darren O. Aitken, Michael A. Penn
- Edward C. Fatzinger Jr.; Accident Reconstruction; Los Angeles, CA called by: Darren O. Aitken, Michael A. Penn
- Kendall S. Wagner M.D.; Orthopedic Surgery; Fullerton, CA called by: Darren O. Aitken, Michael A. Penn
- Richard H. Anderson Ph.D.; Vocational Rehabilitation; Westminster, CA called by: Darren O. Aitken, Michael A. Penn
- Catherine M. Graves M.B.A.; Economics; Fullerton, CA called by: Darren O. Aitken, Michael A. Penn
- Standiford Helm II, M.D.; Chronic Pain; Mission Viejo, CA called by: Darren O. Aitken, Michael A. Penn

Defendant(s):

- Ford Motor Company
- HOL Construction Inc.
- Jose Manuel Reyes Barajas

Defense Attorney(s):

- Kate S. Lehrman; RoganLehrman LLP; Santa Monica, CA for Ford Motor Company
- Daniel R. Villegas; Crowe & Rogan LLP for Ford Motor Company
- Ronald Zurek; Wesierski & Zurek LLP; Los Angeles, CA for Jose Manuel Reyes Barajas, HOL Construction Inc.
- Patrick G. Rogan; RoganLehrman LLP; Santa Monica, CA for Ford Motor Company
- Arpineh Babakhanian; Wesierski & Zurek LLP; Los Angeles, CA for Jose Manuel Reyes Barajas, HOL Construction Inc.

Defendant Expert(s):

- Alan M. Strizak M.D.; Orthopedic Surgery; Laguna Niguel, CA called by: for Ronald Zurek, Arpineh Babakhanian
- Gary J Fowler Ph.D.; Metallurgy; Gardena, CA called by: for Kate S. Lehrman, Daniel R. Villegas, Patrick G. Rogan
- Andrew E. Levitt; Accident Reconstruction; Torrance, CA called by: for Kate S. Lehrman, Daniel R. Villegas, Patrick G. Rogan
- Naresh J. Kar; Metallurgy; Anaheim, CA called by: for Ronald Zurek, Arpineh Babakhanian

Insurers:

- State Farm

Facts:

On May 9, 2007, the plaintiff, 42, an information security technician, was driving a motorcycle northbound in the carpool lane on a highway. Reportedly, she was struck by a 2004 Ford F-350 truck after it careened across the two inner lanes of the four-lane highway and entered the carpool lane across a double yellow line directly in front of the plaintiff's path of travel.

The Ford F-350 -- owned by HOL Construction Inc. and driven by HOL employee Jose Manuel Reyes Barajas -- was then struck by a truck that had been following the plaintiff's motorcycle at about four-to-five car lengths at an estimated speed of between 60 mph and

65 mph.

At the scene, Barajas explained that the Ford F-350's steering mechanism failed after his truck had begun shuddering. Investigating police noted that the several components of the Ford F-350's steering mechanism were broken.

The plaintiff sued Barajas and HOL for motor vehicle negligence and Ford Motor Company for products liability, alleging that the F-350's steering sector shaft failed prior to the accident on account of metal fatigue and that the sector shaft was not manufactured in accord with Ford's specifications concerning metal hardness.

Plaintiff liability experts opined that the deficiency in hardness combined with impurities in the particular metal manufactured into the part allowed numerous fatigue fractures to develop over the truck's two-year work life.

Plaintiffs' counsel contended that Barajas's negligence contributed to the accident whether there was a steering failure or not because he had ample opportunity to bring his vehicle under control during the time it took to cross four lanes of traffic.

Barajas admitted that he might have been able to bring the truck to a stop prior to crossing into the carpool lane, but he explained that he wanted to get his vehicle out of the middle of the busy freeway.

HOL denied that its driver's negligence caused the accident and supported the claim that the accident was caused by a defect and failure of the truck's steering mechanism.

Ford defended the products liability claim by initially noting that there was no history of similar failures in the F-350 steering systems and the sector shaft in this particular vehicle met all Ford and industry specifications.

Ford's liability experts opined that the fatigued condition of the sector shaft was not due to any manufacturing defect, but that the shaft had been damaged in a previous unreported accident and the fatigue cracks grew over a period of time. The defense experts also argued that, had there been a failure of the steering mechanism as alleged, the vehicle would have continued going straight and not veered to the left as occurred.

Ford blamed Barajas entirely for the accident, impeached his credibility over the fact that he was a convicted felon on probation, and asserted that he opportunistically made up the story of the steering failure after observing the damage to the front of his vehicle by the second impact from the truck.

HOL and Barajas did not argue that the plaintiff's negligence contributed to the accident. Ford, however, argued that she had ample opportunity to observe the truck careening across the highway and could have brought her motorcycle to a stop before the truck crossed her lane of travel.

Injury: The plaintiff fractured her pelvis and underwent open reduction-internal fixation surgery. She also fractured an ankle, requiring open reduction with internal fixation, and fractured the tibia on the same leg.

The plaintiff was treated for internal injuries to her kidney, which stabilized during her three-week hospitalization immediately following the accident.

The plaintiff, who also sustained multiple spinous process fractures, was immobilized during her entire hospitalization and after discharge to home, where she was confined to a hospital bed. She eventually underwent a six-week inpatient rehabilitation.

According to her attorneys, 90 percent of the injury claim involved the pelvis fracture from which the plaintiff developed chronic pain syndrome that represented a major part of the damage claim.

The plaintiff's husband joined in the action, asserting a per quod claim for loss of consortium.

Result: The jury found that Ford was 100 percent liable and totally exonerated HOL and Barajas, finding no negligence by them or the plaintiff on Ford's claim of comparative negligence.

The jury awarded \$2,601,058.

Jane Doe

\$516,872 Personal Injury: Past Medical Cost

\$341,801 Personal Injury: Future Medical Cost

\$41,400 Personal Injury: Past Lost Earnings Capability

\$600,985 Personal Injury: FutureLostEarningsCapability

\$150,000 Personal Injury: Past Pain And Suffering

\$750,000 Personal Injury: Future Pain And Suffering

John Doe

\$200,000 Personal Injury: loss of consortium

Trial Information:

Judge: Geoffrey T. Glass

Demand: \$1,000,000 (Barajas and HOL)

Offer: \$500,000 (CCP 998, Barajas and HOL); \$15,000 (CCP 998, Ford)

Trial Length: 5 weeks

**Trial
Deliberations:** 3 days

Jury Vote: 12-0

**Jury
Composition:** 3 male, 9 female

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

Writer Jon Steiger

Plaintiff claimed defendant's unsafe turn caused crash

Type: Verdict-Plaintiff

Amount: \$1,539,118

Actual Award: \$1,206,429

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *back* - herniated disc, lumbar
- *neck* - herniated disc, lumbar
- *mental/psychological* - emotional distress

Case Type:

- *Motor Vehicle* - Broadside; Left Turn; Intersection

Case Name: Veronica Garabedian v. Stuart Silverman, No. SC117822

Date: April 03, 2014

Plaintiff(s):

- Veronica Garabedian (Female, 41 Years)

Plaintiff Attorney(s):

- Robert A. Sheinbein; Law Offices of Robert A. Sheinbein; Beverly Hills CA for Veronica Garabedian

Plaintiff Expert(s):

- Jan Roughan R.N., B.S.N.; Life Care Planning; Monrovia, CA called by: Robert A. Sheinbein
- Jacob Tauber M.D.; Orthopedic Surgery; Beverly Hills, CA called by: Robert A. Sheinbein
- Serge Obukhoff M.D.; Neurosurgery; Beverly Hills, CA called by: Robert A. Sheinbein
- Lawrence Miller M.D.; Pain Management; Beverly Hills, CA called by: Robert A. Sheinbein

Defendant(s):

- Stuart Silverman

Defense Attorney(s):

- Beverly I. Mills; Law Offices of Beverly I. Mills; Glendale, CA for Stuart Silverman

Defendant Expert(s):

- Todd D. Moldawer M.D.; Orthopedic Surgery; Van Nuys, CA called by: for Beverly I. Mills
- Tamara Rockholt R.N., B.S.N.; Coding & Billing (Medical); Beaverton, OR called by: for Beverly I. Mills

Insurers:

- Government Employees Insurance Co. (GEICO)

Facts:

On Aug. 16, 2010, plaintiff Veronica Garabedian, 41, a medical assistant, was driving on Wilshire Boulevard in Beverly Hills when she entered the intersection with Carson Road and broadsided a vehicle operated by Stuart Silverman. Garabedian claimed injuries to her back.

Garabedian sued Silverman, alleging the defendant was negligent in the operation of his vehicle. Specifically, Garabedian contended that Silverman attempted left turn from the opposite direction on Wilshire Boulevard to Carson Road when it was unsafe to do so.

Silverman claimed that traffic was very heavy and that the oncoming two lanes of travel were stopped. Thus, he claimed that there was no traffic in the third lane when he began to slowly to cross that lane. However, Silverman contended that even though he was straddling the lane for several seconds, Garabedian caused the collision by speeding and being inattentive.

Injury:

Garabedian claimed that she sustained a lower back injury from the accident. She alleged her injury was a lumbar disc herniation, which ultimately required disc replacement surgery. She also claimed that she suffered emotional distress as a result of the accident.

Garabedian alleged that she continues to suffer from lower back problems and will require additional surgeries. She also alleged that she had to miss time from work as a result of her condition. Thus, Garabedian sought recovery of \$54,058 in past lost earnings, \$283,631 in past medical costs, \$75,000 in future lost earnings, \$1,172,297 in future medical costs, and \$11,690.49 in property damage and loss of use to her vehicle.

The court, over objection, precluded recovery of all non-economic damages.

Defense counsel argued that Garabedian's alleged "lower back problems" were not related to the accident. Counsel noted that Garabedian was not treated at, or transported from, the accident scene and that Garabedian failed to disclose considerable prior lower back issues, including one issue when her orthopedic surgeon recommended that she have an MRI of her lower back three months before the August 2010 accident.

Result: The jury found that Silverman was 65 percent responsible for the accident and that Garabedian was 35 percent liable. It also found that Garabedian's damages totaled \$1,539,118.49. After an offset for comparative liability, Garabedian's recovery should have been \$1,000,423.83.

Trial Information:

Judge: Marc Marmaro

Demand: \$1 million (C.C.P. § 998)

Offer: \$117,000

Trial Length: 14 days

**Trial
Deliberations:** 1.5 days

Post Trial: Defense counsel's motion for prior partial payment of property damages reduced Garabedian's recovery to \$994,423.83. Judge Marc Marmaro later awarded the plaintiff \$212,802.38 in costs for exceeding the C.C.P. § 998 offer, including \$100,804.60 in prejudgment interest and \$102,957.22 in expert costs. However, Marmaro taxed \$797.50 of the costs for exhibits, making the total cost award \$212,004.88. Thus, the total recovery was \$1,206,428.71. Judgment was entered on May 14, 2014.

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

Writer Priya Idiculla

Plaintiff's continued problems related to subsequent crash: defense

Type: Verdict-Plaintiff

Amount: \$1,270,000

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *back* - fracture, back; fracture, L1; fracture, vertebra; fracture, L1
- *head* - concussion
- *brain* - traumatic brain injury
- *chest* - fracture, rib
- *other* - microdiscectomy; compression fracture
- *dental* - fractured teeth
- *epidermis* - contusion
- *neurological* - radicular pain / radiculitis
- *mental/psychological* - cognition, impairment; post-concussion syndrome

Case Type:

- *Motor Vehicle* - Bus; Truck; Lane Change; Multiple Impact; Multiple Vehicle

Case Name: Sandra Bote v. Downey Wholesale Inc. and Jacob Lemus, No. 19STCV01234

Date: June 30, 2022

Plaintiff(s):

- Sandra Bote, (Female, 40 Years)

Plaintiff Attorney(s):

- Blake E. Burtchaell; The Simon Law Group, LLP; Hermosa Beach CA for Sandra Bote
- Jason R. Sanchez; The Simon Law Group, LLP; Santa Ana CA for Sandra Bote

**Plaintiff Expert
(s):**

- H. Ronald Fisk M.D., Ph.D.; Neurology; Los Angeles, CA called by: Blake E. Burtchaell, Jason R. Sanchez
- Jan Roughan R.N., C.R.R.N.; Life Care Planning; Pasadena, CA called by: Blake E. Burtchaell, Jason R. Sanchez
- Idan Snapir D.D.S.; Dentistry/Odontology; Van Nuys, CA called by: Blake E. Burtchaell, Jason R. Sanchez
- Arnold D. Purisch Ph.D.; Neuropsychology; Laguna Hills, CA called by: Blake E. Burtchaell, Jason R. Sanchez
- Fardad Mobin M.D.; Spinal Surgery; Beverly Hills, CA called by: Blake E. Burtchaell, Jason R. Sanchez
- Lester M. Zackler M.D.; Psychiatry; Sherman Oaks, CA called by: Blake E. Burtchaell, Jason R. Sanchez
- Peyman Gravori D.O.; Pain Management; Los Angeles, CA called by: Blake E. Burtchaell, Jason R. Sanchez
- Tooraj "Todd" Gravori M.D.; Spinal Surgery; Beverly Hills, CA called by: Blake E. Burtchaell, Jason R. Sanchez

Defendant(s):

- Jacob Lemus
- Downey Wholesale Inc.

**Defense
Attorney(s):**

- Christopher E. Faenza; Yoka & Smith, LLP; Los Angeles, CA for Downey Wholesale Inc., Jacob Lemus
- Lauren A.R. Lofton; Yoka & Smith, LLP; Los Angeles, CA for Downey Wholesale Inc., Jacob Lemus

**Defendant
Expert(s):**

- Mark J. Spoonamore M.D.; Spinal Surgery; Los Angeles, CA called by: for Christopher E. Faenza, Lauren A.R. Lofton
- Vernon B. Williams M.D.; Neurology; Los Angeles, CA called by: for Christopher E. Faenza, Lauren A.R. Lofton

Insurers:

- Liberty Mutual Insurance Co.

Facts:

On Oct. 4, 2017, plaintiff Sandra Bote, a care facility administrator in her 40s, was driving in the far left (number one), eastbound lane of Interstate 10, in Baldwin Park. When she east of the road transiting from Interstate 605, she passed a bus traveling in the number two lane on her right. However, while she was passing the bus, it entered her lane and struck the right side of her vehicle.

Prior to the impact, a box truck operated by Jacob Lemus, who was traveling on the transition road from northbound I-605, entered eastbound I-10 and crossed four lanes of traffic, directly in the path of the bus in the number two lane of I-10, resulting in a collision. As a result of the impact, the bus was pushed into the number one lane, causing the left side of the bus to strike the right side of Bote's vehicle. Both the bus and Bote's vehicle then went out of control in a northeasterly direction and Bote's vehicle ultimately struck the center divider wall. Bote claimed injuries to her back, head, chest and face.

Bote sued Lemus and Lemus' employer, Downey Wholesale Inc. Bote alleged that Lemus was negligent in the operation of the box truck and that Downey Wholesale was vicariously liable for Lemus' actions.

Multiple other claims were made by others involved in the accident, including the bus driver and the bus's passengers. Most of the claims resolved prior to being filed in court, and two other claims, which were filed in court, resolved prior to being consolidated with Bote's lawsuit. Thus, only Bote complaint remained.

Lemus and Downey Wholesale admitted liability for the accident.

Injury:

Bote was taken by ambulance to a nearby Kaiser hospital, where she was treated and discharged the same day with instructions to follow-up in two days. She claimed she sustained a mild traumatic brain injury; a lumbar compression fracture at L1, resulting in radicular pain; fractured teeth; rib fractures; contusions; and bruises. Bote underwent approximately one year of chiropractic care. She also received additional treatment from lien physicians, including numerous orthopedic surgeons, a neurologist, a neurosurgeon, a neuropsychologist and a dentist. Bote wore a back brace for her rib and back fractures, and she ultimately underwent a microdiscectomy in an attempt to resolve her radicular pain.

Bote claimed that she suffers from post-concussive syndrome and cognition impairment as a result of her traumatic brain injury. She also claimed she suffers from depression as a result of the accident. Bote claimed that as a result of her continued pain, she will eventually require a spinal fusion or a placement of a spinal cord stimulator.

Bote worked as an administrator, overseeing and supervising individuals with special needs at a care facility. She claimed that she was off of work for about four months after the incident, at which point she worked part time for a few months before returning to work full time. However, Bote claimed that due to her TBI and other injuries, she has difficulty working, as it takes her longer to work and write emails, and she found herself

to now be unorganized. She also claimed she now has trouble working with others. Although she did not sustain a loss of income once she returned to work and continued to receive pay increases, Bote claimed she was removed from overseeing some individuals after the subject accident and because of her brain injury. She also claimed that she could no longer continue to work as a result of the subject accident.

The plaintiff's vocational rehabilitation expert, Enrique Vega, was excluded from testifying about Bote's alleged wage loss, as it was determined that Vega's opinions were not based on any decision of a medical doctor rendering Bote permanently disabled.

The parties stipulated that Bote's past medical costs totaled \$200,000. Bote sought recovery of that amount, plus recovery for her alleged future medical costs. She also sought recovery of damages for her past and future pain and suffering. According to defense counsel, plaintiff's counsel asked the jury to award Bote in excess of \$12 million in total damages.

Defense counsel agreed that Bote had a mild traumatic brain injury, but highlighted the absence of any neurological impairment or treatment in the months following the incident. Counsel also contended that Bote was improving and recovering from the accident by the summer of 2020, but that Bote was involved in another motor vehicle accident in December 2020, which derailed Bote's progress. Thus, defense counsel argued that Bote's current complaints are related to the December 2020 accident and not the subject 2017 accident. In particular, counsel highlighted Bote's continued employment and pay increases following the accident, as well as the fact that Bote was only removed from her supervisory position after her 2020 car accident. Furthermore, as it relates to Bote's depression claims, Bote suffered the tragic loss of one of her daughters in an unrelated car accident in 2020, just before Bote's second car accident.

Thus, defense counsel argued that all of Bote's alleged future treatments were not causally related to the accident.

Result:

The jury determined that Bote's damages totaled \$1.27 million.

Sandra Bote

\$ 200,000 Past Medical Cost

\$ 320,000 Future Medical Cost

\$ 250,000 Future Pain Suffering

\$ 500,000 Past Pain Suffering

\$ 1,270,000 Plaintiff's Total Award

Trial Information:

Judge: Cary H. Nishimoto

Trial Length: 17 days

Trial Deliberations: 3 days

Jury Composition: 6 male, 6 female

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 need for neck surgery due to freeway collision

Type: Verdict-Plaintiff

Amount: \$693,948

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *back* - myelopathy
- *neck* - myelopathy
- *other* - chiropractic; fracture, C5-6

Case Type:

- *Motor Vehicle* - Lane Change; Multiple Impact

Case Name: Cristina Carrillo v. Arthur Jauregui, Tennie Del Rosario, and Does 1 to 30, No. BC520954

Date: December 10, 2015

Plaintiff(s):

- Cristina Carrillo (Female, 43 Years)

Plaintiff Attorney(s):

- Conal F. Doyle; Doyle Law; Beverly Hills CA for Cristina Carrillo
- Sevy W. Fisher; The Simon Law Group, LLP; Hermosa Beach CA for Cristina Carrillo

Plaintiff Expert(s):

- Brian F. King M.D.; Neuroradiology; Los Angeles, CA called by: Conal F. Doyle, Sevy W. Fisher
- Carol R. Hyland M.A.; Life Care Planning; Lafayette, CA called by: Conal F. Doyle, Sevy W. Fisher
- Duncan Q. McBride M.D.; Neurosurgery; Santa Monica, CA called by: Conal F. Doyle, Sevy W. Fisher
- Khawar M. Siddique M.D.; Neurosurgery; Los Angeles, CA called by: Conal F. Doyle, Sevy W. Fisher
- Enrique N. Vega M.S.; Vocational Rehabilitation; Woodland Hills, CA called by: Conal F. Doyle, Sevy W. Fisher

Defendant(s):

- Arthur Jauregui
- Tennie Del Rosario

Defense Attorney(s):

- Thomas W. Shaver; Shaver, Korff & Castronovo LLP; Encino, CA for Arthur Jauregui, Tennie Del Rosario

Defendant Expert(s):

- Gene Bruno M.S., C.R.C., C.D.M.S.; Life Care Planning; Encino, CA called by: for Thomas W. Shaver
- Steven J. Nagelberg M.D.; Orthopedic Surgery; Downey, CA called by: for Thomas W. Shaver
- Stephen L.G. Rothman M.D.; Neuroradiology; Los Angeles, CA called by: for Thomas W. Shaver

Insurers:

- State Farm Insurance Cos.

Facts:

On Sunday, Oct. 7, 2012, plaintiff Cristina Carrillo, 43, a monogrammer for In Fab, a family-owned fabric monogramming company, worked overtime on a project and was driving home to her residence in Chatsworth. As she was in the far right lane of eastbound Ronald Reagan Freeway, also known as State Route 118, her vehicle was struck by an out-of-control vehicle operated by Arthur Jauregui.

Prior to the collision, Jauregui's vehicle spun out of control and crossed the lanes to first strike Carrillo's vehicle. The force then caused Carrillo's vehicle to spin and collide with Jauregui's vehicle again. Both vehicles then went to the right side of the freeway. Carrillo claimed injuries to her neck.

Carrillo sued Jauregui and the owner of Jauregui's vehicle, Tennie Del Rosario. Carrillo alleged that Jauregui was negligent in the operation of the his vehicle and that Del Rosario was vicariously liable for Jauregui's actions.

Jauregui and Del Rosario conceded liability, and the jury only heard that Jauregui had lost control of the vehicle.

Injury:

Carrillo claimed she sustained a herniated cervical disc at the C5-6 level, which caused pressure on the spinal cord and resulted in myelopathy, a neurologic deficit related to the spinal cord.

Carrillo claimed that she initially thought that she was fine after the accident and denied medical help at the scene. However, she alleged that she did not feel well while having the dinner that she had planned with her husband and daughter. A few days later she presented to a chiropractor and then presented to an orthopedic surgeon. Carrillo ultimately saw three different neurosurgeons, all of who recommended surgery.

Carrillo claimed that she was suffering from continued, daily pain, as the cervical disc was hitting the center of her spinal cord. Although one neurosurgeon said that Carrillo could treat with epidural injections for relief, the surgeon admitted that the injections would not help long-term. As a result, Carrillo decided to choose the permanent, long-term option of surgery and she ultimately underwent a C5-6 disc replacement on Sept. 10, 2013.

Carrillo alleged that the surgery was successful and that she is doing well. She also alleged that she is getting along better than before the collision and that no future surgery is currently planned, as she did not undergo a fusion. However, both the plaintiff's treating spinal surgeon and the defense's orthopedic surgery expert testified that since Carrillo had surgery, she would require future care, including epidural injections and physical therapy. The plaintiff's treating surgeon also opined that Carrillo might eventually need surgery at an adjacent level.

Prior to the surgery, Carrillo only missed two days of work even though she claimed she had neurological symptoms and was in extreme pain. However, she claimed that she will miss more work as she undergoes additional care for her injury.

Thus, she sought recovery of past and future medical costs and future loss of earnings. She also sought recovery of damages for her past and future pain and suffering.

Defense counsel argued that Carrillo's injury was due to a pre-existing condition. Counsel also argued that Carrillo's surgery was not necessitated due to the accident.

The defense's expert orthopedic surgeon opined that Carrillo's injury was building up over time until it ignited and that it was only a coincidence that her symptoms occurred after the accident.

Result:

The jury found that Jauregui's negligence was a substantial factor in causing Carrillo harm. It also determined that Carrillo's damages totaled \$693,948.28.

Cristina Carrillo

\$151,959 Personal Injury: Past Medical Cost

\$91,989 Personal Injury: Future Medical Cost

\$100,000 Personal Injury: FutureLostEarningsCapability

\$100,000 Personal Injury: past non-economic loss

\$250,000 Personal Injury: future non-economic loss

Trial Information:

Judge: Stephen P. Pfahler

Demand: \$850,000 (C.C.P. § 998)

Offer: \$250,000 (C.C.P. § 998)

Trial Length: 2 weeks

**Trial
Deliberations:** 8 hours

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

Writer Priya Idiculla

Pedestrian claimed she was in crosswalk when SUV struck her

Type: Verdict-Plaintiff

Amount: \$623,990

State: California

Venue: Los Angeles County

Court: Superior Court of Los Angeles County, Redondo Beach, CA

Injury Type(s):

- *hip*
- *back* - herniated disc, lumbar; herniated disc at L4-5
- *head* - ear; concussion; blunt force trauma to the head
- *other* - laceration; labrum, torn
- *sensory/speech* - vertigo

Case Type:

- *Negligence*
- *Motor Vehicle* - SUV; Crosswalk; Pedestrian; Intersection
- *Agency/Apparent Agency* - Vicarious Liability

Case Name: Ann Grant v. Toyota Motor Sales, USA, Inc. and Granville Webster Burns, No. YC 057330

Date: September 17, 2009

Plaintiff(s):

- Ann Grant (Female, 46 Years)

Plaintiff Attorney(s):

- Moses A. Lebovits; Daniels Fine Israel Schonbuch & Lebovits, LLP; Los Angeles CA for Ann Grant
- Jason Tortorici; Daniels Fine Israel Schonbuch & Lebovits, LLP; Los Angeles CA for Ann Grant

**Plaintiff Expert
(s):**

- Ronald P. Carr; Accident Reconstruction; San Diego, CA called by: Moses A. Lebovits, Jason Tortorici
- Bernard Ullman M.D.; Neurology; Redondo Beach, CA called by: Moses A. Lebovits, Jason Tortorici
- Tamorah G. Hunt Ph.D.; Economics; Santa Ana, CA called by: Moses A. Lebovits, Jason Tortorici
- William R. Mealer M.D.; Orthopedics; Manhattan Beach, CA called by: Moses A. Lebovits, Jason Tortorici
- Michelle R. Hoffman; Biomechanical; Phoenix, AZ called by: Moses A. Lebovits, Jason Tortorici

Defendant(s):

- Granville Webster Burns
- Toyota Motor Sales, USA, Inc.

**Defense
Attorney(s):**

- Jeffrey H. Baraban; Baraban & Teske; Pasadena, CA for Toyota Motor Sales, USA, Inc., Granville Webster Burns

**Defendant
Expert(s):**

- Edwin C. Amos M.D.; Neurology; Los Angeles, CA called by: for Jeffrey H. Baraban
- Jennie M. McNulty C.P.A.; Economics; Los Angeles, CA called by: for Jeffrey H. Baraban
- Stewart L. Shanfield M.D.; Orthopedic Surgery; Fullerton, CA called by: for Jeffrey H. Baraban

Insurers:

- Tokio Marine/Nichido Fire

Facts:

On Nov. 7, 2006, plaintiff Ann Grant, 46, an attorney, was crossing a Manhattan Beach street when she was struck by a sport utility vehicle driven by Granville Webster Burns.

At about 8:15 a.m., Grant reportedly stopped on the southeast corner of Meadows Avenue, looked both ways and then headed north across Second Street. Grant claimed that she recalled thinking, "Look both ways," as she prepared to step off the curb because she had just taught her children to do the same. Not seeing any vehicles approaching from either direction, Grant allegedly stepped into the eastbound lane of Second. As she approached the middle of the street, she was hit by the front headlight area of the vehicle. The force of impact caused Grant to go up over the hood of the car and then fall to the ground, hitting her head and buttocks on the pavement.

Grant sued Burns for negligent operation of a motor vehicle. She also sued Toyota Motor Sales, USA, Inc. since Burns, assistant general counsel at Toyota, was in a company car.

Grant contended that Burns violated Cal. Veh. Code § 21950(a) by failing to yield the right of way as she was crossing the street in an unmarked crosswalk. Plaintiff's counsel claimed that this failure to yield proximately caused her injuries. Grant alleged that her injuries resulted from the type of collision (automobile-pedestrian) which § 21950(a) was designed to prevent, and that she, as a pedestrian in an unmarked crosswalk, was in the class of persons whom § 21950(a) is designed to protect.

At trial, Burns allegedly contradicted previous statements given at the scene and during his deposition. After the accident, Burns told Manhattan Beach Police Department officer D. W. Caveney that he was driving southbound on Meadows, and that he stopped at the stop sign at Second and then proceeded to turn left onto eastbound Second. Burns told the officer that his vision was obscured because of bright sunlight and that he did not see any traffic or pedestrians at the time he started to turn left. As he was making the left turn, he claimed to hear a loud noise on the front of his vehicle and see that he had hit Grant. Similarly, in his deposition, Burns testified that as he started accelerating into his turn, the only thing he saw was the sun in his eyes.

At trial, Burns and Toyota argued that Grant was at fault for the accident. The defendants contended that Grant crossed the street diagonally, instead of walking straight across at the crosswalk. Burns and Toyota claimed that Grant was running, and that she was talking on a cell phone as she crossed the street.

Burns and Toyota also disputed liability based on Veh. Code § 21950(b), which states in pertinent part, "No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close as to constitute an immediate hazard."

Plaintiff's counsel responded that those contentions were contradicted by eyewitness testimony, as well as testimony of the police officer who responded to the accident scene.

Grant argued that the defendants ignored subsection (d) of the code, which states, "Subdivision (b) does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within any marked crosswalk or within any unmarked crosswalk at an intersection."

Injury: Grant was taken from the scene by ambulance to Little Company of Mary Hospital with blunt head trauma, which caused a concussion and lacerations. Grant complained of back pain and was diagnosed with a 6-mm disc herniation at L4-L5. She also had a labral tear at her hip and damage to her inner ear, causing vertigo. By trial, Grant's vertigo had mostly resolved. Grant's treating orthopedist testified that her L4-5 herniation was caused by the accident. He opined that she would require future surgery.

The defense orthopedic surgery expert opined that Grant's herniation was pre-existing and that all the symptoms of her injuries had resolved.

Result: Jurors rendered a verdict in favor of the plaintiff, awarding \$623,990.37.

Ann Grant

\$33,990 Personal Injury: Past Medical Cost

\$50,000 Personal Injury: Future Medical Cost

\$225,000 Personal Injury: FutureLostEarningsCapability

\$90,000 Personal Injury: Past Pain And Suffering

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

Trial Information:

Judge: Dudley W. Gray II

Demand: \$1,000,000

Offer: \$200,000

Trial Length: 8 days

**Trial
Deliberations:** 3.75 hours

Jury Vote: 12-0 liability; 11-1 damages

**Jury
Composition:** 9 male, 3 female

Post Trial: The plaintiff's motion for fees and costs was pending at press time.

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

Writer Shannon Green

Plaintiff claimed crash caused need for back treatment

Type: Verdict-Plaintiff

Amount: \$613,300

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *back* - spasm, lumbar; bulging disc, lumbar; disc protrusion, lumbar
- *other* - physical therapy; epidural injections; trigger point injection

Case Type:

- *Motor Vehicle* - Broadside; Multiple Vehicle

Case Name: Ana Foster v. Bruce Richard Dixon, No. 20STCV08297

Date: October 17, 2022

Plaintiff(s):

- Ana Foster, (Female, 40 Years)

Plaintiff Attorney(s):

- Adam J. Savin; Savin Bursk Law; Encino CA for Ana Foster
- Maureen K. Hennessey; Savin Bursk Law; Encino CA for Ana Foster

Plaintiff Expert (s):

- Dr. Troy I. Mounts M.D.; Orthopedic Surgery; San Luis Obispo, CA called by: Adam J. Savin, Maureen K. Hennessey

Defendant(s):

- Bruce Richard Dixon

Defense Attorney(s):

- William G. Barrett; Law Offices of Robyn S. Hosmer; Glendale, CA for Bruce Richard Dixon
- Robert J. Dagmy; Law Offices of Robyn S. Hosmer; Glendale, CA for Bruce Richard Dixon

**Defendant
Expert(s):**

- Dr. Todd D. Moldawer M.D.; Orthopedic Surgery; Van Nuys, CA called by: for William G. Barrett, Robert J. Dagmy

Insurers:

- Allstate Insurance Co.

Facts:

On March 18, 2018, plaintiff Ana Foster, 40, a personal trainer, was driving on Copper Hills Drive, in Santa Clarita, when her vehicle was broadsided by a pickup truck operated by Bruce Dixon. Foster claimed injuries to her back.

Foster sued Dixon, alleging that he was negligent in the operation of his vehicle.

According to Foster, Dixon's vehicle darted out of a parking lot in an attempt to make a left turn, resulting in the collision with her driver's side door. Foster claimed that Dixon crossed over four lanes of traffic before impacting her vehicle.

Dixon refused to admit any negligence on his part and disputed liability throughout the litigation in an attempt to shift some blame onto Foster.

Injury:

Foster sought immediate treatment at a nearby Facey Urgent Care location, which was followed by a course of physical therapy and a few rounds of trigger point injections in her lumbar spine for muscle spasms. She claimed she sustained a bulging lumbar disc.

Foster was discharged from care, and she claimed she attempted to return to her work as a personal trainer and fitness guru. Foster did not deny her very active lifestyle, but explained that she had to modify daily from her usual routine prior to the collision.

Foster claimed that she was avoiding more aggressive care and attempting to stretch and strengthen her body on her own, rather than rack up bills with doctors. However, approximately two years after the collision and one year prior to trial, Foster went to a pain management doctor on a lien basis and was administered a single epidural injection to her lumbar spine.

The plaintiff's retained orthopedic surgery expert opined that there was objective evidence on the MRI of a left paracentral disc protrusion and some neuroforaminal stenosis at L4-5 and L5-S1 that correlated with Foster's subjective complaints and the physical exams of all treating physicians. The expert opined that after 4.5 years in that chronic condition — that is now worsening — additional conservative care would only provide temporary relief. The expert suggested that it would be reasonable for Foster to eventually have a microdecompression surgery in the future, when she is ready, to relieve the irritated nerve.

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

Defense counsel argued that the impact was not significant and that only the initial conservative treatment would be reasonable and necessary. Counsel maintained that the matter involved a minor-impact, soft-tissue-injury case with nothing more than sprains and strains, and an unremarkable MRI with no objective evidence of any real injury. Defense counsel contended that during the time Foster was not being treated for her alleged injuries, she was traveling, hiking for miles, being physically active, participating in gym routines, and working, seemingly, without significant limitations or issues. Thus, the defense argued that Foster's epidural injection was attorney driven, unnecessary and for the purpose of trial. In addition, counsel argued that Foster could have gone back to pain management, but made no attempts to do so.

The defense's retained orthopedic surgery expert did not consider any treatment reasonable or necessary beyond the discharge of care at Facey Medical Center by her primary care physician, nearly four years prior to trial. The expert agreed that Foster suffered some injuries and that her conservative care was reasonable, but the expert would not submit on the issue of substantial factor. According to plaintiff's counsel, the defense expert was unable to provide full opinions on the post-care and lien treatment for Foster on account that defense counsel failed to provide the expert with all of the pertinent records.

Result: The jury found that Dixon was negligent and that his negligence was a substantial factor in causing harm to Foster. It also found that Foster was not negligent. The jury determined that Foster's damages totaled \$613,300.

Ana Foster

\$ 28,300 Past Medical Cost

\$ 160,000 Future Medical Cost

\$ 375,000 Future Pain Suffering

\$ 50,000 Past Pain Suffering

\$ 613,300 Plaintiff's Total Award

Trial Information:

Judge: Gregory W. Alarcon

Demand: \$75,159 (C.C.P. § 998)

Offer: \$11,656.40

Trial Length: 5 days

**Trial
Deliberations:** 3 hours

**Jury
Composition:** During trial, several jurors were lost, so there were only 11 jurors right before closing. Defense counsel would not stipulate to a 6 out of 8 jury, so plaintiff's counsel had to agree to a 9 out of 11 to reach a verdict. Interestingly, the jury was composed of four individuals who went to law school, two of which were still practicing attorneys.

Post Trial: The plaintiff is seeking recovery of C.C.P. § 998 interest and cost in excess of \$100,000. Plaintiff's counsel is also filing a motion for sanction prove up of Request for Admission denials. After cost, interest and RFA prove up fees, the anticipated judgment will be in excess of \$800,000.

**Editor's
Comment:**

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

Writer

Priya Idiculla

Truck driver could have seen pedestrian prior to impact: suit

Type: Mediated Settlement

Amount: \$550,000

State: California

Venue: Orange County

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

Injury Type(s):

- *other* - soft tissue; back and neck; fracture, sacrum
- *pelvis* - fracture, pelvis; fracture, pubic ramus
- *neurological* - nerve damage/neuropathy; nerve damage, foot

Case Type:

- *Motor Vehicle* - Truck; Crosswalk; Pedestrian; Single Vehicle

Case Name: Karrie O'Neal v. "John Doe" and "ABC Company", No.

Date: December 18, 2012

Plaintiff(s):

- Karrie O'Neal (Female, 45 Years)

Plaintiff Attorney(s):

- Dara M. Khajavi; Consumers Law Group; Newport Beach CA for Karrie O'Neal

Defendant(s):

- "John Doe"
- "ABC Company"

Defense Attorney(s):

- Brian T. Moss; Manning & Kass, Ellrod, Ramirez, Trester LLP; Irvine, CA for "ABC Company", "John Doe"

Facts:

On July 30, 2010, at approximately 5:20 a.m., plaintiff Karrie O'Neal, 45, a homeless woman, was walking west on Lincoln Avenue, crossing with the intersection with Knott Avenue in Buena Park when the passenger's side of a commercial truck struck her. As a result, O'Neal spun violently and fell to the floor, injuring her pelvis.

O'Neal sued the driver of the commercial truck and the company that owned the truck, which was also the driver's employer. O'Neal claimed that the driver was negligent in the operation of the truck and that the employer was vicariously liable for the driver's actions.

O'Neal claimed that the driver of the truck was in the left, southbound lane, traveling approximately 20 to 30 mph. She also claimed that the commercial truck struck her after she crossed the road in nearly 35 feet of unobstructed crosswalk, which included nearly four complete lanes and a center divider, and crossed directly past the driver's side and the majority of the passenger's side of the truck.

Plaintiff's counsel contended that the accident reconstruction he had performed demonstrated that O'Neal, who was proceeding straight in the crosswalk, could be seen from over 150 feet, while the driver was proceeding forward toward the crosswalk. Thus, counsel contended that the driver should have been able to see O'Neal prior to the accident and avoid hitting her.

The driver of the commercial truck reported to officers on the scene immediately after the accident that he was traveling on southbound Knott Avenue in the far left lane at approximately 20 mph, but that he suddenly saw O'Neal in front of him as she was being struck by the front corner of his vehicle.

Defense counsel asserted that O'Neal was a habitual alcoholic and that, at the time of the impact, she was highly intoxicated. Counsel also asserted that O'Neal was crossing against a red light at the moment of impact and that the impact occurred at 5:20 a.m., before sunrise. Thus, defense counsel contended that the driver did not see O'Neal as she crossed through the intersection, and that O'Neal was responsible for the accident and her own injuries.

In response, plaintiff's counsel asserted that all of defense counsel's arguments were completely void of merit and that it was the impact, and not any alleged alcohol consumption, which caused O'Neal's injuries. Plaintiff's counsel further argued that the facts did not support defense counsel's position that O'Neal was an intoxicated, jaywalking pedestrian at night.

Injury: O'Neal fractured her left sacrum and left superior pubic ramus with extension into the left parasymphyseal pubis. She also sustained soft-tissue problems to her neck and back, as well as nerve damage to her right foot.

After striking O'Neal, the driver got out of his vehicle and asked O'Neal if she was alright. O'Neal said she was not sure, but thought she was ok. The driver then approached O'Neal, who was lying on the ground, and asked her if she was capable of moving. Before a shaken-up O'Neal could gather her senses, the driver allegedly picked her off the ground with her bilateral pelvic and sacrum fractures and had her walk to his truck. He then attempted to have her step up into the cab of his elevated commercial truck. When O'Neal proved completely incapable of getting into the cab of the truck on her own, the driver then hoisted her up. Once police arrived, they found an injured O'Neal and had her immediately transported to the emergency room at University of California, Irvine Medical Center, in Orange. O'Neal then underwent surgery on her fractured pelvis and remained under a doctor's care at the hospital for the following month and a half.

O'Neal's medical bills came out to over \$700,000. She claimed the nerve damage to her foot was now causing her foot to "club." O'Neal's counsel asserted that even to this day, O'Neal cannot walk or stay standing for any prolonged periods of time, and ambulates with a permanent limp.

Defense counsel asserted that O'Neal was completely at fault for her own injuries, as she was intoxicated and jaywalking. Counsel also asserted that the majority of the injuries O'Neal alleged predated the accident and were a product of the rough environment O'Neal lived in.

Result: The defendants' denied the case prior to the plaintiff filing the matter with the Superior Court. Post-filing, the parties agreed to attempt to resolve the case via mediation at Judicate West. Thus, the matter ultimately resolved for \$550,000.

Trial Information:

Judge: Martin Handweiler

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

Avis Pays for LAX Shuttle Bus Collision

Type: Verdict-Plaintiff

Amount: \$496,000

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *back*
- *neurological* - thoracic outlet syndrome

Case Type:

- *Motor Vehicle* - Passenger; Rear-ender

Case Name: Yoko Oshima v. Raul Gomez and Avis Rent-A-Car Cross-complaint: Raul Gomez and Avis Rent-A-Car v. Abraham Weiss, No. YC 040 251

Date: April 05, 2002

Plaintiff(s):

- Yoko Oshima (Female, 46 Years)

Plaintiff Attorney(s):

- Richard S. Klein; Law Office of Richard S. Klein; Los Angeles CA for Yoko Oshima

Plaintiff Expert (s):

- John Brault; Biomechanical; Lake Forest, CA called by: Richard S. Klein
- Avrom Gart M.D.; Physical Medicine; Los Angeles, CA called by: Richard S. Klein
- Dr. Sheldon E. Jordan; Neurology; Santa Monica, CA called by: Richard S. Klein

Defendant(s):

- Raul Gomez
- Abraham Weiss
- Avis Rent-A-Car

**Defense
Attorney(s):**

- Richard L. Quint; Law Office of Richard L. Quint; Anaheim, CA for Raul Gomez, Avis Rent-A-Car
- Linda J. Gottshall-Sayed; Law Office of Roger A. Koll; Torrance, CA for Abraham Weiss

**Defendant
Expert(s):**

- Chadwick F. Smith; Orthopedic Surgery; Los Angeles, CA called by: for Richard L. Quint
- Nicholas J. Carpenter; Biomechanical; Orange, CA called by: for Richard L. Quint

Insurers:

- self-insured (\$5 million)
- Allstate Insurance Co.

Facts:

A jury in Los Angeles County awarded \$496,000 to a 46-year-old jewelry consultant after she alleged that her injuries were caused in an automobile accident involving a rental car shuttle bus at LAX.

The plaintiff was a right front seat passenger in an automobile being operated by cross-defendant Abraham Weiss. The plaintiff's vehicle was stopped in front of Terminal 1 at Los Angeles International Airport (LAX). At the same time, defendant Raul Gomez was operating a shuttle bus owned by his employer, defendant Avis Rent-A-Car (Avis). A collision occurred when Gomez drove the right front corner of the defendants' bus into the driver's side of the plaintiff's automobile. The plaintiff filed a lawsuit against Avis and Gomez alleging negligence. The defendants then filed a cross-complaint for indemnity against Abraham Weiss.

The plaintiff maintained that the defendant driver negligently struck the vehicle in which she was a passenger and that he was the sole cause of the accident.

The defendants, through their cross-complaint, maintained that the driver of the plaintiff's vehicle was responsible for the collision because he stopped his vehicle in a traffic lane reserved for buses only.

The cross-defendant asserted that he did nothing wrong and that the defendant driver was the sole cause of the accident.

Injury:

The plaintiff claimed that she suffered a cervical strain that was superimposed upon a previous multiple level cervical fusion. She also claimed that she suffered thoracic outlet syndrome for which she would need periodic botox injections. Her past medical expense claim was \$45,010 and her future medical expense claim was \$326,000 (based on \$10,000 per year over remaining life expectancy of 32.6 years) for the botox injections.

The defendants asserted that the low speed impact did not involve forces sufficient to cause the plaintiff's alleged injury.

Result:

The judge gave a directed verdict for the plaintiff as to the negligence of the defendants. The judge also dismissed the cross-complaint after giving a directed verdict to the cross-defendant, Abraham Weiss. The jury then returned a 10-2 verdict in favor of the plaintiff on damages and awarded her \$496,000. The judgment had been satisfied.

Yoko Oshima \$371,000 economic damages

\$125,000 noneconomic damages

Demand \$150,000 CCP 998

Offer \$27,500 CCP 998

Trial Information:

Judge: Jean E. Matusinka

Trial Length: 4 days

**Trial
Deliberations:** 6 hours

Writer

Motorcyclists hurt when car made illegal U-turn in their path

Type: Settlement

Amount: \$400,000

State: California

Venue: San Diego County

Court: Superior Court of San Diego County, San Diego, CA

Injury Type(s):

- *back* - fracture, back; fracture, T8; fracture, vertebra; fracture, T8
- *head* - concussion; closed head injury
- *ankle* - fracture, ankle; fracture, bimalleolar
- *chest* - fracture, rib
- *other* - laceration; neuropathy; back and neck; hardware implanted
- *epidermis* - numbness; contusion; road rash
- *hand/finger* - fracture, finger
- *surgeries/treatment* - open reduction
- *mental/psychological* - anxiety; cognition, impairment; memory, impairment; post-traumatic stress disorder

Case Type:

- *Motor Vehicle* - U-Turn; Passenger; Motorcycle; Center Line

Case Name: Brian P. McDermott and Ruth McDermott v. Philip B. Smith, No. GIN 040712

Date: June 24, 2005

Plaintiff(s):

- Ruth McDermott (Female, 53 Years)
- Brian P. McDermott (Male, 57 Years)

Plaintiff Attorney(s):

- Steven C. Kirby; Kirby, Kirby & Kirby; Redondo Beach CA for Brian P. McDermott, Ruth McDermott
- Aimee Kirby; Kirby, Kirby & Kirby; Redondo Beach CA for Brian P. McDermott, Ruth McDermott
- Margaret L. Kirby; Kirby, Kirby & Kirby; Redondo Beach CA for Brian P. McDermott, Ruth McDermott

Defendant(s): • Philip B. Smith

Defense Attorney(s): • Scott J. Laqua; Law Office of Bryce O. Willett; San Diego, CA for Philip B. Smith

Facts: On July 31, 2004, the plaintiffs, Brian P. McDermott, 57, was riding his motorcycle westbound on State Route 76, a two-lane highway in San Diego County. His wife, Ruth McDermott, 53, was a passenger. Philip Brendan Smith was driving his sedan eastbound and was stopped in traffic when he decided to make an illegal U-turn, crossing the solid yellow line to do so. The motorcycle struck the car and both McDermotts were ejected. Both plaintiffs were wearing helmets.

Claiming multiple injuries, the McDermott's sued Smith for vehicular negligence. The investigating police officer noted that Smith was the "full collision factor" in the accident.

The defense conceded liability.

Injury: Mr. McDermott suffered severe road rash and contusions to his back, hip and buttocks. He also sustained an 8-millimeter nodular density of the right upper lobe, and bimalleolar avulsion fractures of the ankles. He claimed residual anxiety and lower back pain, stiffness, numbness and tingling.

Ms. McDermott suffered loss of consciousness and a concussion. She claimed a closed head injury and angulated fractures to two of her fingers requiring open reduction, pinning, and a second surgery to remove the hardware. She also claimed right ulnar neuropathy, contusions, lacerations, a compression fracture at T8, a dilated right pupil, fractured ribs and strained ankles. She was followed by an orthopedist for the back injury and treated conservatively. Additionally, she claimed shoulder pain; neck, back and chest pain; and residual post-traumatic stress disorder and memory loss.

Together, the McDermotts claimed \$98,767 in past medical specials, and Ms. McDermott sought \$25,000 in future medical expenses for electrodiagnostic exams, nerve conduction studies and medications.

The defense valued the plaintiffs' injuries at \$200,000 each.

Result: The parties settled for \$400,000 prior to trial.

Trial Information:

Judge: John B. Little

Writer Amy Bourne

Head-on collision caused driver's herniated disc

Type: Settlement

Amount: \$375,000

Actual Award: \$375,000

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *back* - herniated disc
- *neck* - herniated disc
- *other* - soft tissue
- *surgeries/treatment* - discectomy

Case Type:

- *Motor Vehicle* - Head-On; Passenger

Case Name: Parinaz Zarabi, Golzar Zarabi and Shiva Zorabi v. Stephanie Maxine Smith and Gary Smith, No. SC067717

Date: August 28, 2003

Plaintiff(s):

- Shiva Zarabi (Female)
- Golzar Zarabi (Male)
- Parinaz Zarabi (Female, 45 Years)

Plaintiff Attorney(s):

- Steven B. Effres; Effres & Associates; Calabasas CA for Parinaz Zarabi, Golzar Zarabi, Shiva Zarabi

Defendant(s):

- Gary Smith
- Stephanie Maxine Smith

Defense Attorney(s):

- Tejas B. Patel; Ford, Walker, Haggerty & Behar; Long Beach, CA for Stephanie Maxine Smith, Gary Smith

Facts: On Aug. 14, 2000, plaintiff Parinaz Zarabi, 45, a homemaker, was driving her vehicle southbound on Coldwater Canyon Avenue in Los Angeles. Her minor children, Golzar and Shiva, were passengers in her car. At this same time, a vehicle driven by Stephanie Maxine Smith and registered to Gary Smith was proceeding northbound on Coldwater Canyon. Smith then crossed over into the southbound lane and collided head-on into the Zarabis' vehicle.

Parinaz, Golzar and Shive Smith sued Stephanie and Maxine Smith, alleging vehicular negligence.

The Smiths admitted liability on the eve of trial.

Injury: Parinaz Zarabi claimed that she sustained a herniated cervical disc for which she underwent a two-level anterior cervical discectomy and fusion on Feb. 11, 2003. She claimed past medical specials of \$109,339.

Golzar and Shiva Zarabi sustained minor soft-tissue injuries.

The Smiths disputed causation as well as the nature and extent of the Zarabis' injuries and damages.

Result: The Zarabis settled their claims for a total of \$375,000.

Parinaz Zarabi

\$375,000 Personal Injury: settlement

Trial Information:

Judge: Paul G. Flynn

Demand: \$400,000

Offer: \$350,000

Writer Randy Stewart

Head-on crash caused cervical disc herniation, plaintiff alleged

Type: Verdict-Plaintiff

Amount: \$345,000

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *neck* - fusion, cervical; herniated disc, cervical; herniated disc at C5-6
- *other* - soft tissue; chiropractic; back and neck; physical therapy; strains and sprains

Case Type:

- *Motor Vehicle* - Head-On; Intersection

Case Name: Monique Johnson v. Jonathan Alexander Galvan and Bella Galvan, No. KC062449

Date: December 13, 2013

Plaintiff(s):

- Monique Johnson (Female, 48 Years)

Plaintiff Attorney(s):

- Andrew L. Ellis; Ellis Law Corporation; El Segundo CA for Monique Johnson
- Muammar Q. Reed; Ellis Law Corporation; El Segundo CA for Monique Johnson

Plaintiff Expert (s):

- Alex H. Etemad M.D.; Orthopedic Surgery; Lakewood, CA called by: Andrew L. Ellis, Muammar Q. Reed
- David J. King P.E.; Accident Reconstruction; Laguna Hills, CA called by: Andrew L. Ellis, Muammar Q. Reed

Defendant(s):

- Bella Galvan
- Jonathan Alexander Galvan

Defense Attorney(s):

- Cynthia M. Martinez; Mark R. Weiner & Associates; Glendale, CA for Bella Galvan, Jonathan Alexander Galvan

**Defendant
Expert(s):**

- William P. Dillon M.D.; Radiology; San Francisco, CA called by: for Cynthia M. Martinez

Insurers:

- State Farm Mutual Automobile Insurance Co.

Facts:

On Sept. 6, 2010, at approximately 11 a.m., plaintiff Monique Johnson, 48, owner of a maid service, was driving on northbound Forestdale Avenue in Covina when she attempted to cross the intersection with Adams Park and was struck head-on by a vehicle operated by Jonathan Galvan, who was traveling on southbound Forestdale Avenue. Johnson claimed injuries to her neck and lower back.

Johnson sued Jonathan Galvan and the owner of the vehicle, Bella Galvan. Johnson alleged that Mr. Galvan was negligent in the operation of the vehicle and that Ms. Galvan was vicariously liable for Mr. Galvan's actions. Specifically, Johnson contended that as Mr. Galvan came around a curve in the road and approached the subject intersection, he cut the corner, swinging into her lane of traffic and causing the head-on collision.

Plaintiff's counsel moved for summary judgment on liability, and it was granted. Since the defendants did not admit to liability in their responses to Request for Applications, the court awarded Johnson liability expert fees.

Injury:

On the day after the accident, Johnson went to a chiropractor with complaints of neck and lower back pain. She was subsequently diagnosed with a herniated disc at C5-6, and soft-tissue strains and sprains of her lower back. Johnson ultimately underwent a cervical fusion at C5-6 in August 2012, and she treated with chiropractic care and physical therapy for two months.

Johnson contended that she was bedridden for a long time during her recovery and that while her back injury has resolved, she still experiences some residual neck discomfort. She claimed that as a result, she requires further conservative care and possible surgery. Thus, Johnson claimed \$210,000 in past medical costs and sought recovery of damages for her future medical costs, and pain and suffering.

The defense's expert radiologist opined that Johnson's neck injury was unrelated to the accident. The expert testified that Johnson suffered a spontaneous disc bulge at C5-6 42 days after the accident and that this spontaneous injury was what necessitated Johnson's neck surgery.

Result:

The jury determined that the defendants were 100 percent liable for the accident and that Johnson's damages totaled \$345,000.

Monique Johnson

\$100,000 Personal Injury: Past Medical Cost

\$60,000 Personal Injury: Future Medical Cost

\$185,000 Personal Injury: pain & suffering

Trial Information:

Judge: Jan A. Plum

Demand: \$399,000 (C.C.P. § 998)

Offer: \$100,000 (policy limits) on first day of trial

Trial Length: 5 days

Trial Deliberations: 1 days

Jury Composition: 6 male, 6 female

Post Trial: Johnson was awarded costs of roughly \$18,000 and attorney fees of \$2,400.

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 Dan Israeli

Pedestrian struck in crosswalk claimed injuries to head and spine

Type: Mediated Settlement

Amount: \$325,000

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *back* - herniated disc, lumbar
- *head*
- *neck* - herniated disc, lumbar
- *other* - swelling; abrasions; laceration; unconsciousness; epidural injections
- *epidermis* - numbness; contusion
- *neurological* - radicular pain / radiculitis
- *mental/psychological* - amnesia

Case Type:

- *Government* - Counties
- *Motor Vehicle* - Crosswalk; Left Turn; Pedestrian

Case Name: Mi Sun Kim v. James Patrick Gray, Los Angeles County Department of Public Works and County of Los Angeles, No. BC672868

Date: December 20, 2018

Plaintiff(s):

- Mi Sun Kim (Female, 43 Years)

Plaintiff Attorney(s):

- Jae Y. Lee; Lee & Associates, P.C.; Los Angeles CA for Mi Sun Kim
- Daniel E. Hoffman; Lee & Associates, P.C.; Los Angeles CA for Mi Sun Kim

Plaintiff Expert (s):

- Arthur Kreitenberg M.D.; Orthopedic Surgery; Los Angeles, CA called by: Jae Y. Lee, Daniel E. Hoffman

Defendant(s):

- James Patrick Gray
- Los Angeles County
- Los Angeles County Department of Public Works

**Defense
Attorney(s):**

- Kelsey C. Nau; Office of the County Counsel; Los Angeles, CA for James Patrick Gray, Los Angeles County Department of Public Works, Los Angeles County

**Defendant
Expert(s):**

- Thomas J. Grogan M.D.; Orthopedic Surgery; Los Angeles, CA called by: for Kelsey C. Nau

Facts:

On March 23, 2016, plaintiff Mi Sun Kim, 43, a salesperson, was in a marked crosswalk, walking south across Colima Road, at its intersection with Paso Real Avenue, in Rowland Heights. Colima Road is a multiple-lane road with three lanes in each direction, plus left-turn lanes at the intersection. Kim had crossed 2.5 lanes and was almost to the middle of the street when she was struck by a pickup truck operated by James Gray, who was making a left turn from northbound Paso Real Avenue, onto westbound Colima Road. Kim sustained injuries to her head and back.

Kim sued Gray and Gray's employers, the Los Angeles County Department of Public Works and the county of Los Angeles, which also owned the pickup truck. Kim alleged that Gray was negligent in the operation of his vehicle and that the Department of Public Works and the county were vicariously liable for Gray's actions while acting within the course and scope of his employment.

Plaintiff's counsel contended that Gray failed to yield to Kim, who was a pedestrian lawfully within a crosswalk. Counsel also noted that the investigating officer concluded that Gray was at fault for the accident for violating Vehicle Code § 21451(a), which states, "A driver facing a circular green signal shall proceed straight through or turn right or left or make a U-turn unless a sign prohibits a U-turn. Any driver, including one turning, shall yield the right-of-way to other traffic and to pedestrians lawfully within the intersection or an adjacent crosswalk."

Gray told the investigating officer that he did not see Kim before he heard an impact on the left side of his vehicle.

The Department of Public Works and the county admitted that Gray was in the course and scope of his employment at the time of the incident. However, defense counsel asserted that Kim was comparatively negligent for crossing the street when the crossing signal displayed a "don't walk" signal.

Injury:

Kim sustained blunt force trauma to her head and body. She claimed that she lost consciousness as a result of the impact. After regaining consciousness, she felt severe pain in her head and pain all over her body before she realized she was bleeding. Kim also claimed she sustained a herniated lumbar disc. She was still lying on the ground within the crosswalk when paramedics arrived and took her to UC Irvine Medical Center, in Orange. At the emergency room, Kim complained of radiating pain in her neck and back with numbness in her fingers and toes. She also complained of pain in her head, and she was found to have a laceration to the back of her head, which required staples; swelling to the right, parietal scalp; and amnesia as to the events of the collision. Kim followed up with a neurological assessment and treatment, including an epidural injection to her back.

Kim claimed she may eventually require epidural injections to her lumbar spine and/or a lumbar surgery in the future.

The plaintiff's orthopedic surgery expert opined that Kim had significant back pain with some disc bulging. He also opined that Kim should have epidural injections to attempt to relieve her pain.

Kim sought recovery of \$94,345.25 in past medical costs and an unspecified amount for her future medical costs. She also sought recovery of damages for her past and future pain and suffering.

The defense's expert orthopedic surgeon opined that Kim suffered a contusion and an abrasion to her head with a laceration in the occipital region, as well as a sprain of her cervical spine. He also opined that Kim's MRI findings showed a chronic pre-existing degenerative condition that was unrelated to the subject accident and that Kim would not need any further physical therapy or an operative intervention as a result of the subject accident.

Plaintiff's counsel noted that the defense's orthopedic surgery expert claimed that Kim had denied she had radiating pain from her lower back, but the claim was refuted by a transcription of the audio recording of the defense's medical exam, which confirmed Kim had advised the expert of her radiating lower back pain.

Result:

The parties agreed to a \$325,000 settlement, which was finalized via the guidance of mediator Gail Andler, of JAMS. The settlement was subject to approval by the Los Angeles County Board of Supervisors.

Trial Information:**Judge:**

Gail A. Andler

**Editor's
Comment:**

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

Writer

Priya Idiculla

Husband and Wife Injured In Head-on Collision

Type: Settlement

Amount: \$315,000

Actual Award: \$315,000

State: California

Venue: San Diego County

Court: Superior Court of San Diego County, Vista, CA

Injury Type(s):

- *back*
- *ankle* - fracture, ankle
- *other* - abrasions; laceration
- *shoulder*
- *foot/heel* - fracture, heel/calcaneus; fracture, calcaneus/heel
- *mental/psychological* - depression; post-traumatic stress disorder

Case Type:

- *Motor Vehicle* - Head-On; Center Line

Case Name: Margaret Lynn Amin and Bipin Amin v. Aaron T. Miller, No. GIN020996

Date: November 01, 2002

Plaintiff(s):

- Bipin Amin (Male, 49 Years)
- Margaret Lynn Amin (Female, 53 Years)

Plaintiff Attorney(s):

- Alyssa Milman White; Angelo & Milman; Irvine CA for Margaret Lynn Amin, Bipin Amin

Defendant(s):

- Aaron T. Miller

Defense Attorney(s):

- Richard K. Dwyer; Law Offices of Richard K. Dwyer & Associates; Poway, CA for Aaron T. Miller

- Insurers:**
- Government Employees Insurance Co.
 - Safeco Insurance Cos.

Facts: Plaintiff Margaret Lynn Amin, a 53-year-old licensed nurse practitioner and midwife, was driving her 2001 Toyota 4Runner westbound on State Route 76, west of Olive Hill Road. The plaintiff was driving with her 49-year-old husband, Bipin Amin, who was seated in the front passenger seat. At the same time, the defendant was driving a 2001 Pontiac Grand Am in the eastbound lane on SR-76. The accident occurred when the defendant failed to maintain his vehicle in the eastbound traffic lane and crossed over the double yellow line. The defendant's vehicle then struck the plaintiffs' vehicle head-on. At the time the defendant's vehicle crossed over into the plaintiffs' lane, the plaintiffs did not have the opportunity to brake before the impact occurred.

Injury: Margaret Lynn Amin sustained a severe right calcaneal (heel) and malleolar (ankle) fracture requiring a splint and no weight-bearing for 6 to 8 weeks; two large lacerations to her forehead requiring sutures; bruises and contusions; right shoulder impingement; and post-traumatic stress disorder (PTSD). She has returned to work but not to her full-time duties. She claimed \$24,303 in past medical expenses, \$4,580 in out-of-pocket expenses for household assistance, \$4,000 to \$5,000 in future medical expenses, \$90,202 in past lost wages and an undetermined amount in future wage loss.

Bipin Amin, office manager of his wife's clinic, suffered severe chest pain, shortness of breath, severe low back pain and severe depression requiring counseling. He requested \$19,624 in past medical expenses and \$10,692 in future medical expenses.

Result: Margaret Lynn Amin settled her third-party liability case for the policy limits of \$100,000. She made an additional claim under the underinsurance portion of her own policy and recovered an additional \$115,000 for a total of \$215,000.

Bipin Amin settled his third-party liability case for the policy limits of \$100,000. He made an additional claim under the underinsurance portion of his wife's policy. That portion is still pending.

Trial Information:

Judge: Thomas P. Nugent

Writer: Mari Pham

Plaintiff claimed U-turn crash caused lower back injuries

Type: Verdict-Plaintiff

Amount: \$111,955

State: California

Venue: Orange County

Court: Superior Court of Orange County, Orange, CA

Injury Type(s):

- *back* - lower back; bulging disc, lumbar
- *head* - closed head injury
- *neck*
- *chest*
- *other* - chiropractic; physical therapy; strains and sprains; aggravation of pre-existing condition
- *shoulder*
- *neurological* - radiculopathy
- *pulmonary/respiratory* - asthma; asthma, aggravation of

Case Type:

- *Motor Vehicle* - U-Turn; Broadside

Case Name: Debbie Boyd v. Kandathil Jacob, No. 30-2015-00773285-CU-PA-CJC

Date: September 06, 2016

Plaintiff(s):

- Debbie Boyd (Female, 51 Years)

Plaintiff Attorney(s):

- Henry A. Peacor; Carpenter Zuckerman & Rowley LLP; Beverly Hills CA for Debbie Boyd

Plaintiff Expert (s):

- Arthur Kreitenberg M.D.; Orthopedic Surgery; Los Angeles, CA called by: Henry A. Peacor

Defendant(s):

- Kandathil Jacob

- Defense Attorney(s):**
- Jeffrey N. Redd; Law Office of Andrew W. Macrae; Santa Ana, CA for Kandathil Jacob
- Defendant Expert(s):**
- Kevin J. Triggs M.D.; Orthopedic Surgery; Orange, CA called by: for Jeffrey N. Redd
- Insurers:**
- 21st Century Insurance Group

Facts: On Sept. 1, 2013, plaintiff Debbie Boyd, 51, a physician staff scheduler at Kaiser Permanente Mission Viejo, began driving home in her 2004 Ford Focus after she finished grocery shopping at a Costco store with her husband. As they were driving in the left hand (number one), eastbound lane of Camino Mira Costa in San Clemente, which has two lanes of travel, they came upon a 2012 Mercedes-Benz E-Class operated by Kandathil Jacob, who was traveling in right (number two) lane of eastbound Camino Mira Costa.

At some point while traveling ahead of the Boyd vehicle, Jacob realized that he was heading in the wrong direction and needed to make a U-turn. Thus, as he approached the intersection with Plaza Estival, Jacob edged to the right before swinging his car around to the left, crossing directly in front of Boyd's lane of travel. As a result, Boyd, who was travelling at approximately 30 mph, crashed head-on into Jacob's driver's side door. Boyd's airbags did not deploy, and the force of the impact allegedly caused Boyd's head to hit the steering wheel. She subsequently claimed injuries to her head, neck, left shoulder, chest, and lower back.

Boyd sued Jacob, alleged that Jacob was negligent in the operation of his vehicle.

At trial, Jacob admitted to being 100 percent at fault for causing the collision.

Injury: Boyd claimed that her head hit the steering wheel at the time of impact and that she started having difficulty breathing shortly thereafter. (Boyd had a history of asthma, and her difficulty breathing at the time of the collision was later determined to be the result of an asthma attack.) Boyd then tried to exit her vehicle, but her door was jammed and had to be pried open once paramedics arrived so that she could be pulled from the vehicle. The paramedics then administered oxygen and placed Boyd on a backboard before loading her into an ambulance and transporting her to Saddleback Memorial Medical Center, in Laguna Hills.

At the hospital, doctors performed X-rays of Boyd's chest and lower back. They also performed a CT scan of Boyd's head. However, all of the imaging studies came back normal. Boyd was ultimately diagnosed with an acute lower back injury; a closed head injury; a shoulder sprain and strain; and an acute asthma exacerbation. She was then discharged home with pain medication.

On Jan. 7, 2014, four months after the collision, Boyd presented to a Kaiser Permanente hospital with a primary complaint of lower back pain. She was subsequently diagnosed with lumbar radiculopathy. An MRI was then performed on Boyd's lumbar spine on Jan. 29, 2014, and it revealed mild to moderate spinal canal narrowing at L5-S1 due to a bulging disc, a right paracentral disc extrusion, and facet joint hypertrophy. Boyd subsequently received physical therapy and chiropractic care for her injuries.

Boyd claimed that her condition improved after undergoing physical therapy and chiropractic treatment, and that most of her injuries had resolved completely. However, she claimed that she still suffered from ongoing lower back pain and that her condition was likely to persist for the rest of her life.

Plaintiff's counsel highlighted the impact that Boyd's lower back injury allegedly had on her activities. For example, Boyd's family owned a 30-foot trailer that they liked to take on camping trips to places along the Oregon Coast, to the Redwoods forest up in northern California, and to the dunes of Pismo beach. Counsel contended that Boyd was able to go on the family camping trips after her prior lower back surgery in 1997 and before the 2013 automobile collision. However, plaintiff's counsel contended that after the subject collision, Boyd was no longer able to take the trailer camping with her family and that the trailer ended up sitting in the same lot, collecting dust, for the three-year time period following the collision and leading up to trial. Boyd claimed that she had planned on taking the trailer with her husband to do a camping tour throughout the country following her anticipated retirement from Kaiser within the next few years, but that as a result of her lower back injuries, she was no longer sure if she would be able to do it. Boyd further claimed that prior to the 2013 collision, she had enjoyed going on five-mile-long walks with her husband and that she considered it their "time together." However, she alleged that after the collision, she walked less frequently and at a shorter distance and that she no longer was able to fully enjoy the cherished time she had with her husband.

Boyd's vehicle was towed from the scene and later declared a total loss with a property damage estimate of \$6,477.55. Jacob's vehicle also suffered property damage, which was estimated at \$26,953.93.

Kaiser paid for all of Boyd's medical treatment, other than her chiropractic care, which was performed on a lien. Boyd's Howell-reduced medical bills (paid by Kaiser) was \$7,500.33 and the unpaid chiropractor's lien was \$5,800, making Boyd's total medical bills amount to \$13,300.33. However, the plaintiff's expert orthopedic surgeon opined that the reasonable value for the medical services Boyd received was \$11,955.

Thus, plaintiff's counsel asked the jury to return a verdict of \$664,539, including \$11,955 for Boyd's past medical expenses, \$132,240 for Boyd's past pain and suffering, and \$520,344 for Boyd's future pain and suffering over a life expectancy of 29.7 years.

Defense counsel asserted that the only medical treatment causally related to the subject collision was the treatment received before the four-month gap, which consisted of the ambulance ride and the medical care Boyd received at the hospital on the day of the collision. Defense counsel pointed to normal imaging studies from the hospital, and emphasized the four-month gap in treatment between the date of the collision and when Boyd first received medical care at Kaiser Permanente. Counsel argued that if Boyd was really injured, she would have sought medical treatment sooner. Defense counsel also emphasized the fact that Boyd worked at Kaiser Permanente and that when she did finally go in for treatment, it was with a doctor who was located on the same floor of the building where Boyd worked. Thus, counsel asserted that there was nothing preventing Boyd from seeking medical care sooner. Defense counsel further highlighted that Boyd did not miss a single day of scheduled work, asserting that it was evidence that all of Boyd's injuries must have been mild, if at all.

In terms of her post-gap medical treatment and Boyd's claim of ongoing lower back pain,

defense counsel contended that Boyd had a prior incident where she fell down some stairs and suffered a lower back injury in 1996, which required a lumbar laminectomy and discectomy in 1997. Counsel argued that Boyd's post-gap treatment and ongoing lower back pain were merely the result of her underlying pathoanatomy of an L5-S1 degenerative disc disease as a consequence of the lumbar laminectomy and discectomy in 1997. Thus, counsel argued that the post-collision MRI of Boyd's lumbar spine only showed the pre-existing and unchanged conditions within her lower back.

Defense counsel subsequently asked the jury to return a verdict of \$6,000 in total damages, including \$4,000 for Boyd's past medical expenses, \$2,000 for Boyd's past pain and suffering, and \$0 for Boyd's future pain and suffering.

In response to the defense's allegations regarding the four month gap in treatment, plaintiff's counsel contended that Boyd had a sincere and reasonable hope of recovery, noting that Boyd's head, chest, and left shoulder pain all went away after three weeks. Moreover, Boyd testified that she thought her lower back pain was just a really bad muscle strain and that it was going to get better and go away with time. Boyd also testified that she attempted to treat at home with ice/heat packs, medication, stretching, and home exercises, and that it was only after she had exhausted those conservative measures that she sought medical advice for her lower back.

Plaintiff's counsel contended that Boyd utilized her job at Kaiser Permanente to obtain information sheets that are administered to patients for lower back injuries and that as a result, when Boyd finally went into Kaiser Permanente, the doctors recommended that she do the exact same home exercises that she had already been doing for the prior four months. In addition, counsel contended that Boyd had a real hatred for going to the doctor's office and that this hatred went back to her earliest memories growing up. Plaintiff's counsel contended that, as a child, Boyd had to go to numerous doctor visits for mumps, tonsillitis, and other various ailments and that all of those doctor visits required Boyd to get shots. As a result, counsel contended that Boyd developed "needle-phobia" and became a "runner" -- i.e., Boyd did everything she could to avoid getting shots. Counsel further contended that after graduating from high school, Boyd's mother joked that Boyd should become a phlebotomist and that, in response, Boyd decided to face her fears and applied for a job as a phlebotomist at Kaiser Permanente. Thus, on her 20th birthday, Boyd got the job and began her training. However, the training required students to draw blood from each other and Boyd fainted when another student attempted to draw her blood. As a result, the instructor decided to waive the requirement because of Boyd's fear of needles. For the next 19 years, Boyd worked as a phlebotomist at Kaiser Permanente, where she became comfortable drawing blood from others, but that it was a whole different story to have a needle turned on her.

In terms of the prior incident where Boyd fell down the stairs and the 1997 lower back surgery, plaintiff's counsel argued that there were no complaints of lower back pain between 1997 and the subject 2013 automobile collision -- a "gap" of approximately 16 years. Counsel argued that the one exception was when Boyd presented with lower back pain in 2010, but that the complaint had resolved because there was no evidence to the contrary. In addition, Boyd, herself, did not have any independent recollection of the 2010 doctor visit for lower back pain. As a result, plaintiff's counsel argued that the 2013 motor vehicle accident exacerbated Boyd's prior lower back injury, that Boyd was unusually susceptible to a lower back injury from the subject type of automobile collision, as compared to someone with a perfectly healthy spine, and that -- even if there were

multiple causes for Boyd's ongoing lower back injury -- Jacob's negligence was nevertheless a substantial factor amongst them.

Result: The jury found that Jacob's negligence was a substantial factor in causing Boyd harm. Thus, it determined that Boyd's damages totaled \$111,955.

Debbie Boyd

\$11,955 Personal Injury: Past Medical Cost

\$26,400 Personal Injury: Past Pain And Suffering

\$73,600 Personal Injury: Future Pain And Suffering

Trial Information:

Judge: Nathan R. Scott

Demand: \$49,999 (C.C.P. § 998)

Offer: \$15,000 (C.C.P. § 998)

Trial Length: 4 days

**Trial
Deliberations:** 45 minutes

Jury Vote: 12-0 as to substantial factor; 12-0 as to past medical costs; 12-0 as to past pain & suffering; and 11-1 as to future pain & suffering

**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

Woman broadsided while driving through intersection

Type: Mediated Settlement

Amount: \$100,000

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *back*
- *knee*
- *neck* - strain, cervical
- *other* - epidural injections

Case Type:

- *Motor Vehicle* - Broadside
- *Agency/Apparent Agency* - Vicarious Liability

Case Name: Margaret Taylor v. E.C. Construction Co. and David White, No. GC 036642

Date: July 12, 2006

Plaintiff(s):

- Margaret Taylor (Female, 48 Years)

Plaintiff Attorney(s):

- Brian S. Nelson; Stoll Nussbaum & Polakov; Los Angeles CA for Margaret Taylor

Plaintiff Expert(s):

- Anthony G. Rodas M.D.; Internal Medicine; Los Angeles, CA called by: Brian S. Nelson

Defendant(s):

- David Wilhite
- EC Construction Co.

Defense Attorney(s):

- Ted R. Crisler; Law Offices of Linda M. Libertucci; Brea, CA for EC Construction Co., David Wilhite

Insurers: • CNA

Facts: At around 2 p.m. on Oct. 10, 2005, plaintiff Margaret Taylor, a 48 year-old cook, was driving her car in the left hand southbound lane on Mentor Ave. When Mentor approached the Colorado Blvd. intersection, her car was struck on the right side by a pickup that Dave Wilhite was driving in the right hand lane. Wilhite had turned into Taylor's lane and collided with her car at a force of 20 mph when the two vehicles crossed the Colorado Blvd. intersection.

Claiming injuries, Taylor sued Wilhite for negligent operation of a motor vehicle and his employer and owner of the van E.C. Construction for vicarious liability. It was determined that Wilhite was in the course and scope of his employment with E.C. Construction when the collision occurred.

The defendants conceded liability and the matter went forward on damages.

Injury: The day after the accident Taylor presented herself to the ER in response to pain in her chest, knees, and lower back. Taylor was diagnosed with soft tissue damage and administered epidurals, medication and prescribed physical therapy.

Plaintiff's counsel entered \$26,446 in past medical bills and \$15,000 in future medical bills for further epidural injections. Counsel also sought unspecified damages for past and future pain and suffering because Taylor continued to work and perform daily activities in pain.

Defense counsel contested the nature and extent of Taylor's injuries on the grounds that the medications and treatment were excessive and unnecessary.

Result: Following the discovery portion of the proceedings, the two parties agreed to a \$100,000 settlement before mediator Richard Kolostian.

Trial Information:

Judge: Edward Simpson, Richard Kolostian (ret.)

Editor's Comment: Counsel for the defense did not respond to a faxed copy of this report or a phone call.

Writer Joshua Couzens

Pedestrian failed to check for oncoming traffic, defense alleged

Type: Verdict-Plaintiff

Amount: \$100,000

Actual Award: \$70,000

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *leg* - fracture, leg; fracture, fibula
- *back* - fracture, vertebra; fracture, transverse process
- *neck* - fracture, vertebra; fracture, transverse process
- *brain* - traumatic brain injury
- *other* - physical therapy
- *hand/finger* - fracture, thumb
- *mental/psychological* - depression; cognition, impairment; memory, impairment

Case Type:

- *Motor Vehicle* - Pedestrian; Single Vehicle

Case Name: Yolanda Lachi Ignacio v. Marilynne Caracciolo, Robert Nicolas Caracciolo, and Does 1-50, No. BC511878

Date: May 11, 2015

Plaintiff(s):

- Yolanda Lachi Ignacio (Female, 52 Years)

Plaintiff Attorney(s):

- Philip J. Layfield; Layfield & Wallace, APC; Irvine CA for Yolanda Lachi Ignacio

Plaintiff Expert(s):

- H. Ronald Fisk M.D.; Neurology; Los Angeles, CA called by: Philip J. Layfield
- John C. Gardiner Ph.D.; Biomechanics; Laguna Hills, CA called by: Philip J. Layfield
- David J. King P.E.; Accident Reconstruction; Laguna Hills, CA called by: Philip J. Layfield
- Fardad Mobin M.D.; Neurosurgery; Los Angeles, CA called by: Philip J. Layfield

Defendant(s):

- Marilynne Caracciolo
- Robert Nicolas Caracciolo

Defense Attorney(s):

- Peter K. Diamond; Mark R. Weiner & Associates; Glendale, CA for Marilynne Caracciolo, Robert Nicolas Caracciolo

Defendant Expert(s):

- Arthur P. Kowell M.D., Ph.D.; Neurology; Encino, CA called by: for Peter K. Diamond
- Robert C. Klapper M.D.; Orthopedic Surgery; Los Angeles, CA called by: for Peter K. Diamond
- Stephen L. G. Rothman M.D.; Neuroradiology; Los Angeles, CA called by: for Peter K. Diamond

Insurers:

- State Farm Insurance Cos.

Facts:

At 8:22 a.m. on April 10, 2013, plaintiff Yolanda Ignacio, 52, a house cleaner, attempted to cross three eastbound lanes in an unmarked crosswalk on Huntington Drive in Pasadena. The third, outside, lane had no cars and the second, middle, lane was occupied by a vehicle that stopped as the driver waived Ignacio on. Ignacio then ran across lane number one without looking to see if there were any oncoming vehicles. As a result, Marilynne Caracciolo, who was driving 40 mph in lane number one, did not see Ignacio until Ignacio was crossing right in front of her vehicle. Caracciolo subsequently braked, but struck Ignacio at approximately 15 mph. Ignacio fell to the ground, and sustained injuries to her left leg, left hand, back, and head.

Ignacio sued Ms. Caracciolo and the co-owner of the vehicle, Robert Caracciolo. Ignacio alleged that Ms. Caracciolo was negligent in the operation of her vehicle and that Mr. Caracciolo was vicariously liable for Ms. Caracciolo's actions.

Mr. Caracciolo was ultimately removed as a defendant by the time of trial.

Plaintiff's counsel contended that Ms. Caracciolo should have started slowing her vehicle as soon as she saw the brake lights of the car in the lane next to her, as the driver in the second (middle) lane was stopping for Ignacio. Counsel also contended that Ms. Caracciolo was negligent for failing to avoid hitting a pedestrian.

Defense counsel argued that Ignacio was at least 50 percent liable for the accident because she did not look to see if there was any oncoming traffic prior to her running across lane number one.

Injury:

Ignacio suffered a fractured left fibula, a fractured left thumb, a fracture of the right transverse process at L4-5, and a mild traumatic brain injury. She was subsequently taken by ambulance to Huntington Hospital, in Pasadena. Ignacio underwent chiropractic treatment and, months after the accident, underwent a few physical therapy sessions.

Ignacio claimed she suffers a permanent brain injury, which results in severe depression, memory loss, and concentration and attention deficits. She alleged that her past medical bills amounted to approximately \$12,000 and that she would need a double discectomy and fusion at L5-S1 and L4-5 at a cost of \$180,000. She also alleged that she would need a cervical discectomy and fusion at C5-6 at a cost of approximately \$160,000, as well as additional physical therapy and several more MRIs of her spine and brain. In addition Ignacio alleged that she would need future psychiatric and psychological treatment for her other injuries.

Thus, plaintiff's counsel asked the jury to award Ignacio \$10,688,600 in total damages, including damages for Ignacio's past and future pain and suffering.

Defense counsel argued that Ignacio's injuries had resolved and that she would not suffer any future residual injuries from the accident. Counsel also disputed the claim that Ignacio would require future treatment.

Defense counsel noted that there was sub-rosa video of Ignacio doing things with her family members that she testified in her deposition that she could not do. Although Ignacio was absent from trial and could not be cross-examined, Judge Charles Palmer ruled that the video was relevant, but kept it out of evidence on the other grounds to which the defense objected. Thus, defense counsel suggested to the jury that the best person to clear up the inconsistencies between all of the experts was Ignacio, herself, but that she was, unfortunately, unavailable.

In addition, defense counsel suggested that if the jury were to award Ignacio damages, it should only award \$100,000, which should then be reduced based on Ignacio's comparative negligence.

Result:

The jury found Ignacio 30 percent liable and Ms. Caracciolo 70 percent liable. It also determined that Ignacio's damages totaled \$100,000. After apportionment, Ignacio should recover \$70,000.

According to plaintiff's counsel, Ignacio should also recover approximately \$45,000 in costs.

Yolanda Lachi Ignacio

\$26,040 Personal Injury: Future Medical Cost

\$50,960 Personal Injury: past non-economic damages

\$23,000 Personal Injury: future non-economic damages

Trial Information:

Judge: Charles F. Palmer

Demand: \$1,000,000 (prior to trial)

Offer: \$75,000, plus costs (prior to trial)

Trial Length: 9 days

**Trial
Deliberations:** 1.5 days

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

Passengers injured when their bus and a car collided

Type: Verdict-Mixed

Amount: \$22,017

Actual Award: \$22,017

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *knee*
- *neck* - herniated disc, cervical; herniated disc at C5-6
- *other* - back and neck
- *shoulder*

Case Type:

- *Motor Vehicle* - Bus; Rear-ender

Case Name: Christina Montiel and Juan Covarrubias v. Barbara Ames and Los Angeles County Metropolitan Transit Authority Cross-complaint: Barbara Ames v. Los Angeles County Metropolitan Transit Authority and Ted Holt Cross-complaint: Los Angeles County Metropolitan Transit Authority v. Barbara Ames, No. LC 061148

Date: July 16, 2003

Plaintiff(s):

- Juan Covarrubias (Male, 26 Years)
- Christina Montiel (Female, 45 Years)

Plaintiff Attorney(s):

- Robert S. Fink; Law Office of Robert S. Fink; Los Angeles CA for Christina Montiel
- Jeffrey Goldstein; Ye & Associates; Los Angeles CA for Juan Covarrubias

Plaintiff Expert (s):

- Hormoz Zahiri; Orthopedic Surgery; Beverly Hills, CA called by: Robert S. Fink

Defendant(s):

- Barbara Ames
- Los Angeles County Metropolitan Transit Authority

**Defense
Attorney(s):**

- Jack Sheppard; Liebman, Quigley, Sheppard & Soulema; Los Angeles, CA for Los Angeles County Metropolitan Transit Authority
- Philip C. Bloeser; Bollington, Stilz, Bloeser & Curry; Woodland Hills, CA for Barbara Ames

**Defendant
Expert(s):**

- Alan Keith Miller; Accident Reconstruction; Pasadena, CA called by: for Philip C. Bloeser
- Clive Segil; Orthopedic Surgery; Century City, CA called by: for Jack Sheppard
- Martin Levine; Neurology; Encino, CA called by: for Philip C. Bloeser
- Timothy Reust; Accident Reconstruction; Valencia, CA called by: for Jack Sheppard

Insurers:

- 21st Century Insurance Co.
- Self-insured (represented by Hertz Claims Management)

Facts:

On June 29, 2000, at approximately 11 a.m., plaintiff Juan Covarrubias, a 26-year-old day laborer, and plaintiff Christina Montiel, a 45-year-old telemarketing sales assistant, were passengers on a Los Angeles County Metropolitan Transit Authority (LACMTA) bus that was being driven by Ted Holt. The bus was traveling westbound in the number three lane of Roscoe Boulevard in Northridge. As this same time, Barbara Ames was driving her 1996 Mercury Sable station wagon westbound in the number two lane of Roscoe alongside the bus. As both vehicles neared the intersection of Roscoe and Etiwanda Avenue, a collision occurred between the two vehicles. There were no independent witnesses to how the first impact occurred and there was no investigation by the Los Angeles Police Department. Covarrubias and Montiel sued the LACMTA and Ames alleging vehicular negligence. Ames and LACMTA then filed cross-complaints against each other.

Montiel contended that both of the defendants were negligent in the operation of their respective vehicles and caused her injuries.

Ames contended that the LACMTA bus initiated a lane change into her No. 2 lane while she was directly alongside the bus, causing a collision to the right front of her car, which pushed her car toward traffic in the lane to her left. Ames claimed that she reacted by swerving right, by which time she was slightly ahead of the bus. Her swerving carried her into the number three (to which the bus returned). As she braked, she was rear-ended by the bus before she stopped in the number three lane.

Ames' station wagon sustained damage to the right front headlight and right front fender area. After reviewing photographs of Ames' vehicle that were taken before repairs were made, reconstruction expert, Keith Miller, testified that the damage to the right front of Ames' car looked like it was caused by the left front tire of the bus, which he inspected two years later. He testified that this could only have happened if the left front tire was turned left during impact so as to be projecting beyond the wheel well, which was consistent with Ames' account that the bus caused the accident by initiating an unsafe lane change.

The driver of the LACMTA bus, Ted Holt, told the LACMTA personnel who investigated the accident, and also testified, that the accident occurred when Ames attempted a quick lane change from the number two lane into the number three lane ahead of the bus. Due to a combination of speed and unsafe steering, Ames lost control of her vehicle, which spun clockwise into the number three lane so that the car was almost facing head-on to the bus when the initial impact occurred. This impact then pushed the Ames vehicle into a counterclockwise spin, which put the car back into a westbound orientation before the second impact to the rear of her car occurred. Holt denied making or attempting any lane change. LACMTA's accident reconstruction expert, Timothy Reust, testified that the photos of damage to the Ames' car matched the components of the front bumper, proving that she had spun out in front of the bus before the first impact.

Injury: Montiel was transported by ambulance to Northridge Hospital where she was evaluated for neck, back, left shoulder and left knee pain. She was diagnosed with neck and back strains/sprains and was given a neck collar. She started chiropractic therapy two weeks later, but had no real improvement with her neck pain when she stopped seeing the chiropractor after seven weeks of treatment. She began treating with an orthopedic surgeon, Hormoz Zahiri, four months after the accident. A cervical MRI was done, which revealed a 3-4mm disc herniation at C5-6, for which surgery was advised as the "treatment of choice" at a total cost of between \$35,000 to \$45,000. After her re-examination just before trial, Montiel claimed that she still needed the surgery and also a carpal tunnel surgery costing \$15,000 to \$18,000. She also claimed \$7,017 in past medical expenses

The defense medical experts said that these surgeries were unnecessary and that Montiel exhibited embellishment of her complaints during the defense medical exams conducted by each of the two defense doctors.

On their respective cross-complaints, LACMTA claimed \$498 in damages to the bus bike rack and Ames claimed \$3,580 in damages to her Mercury Sable.

Result: Prior to trial, Covarrubias settled his claim for a total of \$5,500 with both defendants. On the complaint, the jury found in favor of Montiel and awarded her \$22,017 against LACMTA only. Ames received a defense verdict.

On the cross-complaints, the jury found in favor of Ames and awarded her \$3,850 against LACMTA and Holt.

Juan Covarrubias

\$5,500 Personal Injury: settlement

Christina Montiel

\$7,017 Personal Injury: economic damages

\$15,000 Personal Injury: noneconomic damages

Trial Information:

Judge: Stanley M. Weisberg

Demand: \$50,000 to both defendants, reduced to \$25,000 before trial

Offer: \$10,000 from LACMTA; Waiver of costs in return for a dismissal from Ames

Trial Length: 8 days

**Trial
Deliberations:** 1.5 days

Jury Vote: 10-2 on liability; 11-1 on damages

**Jury
Composition:** 7 female, 5 male (2 Hispanic, 1 Asian, 8 white)

Post Trial: The judgment has been paid.

**Editor's
Comment:** Counsel for the plaintiffs and LACMTA did not contribute to this report.

Writer Randy Stewart

Defense disputed pedestrian's alleged injuries following accident

Type: Verdict-Plaintiff

Amount: \$15,279

Actual Award: \$7,487

State: California

Venue: San Diego County

Court: Superior Court of San Diego County, San Diego, CA

Injury Type(s):

- *back* - fracture, back; fracture, L2; fracture, back; fracture, L3; fracture, back; fracture, L4; fracture, vertebra; fracture, L2; fracture, vertebra; fracture, L3; fracture, vertebra; fracture, L4; fracture, vertebra; fracture, transverse process; disc protrusion, lumbar
- *head* - closed head injury
- *neck* - fracture, vertebra; fracture, transverse process
- *other* - abrasions; chiropractic; epidural injections
- *neurological* - radicular pain / radiculitis

Case Type:

- *Motor Vehicle* - Cell Phone; Pedestrian

Case Name: Lateisha Richard v. John Bayes Anderson and Sarah Lowry, No. 37-2017-00001201-CU-PA-CTL

Date: April 05, 2018

Plaintiff(s):

- Lateisha Richard (Female, 41 Years)

Plaintiff Attorney(s):

- Christopher K. Monelt; Law Firm of Christopher K Monelt; San Diego CA for Lateisha Richard

Plaintiff Expert (s):

- Ronald B. Brizzie D.O.; Pain Management; Oceanside, CA called by: Christopher K. Monelt

Defendant(s):

- Sarah Anderson
- John Bayes Anderson

Defense Attorney(s):

- Craig A. Humphrey; Ford, Walker, Haggerty & Behar, LLP; Long Beach, CA for John Bayes Anderson, Sarah Anderson
- Andrew B. Leal; Ford, Walker, Haggerty & Behar, LLP; Long Beach, CA for John Bayes Anderson, Sarah Anderson

Defendant Expert(s):

- John Lieu M.D.; Radiology; Newport Beach, CA called by: for Craig A. Humphrey, Andrew B. Leal
- Jean-Jacques Abitbol M.D.; Orthopedic Surgery; El Centro, CA called by: for Craig A. Humphrey, Andrew B. Leal

Insurers:

- American Automobile Association

Facts:

On Sept. 27, 2016, plaintiff Lateisha Richard, a 41-year-old unemployed woman, was walking diagonally across Market Street, between 21st and 20th streets, in San Diego. She was struck by a vehicle operated by John Anderson. Richard was hit by the left side of the vehicle, near the front headlight, causing her to go up onto the hood and strike her head against the windshield. Her body was then thrown forward and came to rest within the left turn lane, close to the front of Anderson's vehicle. Richard claimed injuries to her head, back, left arm, and right leg and ankle.

Richard sued Anderson and the alleged owner of the vehicle, Sarah Anderson. Richard alleged that Mr. Anderson was negligent in the operation of the vehicle and that Ms. Anderson was vicariously liable for Mr. Anderson's actions.

It was ultimately determined that Ms. Anderson was not a registered owner of the vehicle, so she was dismissed at the beginning of trial.

Plaintiff's counsel argued that Mr. Anderson was inattentive, as he was using the GPS visual display, instead of the spoken directions, on his hands-free cell phone that he had attached by magnet to his vehicle's air vent.

Defense counsel argued that Richard was inattentive and distracted as she crossed Market Street in a diagonal fashion, outside of a marked crosswalk, while talking on her cell phone.

Injury:

Richard sustained fractures of the right transverse processes at L2, L3 and L4, and abrasions to the left side of her face and arm. She also claimed she sustained protruding lumbar discs at L4-5 and L5-S1. Richard was taken to an emergency room and diagnosed with a closed head injury, despite a Glasgow coma scale of 15. She then saw her treating pain management specialist, who performed four epidural injections to Richard's lumbar spine. Richard also treated with a chiropractor on four occasions.

The plaintiff's treating physician testified that Richard's post-accident MRI showed that she had sustained lumbar disc protrusions from the collision and that he used the epidural injections to treat Richard's lumbar fractures and disc protrusions.

Richard claimed that she continued to experience residual pain in her back with radicular pain into her right leg and ankle. She alleged that her continued, radiating pain impacted her activities of daily living and her relationship with her grandchildren.

Richard sought recovery of past medical costs, but was unable to establish the reasonable value of her treatment from her treating pain management physician or her treating chiropractor. However, the parties stipulated that the reasonable value of the ambulance and E.R. visit was approximately \$10,000. Richard also sought recovery of future medical costs and damages for her past and future pain and suffering.

The defense's orthopedic surgery expert testified that spinal fractures are not treated with epidural injections. However, the expert opined that after Richard's spinal fractures healed, it would be reasonable for her to undergo 24 chiropractic visits or physical therapy sessions with a cost of around \$3,000. He also opined that Richard would not require any future medical care.

The defense's radiology expert examined Richard's 2014 CT scan of her abdomen and pelvis, and opined that Richard had bulging lumbar discs at the L4-5 and L5-S1 levels. The expert also performed a side-by-side comparison of the pre-incident abdomen/pelvis CT scan and the post-incident lumbar MRI, and opined that the lumbar disc bulges were smaller post-incident in comparison to pre-incident. The expert radiologist further opined that there was no nerve root impingement that would correlate with Richard's complaints of radicular symptoms.

Result:

The jury found that Anderson was negligent and that his negligence was a substantial factor in causing Richard harm. It also found that Richard was negligent and that her negligence was a substantial factor in causing her own harm. The jury apportioned 49 percent fault to Anderson and 51 percent fault to Richard. It also determined that Richard's damages totaled \$15,279.12.

After apportionment, Richard's recovery would total \$7,486.77.

Lateisha Richard

\$10,779 Personal Injury: Past Medical Cost

\$3,000 Personal Injury: Future Medical Cost

\$1,500 Personal Injury: Past Pain And Suffering

Trial Information:

Judge: John S. Meyer

Demand: insurance coverage's limit (C.C.P. § 998)

Offer: \$45,001 (C.C.P. § 998)

Trial Length: 4 days

Post Trial: Since Richard did not beat the defense's C.C.P. § 998 offer, the defense was awarded \$35,996.20 in costs.

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

Parties disputed location of vehicles prior to crash

Type: Settlement

Amount: \$13,000

State: California

Venue: Los Angeles County

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

Injury Type(s): • *other* - soft tissue; chiropractic; back and neck; physical therapy

Case Type: • *Motor Vehicle* - Left Turn; Passenger; Center Line; Parking Lot; Intersection

Case Name: Keven Assadourian and Hailey Adorian, a minor plaintiff v. Mansour Eben / Mansour Eben v. Nicholas Morgan, No. BC427146

Date: December 13, 2011

Plaintiff(s): • Hailey Adorian (Female, 1 Years)
• Keven Assadourian (Male, 37 Years)

Plaintiff Attorney(s): • Mason Rashtian; The Mason Law Firm; Valencia CA for Keven Assadourian, Hailey Adorian

Defendant(s): • Mansour Eben

Defense Attorney(s): • Stephen D. Enerle; Gilsleider & Enerle; Sherman Oaks, CA for Mansour Eben
• Michelle DeMaio; Gilsleider & Enerle; Sherman Oaks, CA for Mansour Eben

Defendant Expert(s): • Michael K. Akerson P.E.; Accident Reconstruction; Los Angeles, CA called by: for Stephen D. Enerle

Insurers: • Progressive Casualty Insurance Co.

Facts:

On June 9, 2008, plaintiffs Keven Assadourian, 37, a disc jockey, and his daughter, Hailey Adorian, 1, were passengers in a vehicle operated by Nicholas Morgan, traveling north on La Cienega Boulevard in Los Angeles. Assadourian was a front-seat passenger, while Hailey was in a baby seat in the backseat. At approximately 3 p.m., Morgan attempted a left turn into a parking lot for a Carl's Jr. restaurant, when he was struck on the driver's side by a vehicle operated by Mansour Eben. Assadourian claimed injuries to his neck and back.

Assadourian, individually and as guardian of Hailey, sued Eben. He alleged the defendant was negligent in the operation of his vehicle.

Eben filed a cross-claim against Morgan. He alleged that Morgan was negligent in the operation of his vehicle.

Hailey's case against Eben was settled prior to the liability phase of trial.

Assadourian claimed Morgan was driving in the far left lane of northbound La Cienega Boulevard, when Eben, coming from behind, crossed over into the southbound lane of traffic in an attempt to cut Morgan off just as Morgan attempted to turn left into the Carl's Jr. parking lot. Thus, he claimed that Eben caused the accident by crossing into the center line in attempt to cut off Morgan's vehicle.

Eben claimed that he was in the far left lane when Morgan attempted to cut him off from the turning lane to his right. He claimed that this caused him to strike Morgan's vehicle. Eben's counsel presented the testimony of the responding officer from the Los Angeles Police Department, who claimed that Morgan was 100 percent at fault for the accident.

Morgan did not appear at trial, and a default judgment was entered against him.

Injury:

The trial was bifurcated. Damages were not before the court.

Assadourian and Hailey went to an emergency room the day after the accident.

Hailey was examined, but did not suffer any physical injuries.

Assadourian claimed soft-tissue injuries to his neck and back, for which he followed up with a few months of chiropractic care and physical therapy.

Assadourian claimed his injuries have resolved, but that he was restricted from motorcycle and dirt bike riding during his recovery. Thus, he sought recovery of damages for his past medical costs, and pain and suffering.

Defense counsel would have argued that Assadourian's treatment was excessive for his minor soft-tissue injuries.

Result:

The jury found Eben 55 percent at fault for the accident and Morgan 45 percent at fault. Before a trial on damages, Eben settled with Assadourian for \$13,000.

Trial Information:

Judge: Mel Red Recana

Trial Length: 3 days

**Trial
Deliberations:** 3 hours

Jury Vote: 11-1

**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 Dan Israeli

Narc agent doing surveillance was at fault for collision: plaintiff

Type: Verdict-Plaintiff

Amount: \$10,456

Actual Award: \$8,364

State: California

Venue: Los Angeles County

Court: Superior Court of Los Angeles County, CA

Injury Type(s):

- *back* - facet syndrome
- *neck* - facet syndrome
- *other* - rhizotomy; soft tissue

Case Type:

- *Motor Vehicle* - Intersection
- *Government* - Police
- *Negligence* - Police as Defendant

Case Name: Gracielo Merida v. Clint Lane Olsem, an individual, and the State of California, No. LC068376

Date: November 07, 2005

Plaintiff(s):

- Gracielo Merida (Female, 48 Years)

Plaintiff Attorney(s):

- Denise E. Wright; Law Offices of Denise E. Wright; Los Angeles CA for Gracielo Merida

Plaintiff Expert(s):

- Isaac Schmidt; Neurology; Los Angeles, CA called by: Denise E. Wright
- Lloyd Martin; Accident Reconstruction; La Verne, CA called by: Denise E. Wright
- Robert Peterson; Economics; Palm Desert, CA called by: Denise E. Wright

Defendant(s):

- Clint Lane Olsem
- State of California

**Defense
Attorney(s):**

- Nancy G. James; Deputy Attorney General; Los Angeles, CA for State of California
- Pamela Thatcher; Law Office of Pamela Thatcher; Hemet, CA for Clint Lane Olsem

**Defendant
Expert(s):**

- David J. King P.E.; Forensic Engineering; Los Angeles, CA called by: for Nancy G. James
- Robert J. Shorr; Neurology; Tarzana, CA called by: for Nancy G. James

Facts:

Shortly after 9 p.m. on May 20, 2003, plaintiff Gracielo Merida, a 45-year-old nanny, was driving eastbound at 40 mph on Parthenia Street in the San Fernando Valley. Clint Olsem, an agent with the state's Bureau of Narcotics Enforcement, was working undercover and was conducting surveillance of a suspect proceeding northbound on Woodley Avenue, approaching Parthenia Street. The suspect crossed Parthenia, but Olsem caught a red light, so he turned right onto Parthenia, intending to turn around and catch up with the suspect that way. Just after turning, however,

Claiming injuries, Merida sued Olsem and the state, but dismissed Olsem before trial. Plaintiff counsel contended that Olsem pulled in front of her as she went through the intersection. She acknowledged seeing Olsem's vehicle at the stoplight, but didn't diminish her speed because she had the green light.

Defense counsel argued Merida was at fault because she wasn't alert and because she failed to slow down. Defense counsel noted that a witness, who had been trailing Merida, testified that he saw her driving recklessly, twice crossing over the double-yellow line to pass other vehicles before the accident.

Injury:

Merida was taken to the emergency room, and was diagnosed with soft-tissue contusions in her back and neck. She underwent chiropractic care for three months, while simultaneously undergoing physical therapy from a general physician. She made one visit to another doctor, who ordered an MRI, however she never returned to that doctor or got the MRI results. After a full year with no medical care related to the accident, plaintiff consulted Dr. Isaac Schmidt for back pain. He diagnosed facet syndrome, an irritation of spinal joints, and ordered a facet block and a rhizotomy.

Plaintiff claimed \$40,000 in past medical bills, and \$53,000 in future medical damages for a second facet block and rhizotomy and a spinal fusion. Plaintiff claimed she lost two her job and sought \$20,000 in past lost wages and \$490,000 in future wage loss. She also sought at least \$500,000 in noneconomic damages, for a total award of about \$1.1 million.

Defense counsel noted that although Merida testified to \$40,000 in past medical bills, she also testified that she never saw any medical bills and never paid any medical bills.

Defense counsel also noted that Schmidt at trial contradicted his deposition testimony that there was a 50-50 chance of the need for future surgery. Instead, he testified that the decision would be "patient-driven." Counsel also noted that the plaintiff's former employer testified that her injuries appeared to resolve within a few months after the accident, and that she was fired for reasons unrelated to the accident or injuries.

Result: The jury found the the state was 80% at fault and the plaintiff was 20% at fault. It found \$10,456 in damages, for a net award of \$8,364.

Gracielo Merida

\$456 Personal Injury: Past Medical Cost

\$10,000 Personal Injury: Past Pain And Suffering

Trial Information:

Judge: Richard A. Adler

Demand: \$600,000

Offer: \$25,000

Trial Length: 5 days

**Trial
Deliberations:** 4 hours

Post Trial: The defense had filed a memorandum of costs for around \$24,000

**Editor's
Comment:** Plaintiff's counsel did not respond to a faxed draft of this report and a phone call.

Writer Andrew Ragsly

Plaintiff blamed injuries on car crash, chiropractic treatment

Type: Verdict-Mixed

Amount: \$7,680

State: California

Venue: Orange County

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

Injury Type(s):

- *back* - strain, lumbar
- *neck* - strain, cervical
- *neurological* - radicular pain / radiculitis
- *surgeries/treatment* - discectomy

Case Type:

- *Motor Vehicle* - Rear-ender; Lane Change
- *Medical Malpractice* - Chiropractor; Negligent Treatment

Case Name: Dori Cottrill v. Vuong Van Bui and Alfred W. Tomp, D.C., No. 07CC11132

Date: October 27, 2009

Plaintiff(s):

- Dori Cottrill (Female, 48 Years)

Plaintiff Attorney(s):

- Christopher E. Purcell; Law Offices of Christopher E. Purcell; Irvine CA for Dori Cottrill

Plaintiff Expert(s):

- Jeffrey D. Gross M.D.; Neurosurgery; Laguna Niguel, CA called by: Christopher E. Purcell
- Michael Freeman Ph.D., D.C., M.P.H.; Chiropractic; Salem, OR called by: Christopher E. Purcell

Defendant(s):

- Vuong Van Bui
- Alfred W. Tomp, D.C.

**Defense
Attorney(s):**

- Richard D. Carroll; Carroll, Kelly, Trotter, Franzen & McKenna; Long Beach, CA for Alfred W. Tomp, D.C.
- Betsey J. Jeffrey; Law Offices of Betsey J. Jeffrey; Newport Beach, CA for Alfred W. Tomp, D.C.
- Bruce L. Schechter; Hollins o Schechter; Santa Ana, CA for Vuong Van Bui
- Steven C. Robinson; Hollins o Schechter; Santa Ana, CA for Vuong Van Bui
- John D. Perkins; Hollins o Schechter; Santa Ana, CA for Vuong Van Bui

**Defendant
Expert(s):**

- Howard Tung M.D.; Neurosurgery; San Diego, CA called by: for Richard D. Carroll, Betsey J. Jeffrey, Bruce L. Schechter, Steven C. Robinson, John D. Perkins
- Thomas Forest D.C.; Chiropractic; Pleasanton, CA called by: for Richard D. Carroll, Betsey J. Jeffrey

Insurers:

- Farmers Insurance Co.
- Unknown

Facts:

On Nov. 16, 2005, plaintiff Dori Cottrill, 48, unemployed at the time, was driving in the first southbound lane of Antonio Parkway in Mission Viejo, when she struck the left rear panel of a vehicle operated by Vuong Van Bui. Reportedly, Bui was negotiating a right-hand turn from a driveway and was attempting to merge into the first southbound lane of Antonio Parkway, crossing several lanes of traffic in front of Cottrill's vehicle.

After the accident, Cottrill complained of first-time-ever pain running down her arms, and she quickly discontinued physical therapy, saying that it was too painful.

On June 11, 2007, Cottrill received a chiropractic adjustment from chiropractor Alfred W. Tomp for severe pain in her neck. Immediately, she claimed that the pain increased and she developed radicular pain that ultimately necessitated a right C6-7 paramedian microsurgical discectomy fewer than 10 days later. She had seen Tomp for chiropractic care to her back every year from 1996 up through March 11, 2005, when she was injured in a minor golf cart incident. She treated three times for neck complaints after the golf cart accident. She claimed that the severe neck pain she later experienced was the result of the accident with Bui, but was worsened by Tomp's treatment.

Cottrill sued Bui and Tomp. Against Bui, she alleged negligence in the operation of a motor vehicle, asserting that he was attempting to cross traffic illegally. Against Tomp, she alleged medical malpractice related to the June 2007 treatment. The plaintiff asserted that her need for surgery in June 2007 was in part caused by Tomp's negligent treatment and in part by the crash with Bui.

Bui admitted liability for the accident, but the defense disputed that the injuries were related to it or the chiropractic treatment.

Injury:	<p>Cottrill alleged lumbar, cervical and radicular pain that ultimately necessitated a right C6-7 paramedian microsurgical discectomy. She attended three physical-therapy sessions in the week following the accident.</p> <p>Cottrill alleged ongoing, severe pain and limitations. This is significant because after the accident she became a golf teacher. Her vehicle was totaled.</p> <p>The plaintiff orthopedic surgery expert opined that Cottrill would benefit from a second surgery in the form of an anterior decompression and stabilization of her spine from the C-3 to C-7 levels. However, Cottrill reported that she can't afford the surgery.</p> <p>The plaintiff sought damages for medical costs, lost wages and loss of earning capacity stemming from her involvement as a golfing instructor and pain and suffering.</p> <p>The defense contended that life experiences and the golf cart accident had caused Cottrill's neck pain and her need for surgery.</p> <p>The defense argued that after the first week of therapy, her range of motion had returned to 90 percent or more, and that she received no further treatment related to the automobile accident. The lawyers further contended that -- after the automobile accident and before Tomp's treatment in June 2007 -- Cottrill became a PGA teaching golf pro. She continued to golf on a regular basis and did not have any complaints to any healthcare provider after Dec. 1, 2005 (and through when she saw Tomp in June 2007). The defense insisted that any pain was related to golf.</p>
Result:	<p>The jury found against Bui, determining that the plaintiff's damages totaled \$7,680 for the period before Tomp's treatment, only.</p> <p>The jury found that the auto collision had no role in the surgery.</p> <p>In the claim against Tomp, the jury found for the defendant, determining that Tomp breached the standard of care, but that Cottrill would have required surgery anyway.</p>
Trial Information:	
Judge:	James D. Cesare
Offer:	\$8,254 (Bui, CCP 998); Waiver of costs (Tomp, CCP 998)
Trial Length:	6 days
Post Trial:	Bui was awarded \$37,647.17 in costs. Tomp was awarded \$47,882.36 in costs.
Editor's Comment:	This report is based on information provided by plaintiff's counsel and defense counsel for Bui.

Writer

Kristen Brown

Motorist overcorrected and lost control, causing crash: defense

Type: Verdict-Defendant

Amount: \$0

State: California

Venue: San Bernardino County

Court: Superior Court of San Bernardino County, San Bernardino, CA

Injury Type(s):

- *arm* - fracture, arm
- *head*
- *other* - soft tissue; back and neck; loss of consortium; decreased range of motion; scar and/or disfigurement
- *epidermis* - degloving
- *hand/finger* - hand; finger; mallet finger; hand, deformity
- *sensory/speech* - vision, impairment

Case Type:

- *Motor Vehicle* - Rollover; Lane Change; Multiple Vehicle

Case Name: Sarah Hector and Brandon Hector v. Michael J. Lewin, Claudia Higareda, Raul Chavarria, Mirau, Edwards, Cannon, Lewin & Tooke and Mirau, Edwards, Cannon, Lewin & Tooke APC, No. CIVDS1209836

Date: September 10, 2014

Plaintiff(s):

- Sarah Hector (Female, 40 Years)
- Brandon Hector (Male, 40 Years)

Plaintiff Attorney(s):

- Douglas F. Welebir; Welebir Tierney & Weck APLC; Redlands CA for Sarah Hector, Brandon Hector
- Justin S. Kim; Welebir Tierney & Weck APLC; Redlands CA for Sarah Hector, Brandon Hector

Defendant(s):

- Raul Chavarria
- Claudia Higareda
- Michael J. Lewin
- Mirau, Edwards, Cannon, Lewin & Tooke
- Mirau, Edwards, Cannon, Lewin & Tooke APC

Defense Attorney(s):

- Richard S. Gower; Inglis, Gower & Warriner, LLP; Los Angeles, CA for Michael J. Lewin
- Nancy J. DePasquale; Willis | DePasquale, LLP; Orange, CA for Mirau, Edwards, Cannon, Lewin & Tooke, Mirau, Edwards, Cannon, Lewin & Tooke APC
- None reported; Los Angeles, CA for Claudia Higareda, Raul Chavarria

Insurers:

- CNA
- American Automobile Association

Facts:

On Nov. 30, 2011, plaintiff Sarah Hector, a business owner in her 40s, was a passenger in vehicle operated by her husband, plaintiff Brandon Hector, also a business owner in his 40s, traveling on eastbound Interstate 10, also known as the Christopher Columbus Transcontinental Highway or the San Bernardino Freeway, in San Bernardino. When they were near the merge for northbound Interstate 215, also known as the Riverside Freeway, when they were struck by a Chevrolet Tahoe operated by Claudia Higareda, who lost control of her vehicle while traveling on eastbound I-10 and crossed over four lanes of traffic. The impact caused the Hectors' vehicle to roll over three times.

Higareda claimed that prior to losing control of her vehicle, she encountered a vehicle operated by Michael Lewin, who was merging onto eastbound I-10 from the I-215. She claimed that although there never any contact with Lewin's vehicle, the encounter caused her to lose control of her vehicle, cross over four lanes of traffic, and collide with the Hector vehicle. Mr. Hector claimed soft tissue injuries to his neck and back, and Ms. Hector claimed injuries to her head, face, and right arm and hand.

The Hectors sued Lewin; Lewin's employer, Mirau, Edwards, Cannon, Lewin & Tooke APC; Higareda; and the registered owner of Higareda's vehicle, Higareda's uncle, Raul Chavarria. The Hectors alleged that Lewin and Higareda were negligent in the operation of their respective vehicles. They also alleged that Lewin's employer was vicariously liable for Lewin's actions while in the course and scope of his employment and that Chavarria was vicariously liable for Higareda's actions.

Higareda ultimately settled out of the case by agreeing to tender her policy limits and Chavarria was dismissed from the case. "Mirau, Edwards, Cannon, Lewin & Tooke" (without the "APC") was also listed as a defendant, but it was taken out of the case after it was determined to be a duplicative defendant. Thus, the matter continued against Lewin and Mirau, Edwards, Cannon, Lewin & Tooke APC only.

Plaintiffs' counsel argued that Lewin was negligent for attempting to change lanes from the number five (right slowest) lane into Higareda's lane, the number four lane, causing Higareda to lose control of her vehicle. Counsel also argued that Lewin was in the course and scope of his employment at the time of the incident.

Plaintiffs' counsel moved for a directed verdict on the matter of Lewin being in the course

and scope of his job at the time of the incident. However, Judge Brian McCarville denied plaintiffs' counsel's motion, ruling that it was a question for the jury to decide.

Lewin's defense counsel contended that Higareda was operating a new vehicle, was not familiar with the area, and merged from the number two lane into the number three lane before merging into the number four lane. Thus, counsel argued that Higareda panicked and overcorrected her vehicle, causing her to lose control of it.

Lewin claimed he merged from the number five lane into the number four lane when he saw Higareda's vehicle approaching and also merge into the number four lane, just after he did. He alleged that as a result, he changed back into the number five lane. Both Lewin and his employer claimed that Higareda did not see Lewin's vehicle until she started to change lanes and then she spun out of control. They contended that Higareda swerved left into the number three lane, and then swerved right back into the number four lane and somewhat into the number five lane, causing her to lose control. They further contended that Higareda then swerved out of control to the left across the freeway and struck the Hectors' vehicle in the number one lane.

Defense counsel for Lewin and his employer noted that the Hectors' previously claimed that Higareda was traveling much faster than their speed of 65 to 70 mph. Counsel argued that as a result, Lewin managed to avoid Higareda by changing lanes and that Higareda negligently jerked her vehicle out of control. In addition, defense counsel for Lewin's employer argued that Lewin was not in the course and scope of his employment at the time of the incident.

In response, plaintiffs' counsel noted that Higareda claimed that she was going 60 mph at the time of the incident and that Higareda denied ever changing or attempting to change lanes. Counsel also asserted that Lewin had several different versions of what happened. Plaintiffs' counsel contended that the California Highway Patrol officer who responded to the scene testified that Lewin reported to him at the scene that he had attempted to change lanes from the number five lane to number four lane and that as he changed lanes, he saw the vehicle driven by Higareda in the number four lane. However, counsel contended that at trial, Lewin testified that was in the number four lane when he saw Higareda approaching, so he attempted to get back into the number five lane.

Injury:

Emergency responders came to the scene of the accident and removed the Hectors from their vehicle. The Hectors were then transported by ambulance to a hospital.

Ms. Hector sustained a degloving injury to her scalp, a fractured cervical vertebra in her neck, and fractures of her right, dominant arm and hand. She also claimed numbness around her left eye and optic nerve damage, resulting in peripheral vision impairment in her left eye.

Ms. Hector underwent multiple surgeries, but she was left with scars on her forehead and scalp. The scalp scar is at the hairline and is not covered by her hair unless she wears it with bangs. She also claimed that the fractures to her left hand resulted in a mallet deformity of two fingers, and residual weakness and loss of mobility to her right hand. She further claimed that her peripheral vision problems are permanent.

Ms. Hector alleged that she can no longer bowl as a result of her injuries, but that she still attends charity bowling league functions. She also alleged that she used to play on a softball league, but that she does not think she could continue to do so.

Mr. Hector sustained soft tissue injuries to his neck and back. He had no treatment beyond his initial visit to the hospital and had no medical claims at trial. Instead, he sought recovery for his loss of consortium.

Thus, plaintiffs' counsel asked the jury to award the plaintiffs \$2.2 million, including approximately \$64,000 for Ms. Hector's past medical costs.

Defense counsel noted that Ms. Hector's visual acuity is fine and that she can still drive and has no restrictions for her vision. However, counsel acknowledged that it is hard for Ms. Hector to see peripherally and that she reports blurriness.

Defense counsel contended that Ms. Hector has no limitation in her daily activities and that Ms. Hector has returned to an active lifestyle, which includes traveling, family visits to theme parks, and running her business and charity events. Counsel also contended that Ms. Hector, who ran a visiting, non-medical care service for homebound individuals, is active in the San Bernardino business community and recently received an award from the community for being a Woman of Distinction. In addition, defense counsel contended that Ms. Hector's business, which she founded and where she works with her husband, continues to flourish.

Result:

The jury rendered a defense verdict. It found that Lewin was not negligent. Accordingly, the question of whether Lewin was in the course and scope of his employment was never addressed.

Trial Information:**Judge:**

Brian S. McCarville

Demand:

\$1,500,000

Offer: \$350,000 from Lewin

Trial Length: 6 days

**Trial
Deliberations:** 10 minutes

Jury Vote: 11-1

Post Trial: Plaintiff's counsel moved for new trial. A hearing was scheduled for Nov. 19, 2014. The motion was taken under submission and on Nov. 25, 2014, McCarville denied the motion.

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

Writer Priya Idiculla