



## Plaintiff claimed crash with tractor rig caused severe injuries

**Type:** Verdict-Plaintiff

**Amount:** \$911,401

**State:** Texas

**Venue:** Tarrant County

**Court:** Tarrant County District Court, 348th, TX

**Injury Type(s):**

- *leg*
- *back* - annular tear; herniated disc, lumbar; herniated disc at L5-S1; disc protrusion, lumbar
- *neck* - annular tear; herniated disc, cervical; herniated disc at C3-4; herniated disc, cervical; herniated disc at C4-5; herniated disc, cervical; herniated disc at C5-6; herniated disc, cervical; herniated disc at C6-7
- *other* - abrasions; chiropractic; steroid injection; epidural injections; lumbar facet injury
- *epidermis* - numbness
- *neurological* - radicular pain / radiculitis

**Case Type:**

- *Gross Negligence*
- *Motor Vehicle* - Truck; Lane Change; Multiple Impact; Multiple Vehicle
- *Transportation* - Trucking
- *Worker/Workplace Negligence* - Negligent Hiring; Negligent Maintenance

**Case Name:** San Xay Ly v. Kenneth McCoy, Jr.; Delphine Foster, Individually and d/b/a Twin Logistics; Charlene Arnold, Individually and d/b/a Twin Logistics; and Saia Motor Freight Line, LLC, No. 348-306290-19

**Date:** August 31, 2022

**Plaintiff(s):**

- San Xay Ly, (Male, 36 Years)

**Plaintiff Attorney(s):**

- Victor R. Rodriguez; Witherite Law Group; Fort Worth TX for San Xay Ly
- Shelly T. Greco; Witherite Law Group; Dallas TX for San Xay Ly
- Jibraeel Zaidi; Witherite Law Group; Dallas TX for San Xay Ly

**Plaintiff Expert(s):**

- Sara A. Ford; Economics; Louisville, KY called by: Victor R. Rodriguez, Shelly T. Greco, Jibraeel Zaidi
- Laura Lampton R.N.; Life Care Planning; Louisville, KY called by: Victor R. Rodriguez, Shelly T. Greco, Jibraeel Zaidi
- Roger Allen; Trucking Industry; Friendswood, TX called by: Victor R. Rodriguez, Shelly T. Greco, Jibraeel Zaidi
- Elijah Hothem M.D.; Orthopedic Surgery; Lewisville, TX called by: Victor R. Rodriguez, Shelly T. Greco, Jibraeel Zaidi

**Defendant(s):**

- Charlene Arnold
- Delphine Foster
- Kenneth McCoy Jr.
- Saia Motor Freight Line LLC

**Defense Attorney(s):**

- Mark J. Dyer; Martin Disiere Jefferson & Wisdom; Dallas, TX for Kenneth McCoy Jr., Delphine Foster, Charlene Arnold
- Michael Worthington; Martin Disiere Jefferson & Wisdom; Dallas, TX for Kenneth McCoy Jr., Delphine Foster, Charlene Arnold

**Defendant Expert(s):**

- Dillon Snowden Ph.D.; Vocational Rehabilitation; Fort Worth, TX called by: for Mark J. Dyer, Michael Worthington
- Vishal Patel M.D.; Orthopedic Surgery; Dallas, TX called by: for Mark J. Dyer, Michael Worthington

**Insurers:**

- National Indemnity

**Facts:**

On Nov. 27, 2017, plaintiff San Xay Ly, 36, an information technology specialist, was driving on a state highway in Grapevine. Kenneth McCoy Jr., in a tractor rig, left his lane and struck the side of Ly's vehicle. Ly's vehicle fishtailed, and the tractor pushed it perpendicularly down the highway. When McCoy braked, Ly's vehicle separated from the tractor and struck the concrete barrier on the left side of the highway. Ly claimed he suffered injuries of his neck, back and throat.

McCoy was in the course and scope of his employment with Delphine Foster and her sister Charlene Arnold, both doing business as Twin Logistics. He had worked for them for about a week.

Ly sued McCoy, as well as Foster and Arnold individually and in their assumed name. The lawsuit alleged that McCoy was negligent in the operation of the tractor. It alleged that Foster and Arnold were liable under respondeat superior and for negligence and gross negligence in their hiring of McCoy and maintenance of the tractor. Ly also sued alleged tractor owner Saia Motor Freight Line LLC, but he nonsuited Saia early in the case after determining that it did not own the tractor.

McCoy was hired while on parole, shortly after being released from prison. He had been in prison nearly four years, for felony possession of methamphetamine with intent to

distribute. He also had multiple convictions for driving while intoxicated, at least one of which came into evidence. According to plaintiff's counsel, Foster and Arnold testified that McCoy's criminal history did not matter.

Plaintiff's counsel further argued that McCoy had very little experience driving a tractor-trailer and that most of his commercial driving experience was driving a dually. Twin Logistics did little to no investigation of McCoy's prior employment and failed to properly qualify him as a driver, plaintiff's counsel argued.

Ly's claim of negligent maintenance was based in part on McCoy's contention that he lost control of the tractor because of a brake failure that caused a steering problem. McCoy testified that the wrecker driver showed him the failed/defective brake chamber, which was on the left side. Eyewitnesses said they saw smoke coming from the tractor's left tandem wheels before the accident.

Plaintiff's counsel asked the jury to find comparative responsibility of about 60 percent on Foster, about 30 percent on Arnold and 10 percent on McCoy.

McCoy denied negligence, citing brake failure.

Foster and Arnold denied any problem with the tractor. They said a mechanic checked it out after the accident and found no problems, and that the tractor was put back in service. Defense counsel argued that neither they nor McCoy was negligent and that the wreck was just an accident.

Foster and Arnold also denied negligent hiring. Foster testified that she knew McCoy had a criminal history, but did not know the specifics. She and Arnold testified that they practiced "felony-friendly" hiring to give people like McCoy a second chance.

**Injury:**

Ly was taken by ambulance to an emergency room. He ultimately claimed he suffered a 3-millimeter disc protrusion/herniation at L5-S1 superimposed on a 12-millimeter annular fissure; lumbar facet injuries; disc herniations at C3-4, C4-5, C5-6 and C6-7; and a throat abrasion from accidental ingestion of broken glass. He further claimed that the lumbar disc injuries caused occasional radiating pain, numbness and tingling in his legs. In addition, he said he feared for his life while being pushed by the tractor, because he was afraid that it was going to run over him.

At the hospital, he was given medication to help pass the broken glass, and he suffered no long-term effects.

Ly underwent chiropractic care, followed by one cervical and two lumbar epidural steroid injections. Those injections provided relief of his discogenic pain, but his facet-related pain worsened, according to his pain management doctor. After completing the epidural injections, Ly periodically underwent lumbar facet injections through the time of trial. Rhizotomies were recommended, as well.

Ly claimed that his lumbar facet injury was permanent and that he would need periodic facet injections, chiropractic care and rhizotomies for the rest of his life.

Ly's wife, as well as a friend who had worked with him in the military, testified in support of Ly's claim that his lower-back problems were caused by the accident.

Ly sought \$136,401.03 for past medical expenses and about \$1 million for future medical expenses. He also sought damages for past and future physical pain and mental anguish and past and future physical impairment.

The defense orthopedic surgeon opined that Ly's lower back issues were preexisting and degenerative in nature and that Ly sustained little to no injury in the accident. He further opined that the past treatment was unnecessary; that the charges for it were grossly excessive; and that Ly would not need any future treatment related to the accident.

The defense also argued that Ly's prior V.A. records showed that his lower back problems were preexisting.

In addition, the defense noted that Ly was referred to the chiropractor by an attorney and that the chiropractor referred Ly to most, if not all, of his other providers.

The defense also pointed to the gaps between the injections.

**Result:** The jury found negligence and comparative responsibility of 60 percent on Foster, 30 percent on Arnold and 10 percent on McCoy. It determined that Ly's damages totaled \$911,401.03.

The jury did not find gross negligence. Specifically, it did not answer the question for Foster, and it found "no" on the question for Arnold.

San Ly

\$ 136,401.03 Past Medical Cost

\$ 500,000 Future Medical Cost

\$ 50,000 Past Physical Impairment

\$ 15,000 Future Physical Impairment

\$ 120,000 past physical pain and mental anguish

\$ 90,000 future physical pain and mental anguish

**\$ 911,401.03 Plaintiff's Total Award**

**Trial Information:**

**Judge:** Megan Fahey

**Demand:** \$1 million (policy limit)

**Offer:** \$380,000 (pretrial)

**Trial Length:** 6 days

**Trial  
Deliberations:** 6 hours

**Jury Vote:** 10-2

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

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

**Writer** John Schneider

## Plaintiff: Two-vehicle collision caused traumatic brain injury

**Type:** Verdict-Plaintiff

**Amount:** \$796,348

**State:** Texas

**Venue:** Dallas County

**Court:** Dallas County District Court, 134th, TX

**Injury Type(s):**

- *back* - lower back; facet syndrome; herniated disc, lumbar; herniated disc at L4-5
- *head* - headaches
- *neck* - facet syndrome; herniated disc, cervical; herniated disc at C6-7
- *brain* - traumatic brain injury
- *other* - chiropractic; physical therapy; trigger point injection
- *neurological* - radiculopathy
- *mental/psychological* - cognition, impairment; post-concussion syndrome

**Case Type:**

- *Motor Vehicle* - Left Turn; Multiple Vehicle

**Case Name:** Artesha Malone v. Richard Hedrick, No. DC-21-01147

**Date:** March 07, 2024

**Plaintiff(s):**

- Artesha Malone, (Female, 30 Years)

**Plaintiff Attorney(s):**

- Brennan Clay; Witherite Law Group; Dallas TX for Artesha Malone
- Victor Rodriguez; Witherite Law Group; Dallas TX for Artesha Malone

**Plaintiff Expert(s):**

- Amy Parish Psy.D.; Neuropsychology; Batesville, AR called by: Brennan Clay, Victor Rodriguez
- Jai Kumar M.D.; Neurology; Dallas, TX called by: Brennan Clay, Victor Rodriguez
- Karen Benner M.D.; Sports Medicine; Lewisville, TX called by: Brennan Clay, Victor Rodriguez
- Sarah Ford; Economics; Lexington, KY called by: Brennan Clay, Victor Rodriguez

**Defendant(s):**

- Richard Hedrick

**Defense Attorney(s):**

- Kenneth Sheets; Payne & Blanchard; Dallas, TX for Richard Hedrick
- Morgan Reinhardt; Payne & Blanchard; Dallas, TX for Richard Hedrick

**Defendant Expert(s):**

- Ricky R. Kalra M.D.; Neurosurgery; Frisco, TX called by: for Kenneth Sheets, Morgan Reinhardt
- Christopher Happ D.O.; Orthopedic Surgery; Dallas, TX called by: for Kenneth Sheets, Morgan Reinhardt

**Insurers:**

- State Farm Insurance Cos.

**Facts:**

On Jan. 15, 2020, plaintiff Artesha Malone, 30, a housing authority employee, was driving in Dallas County, and defendant Richard Hedrick was traveling in the opposite direction. Hedrick attempted a left turn and struck Malone's left side.

The defense stipulated to liability.

**Injury:**

Malone went to a stand-alone emergency room the following day. She ultimately claimed a traumatic brain injury, with headaches and cognitive impairment; a herniation at C6-7 extending into the epidural fat, indenting the thecal sac and contacting the spinal cord; a herniation at L4-5 extending into the epidural fat and indenting the thecal sac; cervical radiculopathy; and cervical and lumbar facet syndromes.

She underwent physical therapy at a chiropractic clinic through March 2020, starting 12 days after the collision.

In April and June 2020, she underwent cervical and lumbar trigger-point injections. In June 2020, she underwent facet block injections at L4-5, and two weeks later she underwent additional trigger-point injections.

She underwent trigger-point injections again in January and March 2021. The ones in March were for the neck only.

An orthopedic surgeon diagnosed her with post-concussion syndrome. In March 2021, he referred her to Elevate, where she was examined by a neurologist and later underwent neuropsychological testing. Her last visit to any provider was to Elevate in 2022.

Malone had some preexisting headaches related to her menstrual cycle, but she testified that her headaches since the collision were more frequent and in the front of her head, not in the back as before.



She testified that she had difficulty keeping up with her work and that, as a result, a coworker with less seniority was promoted to be her supervisor.

She claimed that she would need six more facet injections in her neck and back.

Malone sought \$122,755 for past medical expenses; \$100,000 for future medical expenses; \$310,593 for future loss of earning capacity; \$242,080 for past physical pain; \$94,000 for future physical pain; \$242,080 for past mental anguish; \$94,000 for future mental anguish; \$242,080 for past physical impairment; and \$94,000 for future physical impairment.

The defense denied any head injury and argued that the neck and back injuries resolved. The defense emphasized her prior headaches and the fact that no head injury was diagnosed until more than a year after the collision.

The defense experts, a neurologist and an orthopedic surgeon, also opined that many of the charges were unreasonable. The defense neurologist also opined that Malone had no traumatic brain injury or cognitive impairment.

Also, although airbags deployed, the vehicles sustained little damage.

Defense counsel suggested damages of about \$30,000.

**Result:**

The jury determined that Malone's damages totaled \$796,348.

Artesha Malone

\$ 122,755 Past Medical Cost

\$ 50,000 Future Medical Cost

\$ 100,000 past physical pain

\$ 94,000 future physical pain

\$ 25,000 past mental anguish

\$ 94,000 future mental anguish

\$ 310,593 future loss of earning capacity

**\$ 796,348 Plaintiff's Total Award**

**Trial Information:**

**Judge:** Dale Tillery

**Demand:** bracket of \$250,000 to \$900,000

**Offer:** \$60,000 (shortly before trial)

**Trial Length:** 4 days

**Trial  
Deliberations:** 1 hours

**Jury Vote:** 12-0

**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 email message and phone call.

**Writer**

John Schneider

## Plaintiff claimed cervical, lumbar and wrist strains

**Type:** Verdict-Plaintiff

**Amount:** \$138,504

**State:** Texas

**Venue:** Dallas County

**Court:** Dallas County District Court, 134th, TX

**Injury Type(s):**

- *back* - strain, lumbar
- *neck* - strain, cervical
- *other* - soft tissue; chiropractic; epidural injections; strains and sprains
- *wrist*

**Case Type:**

- *Motor Vehicle* - Cell Phone; Rear-ender

**Case Name:** James Rubalcava v. Riley Herndon, No. DC-14-02291

**Date:** August 04, 2015

**Plaintiff(s):**

- James Rubalcava (Male, 29 Years)

**Plaintiff Attorney(s):**

- Zachary D. Herbert; Eberstein & Witherite; Dallas TX for James Rubalcava
- Victor Rodriguez; Eberstein & Witherite; Dallas TX for James Rubalcava

**Plaintiff Expert(s):**

- Brian R. Starry D.C.; Chiropractic; Richardson, TX called by: Zachary D. Herbert, Victor Rodriguez
- Melvin Manning M.D.; Orthopedics; Dallas, TX called by: Zachary D. Herbert, Victor Rodriguez

**Defendant(s):**

- Riley Herndron

**Defense Attorney(s):**

- Scott A Whitcomb; Law Office of G. Patrick Collins & Associates; Dallas, TX for Riley Herndon

**Insurers:**

- Allstate

**Facts:**

On March 1, 2013, plaintiff James Rubalcava, 29, unemployed, was driving a pickup truck west on Lovers Lane near the intersection with Westchester Drive in Dallas when he was involved in a collision with a westbound Toyota Highlander driven by Riley Herndon.

Rubalcava sued Herndon, claiming negligence. Plaintiff's counsel maintained Rubalcava had slowed due to traffic in the intersection when Herndon failed to keep a proper lookout or control her speed and collided with the rear of his truck. Plaintiff's counsel maintained Herndon was talking on her cell phone at the time of the collision.

Herndon denied negligence. Defense counsel denied Herndon was talking on her cell phone and argued the collision was an accident that did not rise to the level of negligence.

**Injury:**

Rubalcava was treated in the emergency room. He claimed cervical, lumbar and wrist strains.

Rubalcava underwent six months of chiropractic treatment. Eighteen months after the collision he underwent two epidural steroid injections and an MRI. Plaintiff's counsel claimed \$33,407.52 in medical expenses.

Rubalcava sought \$300,000 for past medical expenses and past and future pain and suffering and physical impairment.

Defense counsel maintained the chiropractic treatment was excessive and unnecessary.

**Result:**

The jury found for the plaintiff and awarded \$138,503.76

**James Rubalcava**

\$23,604 Personal Injury: Past Medical Cost

\$18,900 Personal Injury: Future Medical Cost

\$30,000 Personal Injury: Past Physical Impairment

\$18,000 Personal Injury: Future Physical Impairment

\$18,000 Personal Injury: Past Pain And Suffering

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

**Trial Information:**

**Judge:** Dale Tillery

**Offer:** \$16,000

**Trial Length:** 2 days

**Trial Deliberations:** 3 hours

**Jury Vote:** 10-2

**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** Rick Archer

## Plaintiff underwent disc fusion after broadside crash

**Type:** Verdict-Plaintiff

**Amount:** \$103,659

**State:** Texas

**Venue:** Dallas County

**Court:** Dallas County District Court, 191st, TX

**Injury Type(s):**

- *back* - herniated disc
- *neck* - herniated disc; fusion, cervical
- *other* - hardware implanted

**Case Type:**

- *Motor Vehicle* - Broadside; Red Light; Intersection; Multiple Vehicle; Automobile Insurance; Underinsured Motorist

**Case Name:** Christine Hocker v. Allstate Fire and Casualty Insurance Company, No. DC-14-14412

**Date:** September 27, 2017

**Plaintiff(s):**

- Christine Hocker (Female, 39 Years)

**Plaintiff Attorney(s):**

- Victor Rodriguez; Eberstein & Witherite, LLP; Fort Worth TX for Christine Hocker

**Defendant(s):**

- Allstate Fire and Casualty Insurance Co.

**Defense Attorney(s):**

- Young Christian Jenkins; Susan L. Florence & Associates; Dallas, TX for Allstate Fire and Casualty Insurance Co.

**Facts:** On Aug. 23, 2013, plaintiff Christine Hocker, 39, was driving south on Lake June Shopping Center Way near its intersection with Lake June Road in Dallas where Juvencio Reyes was driving west. They collided in the intersection. Hocker claimed neck and back injuries and she had a policy with Allstate Fire and Casualty Insurance Co. Reyes was underinsured.

Hocker sued Allstate for underinsured motorist benefits. Hocker claimed that Reyes ran the red light and drove into the intersection striking the front driver side of her vehicle.

**Injury:** Hocker was taken by ambulance to a local emergency room. She underwent X-rays and was discharged. She was ultimately diagnosed with a cervical disc herniation and underwent a fusion.

Hocker claimed permanent injuries and physical limitations.

The plaintiff sought to recover damages for past and future medical expenses; past and future pain and mental anguish; and past and future physical impairment.

The defense argued that Hocker did not sustain a permanent injury.

**Result:** The jury determined that Hocker's damages totaled \$103,659.

## **Christine Hocker**

\$63,659 Personal Injury: Past Medical Cost

\$20,000 Personal Injury: Future Medical Cost

\$10,000 Personal Injury: Past Physical Impairment

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

## **Trial Information:**

**Judge:** David K. Brooks

**Trial Length:** 2 days

**Trial  
Deliberations:** 3 hours

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



**Writer**

Gary Raynaldo

## Damages of injured pedestrian disputed by UM carrier

**Type:** Verdict-Plaintiff

**Amount:** \$43,411

**State:** Connecticut

**Venue:** Danbury

**Court:** Danbury Judicial District, Superior Court, CT

**Injury Type(s):**

- *arm*
- *head*
- *other* - abrasions; soft tissue; back and neck; unconsciousness

**Case Type:**

- *Motor Vehicle* - Pedestrian; Hit and Run; Alcohol Involvement; Automobile Insurance

**Case Name:** Jason Ayala v. Raul Sandoval, Lorna Syriac, Safeco Insurance Company of Illinois, Sabrosura, LLC and Jose Contreras, No. CV15-6018573

**Date:** March 22, 2017

**Plaintiff(s):**

- Jason Ayala (Male, 26 Years)

**Plaintiff Attorney(s):**

- Etan Hirsch; Adelman Hirsch & Connors, LLP; Bridgeport CT for Jason Ayala

**Defendant(s):**

- Lorna Syriac
- Raul Sandoval
- Jose Contreras
- Sabrosura, LLC
- Safeco Insurance Company of Illinois

**Defense  
Attorney(s):**

- Lewis S. Lerman; Bai, Pollock, Blueweiss & Mulcahey, PC; Shelton, CT for Lorna Syriac
- None reported for Raul Sandoval
- James R. Freguela; Meehan Roberts, Turret & Rosenbaum; Wallingford, 06492 for Safeco Insurance Company of Illinois
- Victor M. Rodriguez; VMR Law, LLC; Danbury, CT for Sabrosura, LLC, Jose Contreras

**Insurers:**

- Safeco Insurance Co. of Illinois

**Facts:**

On June 21, 2015 at 11:38 p.m., plaintiff Jason Ayala, 26, a laborer, was walking across Main Street near the intersection of White Street/Elm Street and Main Street in Danbury. At the same time, Raul Sandoval entered a Volkswagen parked near 278 Main Street. Sandoval put the Volkswagen into motion, went up and over the sidewalk and grass area that separates the north and southbound lanes of Main Street and struck Ayala. Sandoval then fled the scene. Ayala claimed he was knocked unconscious by the impact and that he also suffered neck, lower back and right arm injuries.

Ayala filed suit against Sandoval, alleging that he was negligent in the operation of a motor vehicle. He also sued Lorna Syriac, who at the time was believed to be the owner of the Volkswagen Sandoval was driving; his uninsured motorist carrier, Safeco Insurance Company of Illinois; Sabrosura, LLC, which was the bar where Sandoval had been drinking just prior to the accident; and Sabrosura permittee, Jose Contreras.

After suit was filed, it was discovered that Syriac was not the owner of the Volkswagen and her motion for summary judgment was granted. The dram shop claims against Sabrosura and Contreras were withdrawn prior to trial. The case proceeded against Sandoval and Safeco only.

Ayala contended that Sandoval was intoxicated at the time of the accident, failed to operate his vehicle in a lane of travel and fled the scene. He also argued that Sandoval failed to render assistance to him after the accident.

Sandoval did not appear for trial.

Safeco did not dispute that it provided uninsured motorist coverage to Ayala and admitted negligence, but disputed the nature and extent of the Ayala's injuries and damages.

**Injury:**

Ayala claimed he suffered a loss of consciousness at the scene. He sought medical treatment for soft tissue injuries to his neck, lower back and right arm, as well as abrasions to the right arm.

Ayala claimed his ability to pursue and enjoy life's activities has been reduced. He sought economic and non-economic damages.

Safeco disputed the nature and extent of Ayala's injuries and damages.

**Result:**

The jury determined that Ayala's damages totaled \$43,410.78. Judgment was entered against Sandoval and Safeco.

**Jason Ayala**

\$20,000 Personal Injury: Past Pain And Suffering

\$23,411 Personal Injury: economic damages

**Trial Information:**

**Judge:** Anthony Truglia

**Demand:** \$40,000

**Offer:** \$17,000

**Trial Length:** 2 days

**Trial  
Deliberations:** 2 hours

**Jury  
Composition:** 6 jurors

**Post Trial:** There was no appeal. The judgment was satisfied and this case is closed.

**Editor's  
Comment:** This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to a request for comment.

**Writer** Margi Banner

## Plaintiff claimed ongoing impairment from rear-ender

**Type:** Verdict-Plaintiff

**Amount:** \$25,906

**State:** Texas

**Venue:** Collin County

**Court:** Collin County District Court, 401st, TX

**Injury Type(s):**

- *leg*
- *back* - lower back; facet syndrome; bulging disc, lumbar; disc protrusion, lumbar
- *head* - headaches
- *neck* - facet syndrome
- *other* - effusion; myospasm; soft tissue; chiropractic; back and neck; retrolisthesis; physical therapy; lumbar facet injury; strains and sprains; decreased range of motion
- *epidermis* - paresthesia

**Case Type:**

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

**Case Name:** Ronald Edwards v. Ferline Benson, No. 15-56644-58

**Date:** November 07, 2016

**Plaintiff(s):**

- Ronald Edwards (Male, 39 Years)

**Plaintiff Attorney(s):**

- Javier Gonzalez; Eberstein & Witherite; Dallas TX for Ronald Edwards
- Victor Rodriguez; Eberstein & Witherite; Fort Worth TX for Ronald Edwards

**Plaintiff Expert (s):**

- Christopher Babb D.C.; Chiropractic; Plano, TX called by: Javier Gonzalez, Victor Rodriguez

**Defendant(s):**

- Ferline Benson

**Defense Attorney(s):**

- Kaitlyn T. O'Hara; Raffalow, Rhoads & Bretoi; Austin, TX for Ferline Benson

**Defendant Expert(s):**

- Dennis Teal D.C.; Chiropractic; Corrigan, TX called by: for Kaitlyn T. O'Hara

**Insurers:**

- Mercury Insurance Group

**Facts:**

On Nov. 30, 2013, plaintiff Ronald Edwards, 39, a customer service representative for a toll-road authority, was driving a 2006 Lexus GS 300 sedan in the right southbound lane of Avenue K in Plano, approaching 15th Street. He stopped behind a 2004 GMC Yukon at a red light. Ferline Benson, in a 2001 Toyota Avalon, rear-ended him and pushed him into the Yukon. The investigating officer placed a contributing factor on Benson for failure to control her speed. Edwards claimed multiple injuries.

Edwards sued Benson for negligently failing to keep a proper lookout, driving too fast, failing to control her speed, following too closely, and failing to brake or turn to avoid the collision.

The defense stipulated to liability. Because of a medical condition unrelated to the accident, Benson was not present at trial. Her daughter had a power of attorney and attended trial in her place, but did not testify.

**Injury:**

Edwards went to the emergency room on the day of the accident. He claimed headaches; cervical, thoracic and lumbar sprains and strains; paresthesia in his legs; lumbar disc protrusions; a lumbar disc retrolisthesis and bulge; lumbar facet joint effusion; facet joint irritation; lumbar facet joint syndrome; and muscle spasms.

At the emergency room, he was diagnosed with acute cervical strain and was prescribed medication and instructed to apply ice to his neck. A cervical CT scan was unremarkable.

On Dec. 2, he went to a family doctor, who diagnosed him with a backache and instructed him to take ibuprofen regularly. The doctor noted that Edwards had not worked since the accident, but that he could return to work the next day.

Edwards refilled his prescriptions on Dec. 20.

From Dec. 30 to Feb. 18, 2014, he underwent chiropractic care and physical therapy 15 times, for neck, mid-back and lower back pain and decreased range of motion. He also complained of headaches. The symptoms improved with treatment.

From June 5 to July 31, he underwent chiropractic care and physical therapy at a different clinic than before, for the same symptoms, plus paresthesia in the legs and pain with lumbar flexion. His diagnosis at the initial visit was lumbar sprain/strain, and he was referred to a medical doctor for prescription management. On June 6, Edwards underwent a physical capacities evaluation for the lumbar spine. On June 13, he underwent a lumbar MRI, which was read as showing a 1.5-millimeter disc protrusion at L3-4; a 1.5-millimeter disc protrusion at L4-5; a 1.5-millimeter retrolisthesis and 1-millimeter disc bulge at L5-S1; and facet joint effusion at L1-2 through L4-5 indicating acute facet joint irritation and lumbar facet syndrome.

On July 3, 2014, he went to an orthopedic surgeon and was diagnosed with facet joint pain and paraspinal muscle spasm. The doctor recommended continued physical therapy and medication.

At his last visit to the chiropractor, his condition was much improved since the accident, and he was released with a home exercise program and to follow up with the orthopedic surgeon as needed. The treating chiropractor estimated \$2,880 as the cost of future treatment, including pain management. He further opined that, because Edwards had no back pain before the accident, the accident was the cause of his pain.

Benson's vehicle sustained \$7,554.78 in damage, and the Yukon sustained \$7,770.30 in damage, and both vehicles were totaled. Not much damage was visible in photos of either vehicle, however.

Edwards and his former fiancée testified at trial that, in Edwards' deposition, he had understated his limitations. They further testified that the pain and medication made him irritable and resulted in the breaking off of their engagement. Also, Edwards could no longer play with his son, work on cars, tend his lawn or enjoy life without pain, they said. A friend and co-worker further testified that Edwards had to take many breaks at work and could no longer work on his co-workers' cars.

Edwards' paid or incurred medical bills were \$16,240.83, but he dropped his claim for past medicals on the morning of trial.

At trial, he sought \$2,880 for future medical bills and \$525.80 for past lost wages. He also sought past and future physical pain and suffering, mental anguish and physical impairment.

The defense expert, a chiropractor, opined that any treatment beyond eight exercise-based chiropractic treatments within the first eight weeks was excessive. The injuries, if any, were soft-tissue. Any pain after eight weeks was unrelated to the accident, and no future care would be medically necessary, he concluded.

Defense counsel argued that, even giving Edwards the benefit of the doubt, his injuries were limited to soft-tissue injuries that would have healed in eight weeks with or without treatment. The defense noted the gaps in treatment and the fact that it was attorney-referred. The defense also argued that Edwards was exaggerating his symptoms.

**Result:**

The jury awarded Edwards \$25,905.80.

**Ronald Edwards**

\$2,880 Personal Injury: Future Medical Cost

\$5,000 Personal Injury: Past Physical Impairment

\$2,500 Personal Injury: Future Physical Impairment

\$526 Personal Injury: Past Lost Earnings Capability

\$2,500 Personal Injury: future mental anguish

\$5,000 Personal Injury: past physical pain and suffering

\$2,500 Personal Injury: future physical pain and suffering

\$5,000 Personal Injury: past mental anguish

**Trial Information:**

**Judge:** Mark Rusch

**Demand:** \$21,000

**Offer:** \$14,000

**Trial Length:** 2 days

**Trial  
Deliberations:** 4.5 hours

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

**Writer** John Schneider



## Driver was diagnosed with lumbar disc bulge, stenosis

**Type:** Verdict-Plaintiff

**Amount:** \$19,000

**Actual Award:** \$25,097

**State:** Texas

**Venue:** Dallas County

**Court:** Dallas County District Court, 134th, TX

**Injury Type(s):**

- *back* - stenosis; lower back; bulging disc, lumbar
- *neck* - stenosis
- *elbow*
- *other* - chiropractic
- *neurological* - radicular pain / radiculitis

**Case Type:**

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

**Case Name:** Maria De Los Santos Cruz v. Holly Anne Herrod, No. DC-15-7721

**Date:** August 30, 2017

**Plaintiff(s):**

- Maria De Los Cruz (Female, 38 Years)

**Plaintiff Attorney(s):**

- Victor Rodriguez; Eberstein & Witherite, LLP; Dallas TX for Maria De Los Cruz

**Plaintiff Expert(s):**

- Larry Parent D.C.; Chiropractic; Dallas, TX called by: Victor Rodriguez

**Defendant(s):**

- Holly Anne Herrod

**Defense Attorney(s):**

- Chad Kimble; Law Office of Chad Kimble, PC; Colleyville, TX for Holly Anne Herrod

**Defendant Expert(s):**

- Dan Mullaney D.C.; Chiropractic; Plano, TX called by: for Chad Kimble

**Insurers:**

- Allstate Insurance Co.

**Facts:**

On Dec. 1, 2013, plaintiff Maria De Los Santos Cruz, 38, a stocker at a grocery store, was driving west on East Mockingbird Lane near its intersection with Greenville Avenue where Holly Anne Herrod was driving north in the right-turn only lane. They collided in the intersection and Cruz claimed a lower back injury.

Cruz sued Herrod for negligent operation of a motor vehicle. Cruz claimed that Herrod drove straight in the lane when she was supposed to turn right.

Herrod conceded liability, and the trial proceeded on the issue of Cruz's claimed injury and damages.

**Injury:**

Cruz presented to an emergency room one month after the accident with complaints of pain in her lower back. She underwent X-rays and was discharged. Cruz was ultimately diagnosed with a disc bulge at L5-S1 causing stenosis on the L5-S1 nerve roots that resulted in pain in her right elbow.

Cruz underwent three months of chiropractic care twice-weekly. She claimed that she continued to experience pain, and in February 2015 presented to an emergency room. Cruz treated conservatively with her primary care physician for lower back pain.

Cruz claimed residual pain in her lower back, as well as pain radiating into her right leg.

Cruz' treating chiropractor opined that her injury was caused by the subject accident.

Cruz sought to recover damages for past and future medical expenses; past and future physical pain and suffering; past and future mental anguish; and past and future physical impairment.

The defense chiropractic expert opined that Cruz's injury was wholly pre-existing. He opined that she was not in much pain because she waited four weeks to first present to a doctor. He further opined that she did not have any residual pain because she had a good result from her chiropractic treatment. He also opined that her second visit to the ER following the accident was for a new injury that was caused by her job as a stocker at Kroger store, or her second job where she pushed a large cart. He opined that any and all pain she had after her chiropractic treatment was for her degenerative, pre-existing issues related to her manual labor jobs.

**Result:**

The jury awarded Cruz \$19,000. In the final judgment, Cruz was also awarded \$2,826 in pre-judgment interest; and \$3,271 for court costs. Herrod's policy limit was \$25,000.

## **Maria De Los Cruz**

\$10,000 Personal Injury: Past Medical Cost

\$500 Personal Injury: Future Medical Cost

\$2,000 Personal Injury: Past Physical Impairment

\$500 Personal Injury: Future Physical Impairment

\$5,000 Personal Injury: Past Pain And Suffering

\$500 Personal Injury: Future Pain And Suffering

\$500 Personal Injury: past mental anguish

### **Trial Information:**

**Judge:** Dale Tillery

**Trial Length:** 3 days

**Trial  
Deliberations:** 2 hours

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

**Writer** Gary Raynaldo

## Plaintiff claimed multiple sprains/strains from wreck

**Type:** Verdict-Plaintiff

**Amount:** \$17,909

**State:** Texas

**Venue:** Dallas County

**Court:** Dallas County District Court, 192nd, TX

**Injury Type(s):**

- *back* - sprain, lumbar; strain, lumbar
- *neck* - sprain, cervical; strain, cervical
- *other* - chiropractic

**Case Type:**

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

**Case Name:** Joshua Baker v. Michael Braswell, No. DC-15-03896

**Date:** February 28, 2017

**Plaintiff(s):**

- Joshua Baker (Male, 24 Years)

**Plaintiff Attorney(s):**

- Victor Rodriguez; Eberstein & Witherite; Dallas TX for Joshua Baker
- Adewale Odetunde; Eberstein & Witherite; Dallas TX for Joshua Baker

**Plaintiff Expert (s):**

- Paul Liechty D.C.; Chiropractic; Mesquite, TX called by: Victor Rodriguez, Adewale Odetunde

**Defendant(s):**

- Michael Braswell

**Defense Attorney(s):**

- Raymond B. Albertson; Arnold & Taylor; Bedford, TX for Michael Braswell

**Insurers:**

- ACCC

**Facts:**

On Sept. 12, 2013, plaintiff Joshua Baker, 24, a stocker at a farm supply store, was driving a Ford Mustang on Lake June Road in Balch Springs. Michael Braswell was in an oncoming Ford F-150 pickup truck. Both vehicles were approaching the same intersection, which was controlled by a stoplight. Braswell attempted a left turn at the intersection, and the front right of his vehicle and the front left of Baker's vehicle collided. Baker claimed multiple injuries.

Baker sued Braswell for negligently failing to keep a proper lookout, making an unsafe left turn, failing to yield the right of way and failing to brake or turn to avoid the collision. Baker and an independent eyewitness told police that Braswell had turned in front of Baker, and the police report, which came into evidence, placed fault on Braswell for failing to yield the right of way while turning left.

Braswell said that, when he started his turn, he did not see anyone coming and thought it was safe to proceed. Defense counsel argued that Braswell's conduct did not rise to the level of negligence. He also suggested that Baker may have been driving too fast and distracted by his dog, which was in the back seat, but comparative responsibility was not submitted.

**Injury:**

Baker went to the emergency room by private vehicle later that evening. He claimed neck, back, right (dominant) shoulder, chest wall and bilateral knee pain. The impact was significant.

He followed up with a chiropractor 13 days after the accident and was diagnosed with sprains and strains. He treated with the chiropractor for about three months, during which he also went to an orthopedic surgeon. Baker did not undergo MRIs.

He claimed that he continued to experience occasional pain through the time of trial. He and his parents testified that, for fear of re-injuring himself, he is slower and more tentative in his motions and activities than he used to be, and that the pain prevents him from working on cars as much as he used to.

The chiropractor opined that the charges and treatment were reasonable and necessary and that the claimed injuries were caused by the accident. He further opined that Baker would need periodic chiropractic care.

Baker sought about \$15,000 for past medical bills; \$2,500 for future medical bills; \$5,000 for past physical pain; \$2,500 for future physical pain; \$5,000 for past physical impairment; and \$2,500 for future physical impairment.

The defense questioned the severity of the injuries, if any, and what caused them. The defense noted Baker's delay in seeking chiropractic care and his lack of treatment in the three years before trial.

The defense also argued that the chiropractor had a financial interest in the outcome of the case. He treated Baker under a letter of protection, and his bill had not been paid at the time of trial.

Defense counsel suggested an award of about \$3,000 in medical bills, which were the charges related to the emergency room, plus whatever the jury felt would be fair for past physical pain and physical impairment.

**Result:**

The jury found Braswell negligent and awarded Baker \$17,908.65.

**Joshua Baker**

\$10,409 Personal Injury: Past Medical Cost

\$2,500 Personal Injury: Past Physical Impairment

\$5,000 Personal Injury: past physical pain

**Trial Information:**

**Judge:** Craig Smith

**Demand:** \$30,000 (policy limit)

**Offer:** \$10,000

**Trial Length:** 2 days

**Trial  
Deliberations:** 2 hours

**Jury Vote:** 12-0

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

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

**Writer** John Schneider

## Defense: Plaintiff finished police academy despite injury

**Type:** Verdict-Plaintiff

**Amount:** \$8,500

**Actual Award:** \$5,950

**State:** Texas

**Venue:** Dallas County

**Court:** Dallas County District Court, 44th, TX

**Injury Type(s):**

- *other* - soft tissue; chiropractic; back and neck; strains and sprains

**Case Type:**

- *Motor Vehicle* - Lane Change

**Case Name:** Robbie Booker v. Purnika Somabandu, No. DC-15-06143-B

**Date:** July 12, 2016

**Plaintiff(s):**

- Robbie Booker (Female, 24 Years)

**Plaintiff Attorney(s):**

- Victor Rodriguez; Eberstein & Witherite, LLP; Dallas TX for Robbie Booker
- Adewale Odetunde; Eberstein & Witherite, LLP; Dallas TX for Robbie Booker

**Defendant(s):**

- Purnika Somabandu

**Defense Attorney(s):**

- Michael N. Spears; Wilson, Henderson, Bryant & Graham; Richardson, TX for Purnika Somabandu
- John T. Stone; Wilson, Henderson, Bryant & Graham; Richardson, TX for Purnika Somabandu



**Insurers:**

- Government Employees Insurance Co.

**Facts:**

On Nov. 23, 2013, plaintiff Robbie Booker, 24, a hospital medical technician, was driving a 2003 Cadillac CTS on southbound Interstate 35 in Dallas. Purnika Somabandu was southbound in a 2002 Toyota Corolla. It was raining. Booker was in the middle left lane, and Somabandu was in the middle right lane. Somabandu entered Booker's lane, and her left front corner hit Booker's right front corner. The police report faulted Somabandu for changing lanes when it was unsafe. Booker claimed neck and back injuries.

Booker sued Somabandu for negligently failing to keep a proper lookout and making an unsafe lane change.

Somabandu testified that she was driving normally when the driver ahead of her changed lanes to the right because a vehicle ahead had stopped and had its hazard lights on. Somabandu then tried to change lanes to the right, but an 18-wheeler was there, and its driver honked at her. Somabandu then tried to change lanes to the left, which is when the accident happened.

Booker said she did not see or hear any of the nonparty vehicles alleged by Somabandu.

Booker acknowledged that she was going 55 mph or 60 mph, and the speed limit was 60 mph, and defense counsel argued that Booker was going too fast for the rainy conditions. Plaintiff's counsel noted, however, that Somabandu did not see Booker's vehicle before the impact.

In closing, defense counsel acknowledged that his client was probably negligent, and he suggested the jury divide fault evenly or split it 75 percent-25 percent toward either party, however the jury saw fit.

**Injury:**

Booker claimed neck and back sprains and strains. She said she felt pain soon after the accident but hoped it would resolve on its own. She went to a chiropractor 12 days after the accident.

Two days after her fifth treatment session, she started going to a different chiropractor, who treated her for about two months. She also went to a pain management specialist and underwent a cervical MRI, which was unremarkable.

She claimed at trial that her back still hurts every now and then and that she cannot play with her young children as she did before the accident. She also had to switch to a desk job because of her injuries, she said.

Booker sought about \$16,600 for past medical bills, of which about \$9,000 were from the second chiropractor; unspecified damages for future medical bills; \$5,000 for past physical pain and mental anguish; \$5,000 for future physical pain and mental anguish; \$5,000 for past physical impairment; and \$5,000 for future physical impairment.

The defense questioned whether Booker sustained any injury in the accident, based on the 12-day delay in treatment and the fact that the police report said she was not injured.

Even if the initial treatment was related to the accident, the defense argued that Booker had recovered by the time she finished treating with the first chiropractor. The notes from Booker's last visit to him said her pain had almost resolved.

Also, at the time of the accident, Booker was attending the police academy, and the defense noted that she was able to graduate on time. Also, at the time of trial, Booker had not sought treatment in more than two years, defense counsel argued.

Defense counsel suggested an award of \$7,500 for past medical bills only.

**Result:**

The jury found negligence and comparative responsibility of 70 percent on Somabandu and 30 percent on Booker and awarded Booker \$8,500. Comparative responsibility reduced her damages to \$5,950.

**Robbie Booker**

\$7,000 Personal Injury: Past Medical Cost

\$1,500 Personal Injury: Past Physical Impairment

**Trial Information:**

**Judge:** Bonnie Goldstein

**Demand:** \$100,000 (Stowers demand)

**Offer:** \$8,000

**Trial Length:** 2 days

**Trial  
Deliberations:** 1 hours

**Jury Vote:** 11-0

**Post Trial:** Booker filed a motion for JNOV as to the jury finding that he was 30 percent responsible. The judge denied the motion.

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

**Writer** John Schneider

## Rear-ending caused traumatic brain injury, plaintiff claimed

**Type:** Verdict-Plaintiff

**Amount:** \$5,772

**State:** Texas

**Venue:** Tarrant County

**Court:** Tarrant County District Court, 67th, TX

**Injury Type(s):**

- *back* - sprain, lumbar; strain, lumbar
- *head* - headaches
- *neck* - bulging disc, cervical
- *brain* - traumatic brain injury
- *other* - chiropractic; steroid injection; epidural injections; trigger point injection
- *mental/psychological* - depression; cognition, impairment; memory, impairment

**Case Type:**

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

**Case Name:** Andre Bridges v. Shyam Rai, No. 067-301141-18

**Date:** May 18, 2022

**Plaintiff(s):**

- Andre Bridges, (Male, 30 Years)

**Plaintiff Attorney(s):**

- Victor R. Rodriguez; Witherite Law Group; Fort Worth TX for Andre Bridges
- Forrest Mays; Witherite Law Group; Dallas TX for Andre Bridges

**Plaintiff Expert(s):**

- Zeshan Chaudhry M.D.; Pain Management; Arlington, TX called by: Victor R. Rodriguez, Forrest Mays
- Mandeep Chahil M.D.; Neurology; Fort Worth, TX called by: Victor R. Rodriguez, Forrest Mays

**Defendant(s):**

- Shyam Rai

**Defense  
Attorney(s):**

- Ashley G. Whatley; Walters, Balido & Crain; Dallas, TX for Shyam Rai
- John LeMaster; Walters, Balido & Crain; Dallas, TX for Shyam Rai

**Defendant  
Expert(s):**

- Richard Hinton M.D.; Neurology; Dallas, TX called by: for Ashley G. Whatley, John LeMaster

**Insurers:**

- AAA Insurance

**Facts:**

On March 11, 2017, plaintiff Andre Bridges, 30s, a driver for rideshare apps, was driving a compact car south on Interstate 35 in Fort Worth. Shyam Rai rear-ended him in a pickup truck. Bridges claimed he suffered a traumatic brain injury, as well as injuries of his neck and back.

Bridges sued Rai. The lawsuit alleged that he was negligent in the operation of his vehicle.

Rai, who does not speak English, stipulated to liability on the day of trial and did not testify.

**Injury:**

Bridges went to an emergency room on the day of the accident. He ultimately claimed he suffered a traumatic brain injury, along with lumbar sprains and strains and small bulges of cervical intervertebral discs. His emphasis at trial was on the brain injury, rather than the neck and back. He further claimed that the brain injury caused memory and cognitive problems, as well as depression.

He went to a chiropractor nine days after the accident and treated with him through Oct. 27, 2017. The number of visits was about 47. He also treated with a pain management doctor during that time and, in May 2017, underwent trigger point injections in the trapezius and the thoracic spine.

While seeing the chiropractor, Bridges also complained of headaches and was sent to a neurologist. In June 2017, Bridges underwent a brain MRI, which was normal. A neuropsychologist evaluated him soon after and concluded that he had mild neurocognitive disorder due to a traumatic brain injury.

Speech therapy was recommended in January 2018, but he did not undergo it.

Bridges underwent little to no treatment from early 2018 to May 2019. He testified that he was dealing with family issues, including the death of his mother. In May 2019, he resumed treating, but at a different pain management clinic and a different neurology clinic than before. In August 2019, he underwent a cervical epidural steroid injection.

Bridges' older brother and sister-in-law testified about the effects of the injuries on his life and activities.

Photos of the vehicles came into evidence, and they showed at least moderate damage.

Plaintiff's counsel told the voir dire panel that, except for the hospital visit, Bridges was referred to his providers by attorneys, and that the testifying treating neurologist had given talks at Witherite Law Group about traumatic brain injuries.

Bridges sought total damages of about \$185,000, including \$55,493.38 for past medical expenses. The elements of damages submitted to the jury included past medical expenses, past and future physical pain and suffering, past and future mental anguish and past and future physical impairment.

The defense argued that the brain injury, if any, was not caused by the accident. He did not claim to have hit his head, and there were no objective findings on his brain imaging studies. Also, some of the medical records made it sound like his depression and headaches pre-dated the accident, defense counsel said. The defense also pointed to other stressors in his life that could have caused depression, such as the death of his mother, and to medical records suggesting his headaches were related to his caffeine use. Another record diagnosed him with chronic sinusitis and suggested he see an otolaryngologist, which he never did, the defense noted.

The defense also told the jury it seemed odd that Bridges switched to a different neurologist and pain management doctor.

Defense counsel suggested that the jury award about \$3,800, representing the bills from the date of the accident only.

**Result:** The jury determined that Bridges' damages totaled \$5,772.38.

Andre Bridges

\$ 3,772.38 Past Medical Cost

\$ 2,000 past physical pain and suffering

**\$ 5,772.38 Plaintiff's Total Award**

**Trial Information:**

**Judge:** Don Cosby

**Offer:** \$50,000 (policy limit)

**Trial Length:** 3 days

**Trial  
Deliberations:** 1.5 hours

**Jury Vote:** 10-2

**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** John Schneider