



Plaintiffs: Husband killed wife and stole assets from child

Type: Verdict-Plaintiff

Amount: \$210,000,000

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 288th, TX

Injury Type(s):

- *other* - death

Case Type:

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

Case Name: Hyacinth Ferron, Individually and as Next Friend of A.M., a Minor Child, and the Estate of Andreen Nicole McDonald, Deceased v. Andre Sean McDonald, No. 2022CI12922

Date: March 08, 2024

Plaintiff(s):

- A. M., (, 0 Years)
- Hyacinth Ferron, (Female, 0 Years)
- Andreen Nicole McDonald, (Female, 29 Years)

Plaintiff Attorney(s):

- Ron Salazar; Davis Law Firm; San Antonio TX for Hyacinth Ferron,, A. M., Andreen Nicole McDonald
- Ralph Lopez; Davis Law Firm; San Antonio TX for Hyacinth Ferron,, A. M., Andreen Nicole McDonald

Defendant(s):

- Andre Sean McDonald

Defense Attorney(s):

- Robert F. White; Law Office of Robert F. White, P.C.; San Antonio, TX for Andre Sean McDonald

Facts: The \$210 million jury award in the wrongful death trial for Andreen Nicole McDonald, whose murder was featured on the CBS newsmagazine “48 Hours,” is largely symbolic,

according to her attorney.

Nevertheless, the case was worth trying, according to Ron Salazar of Davis Law Firm, co-lead plaintiffs' counsel.

Andreen, a Jamaican immigrant to the United States, was married, pregnant and attending the University of Texas at San Antonio by age 20. She soon after graduated magna cum laude with a finance degree.

In her 20s, Andreen started three businesses valued in the millions. Four months before she was killed by her husband, Andre Sean McDonald, Andreen was celebrating being awarded Minority Rising Star Firm by the UTSA Institute for Economic Development. She was 29 years old.

On Feb. 28, 2019, Andre, a cyberwarfare expert and U.S. Air Force major, beat his wife to death in their home. He was acquitted of murder, but is serving a 25-year sentence for manslaughter and tampering with evidence; he burned his wife's body, stuffed her in a contractor's trash bag and discarded it on a ranch next to the skeleton of a dead cow.

Although Andre was a prime suspect from the time his wife was reported missing, he used the months of delay in locating her body to take advantage of his marital status and claimed his wife's half of the estate, Salazar said. Also lost were four real estate properties, which Salazar said were valuable.

"She didn't have a will. When he killed her, all her assets immediately vested in him instead of going to their autistic minor daughter," Salazar said. "Within the first 11 months, Andre Sean McDonald cleared out all the family's bank accounts."

The survivors' attorneys don't know where the money was or if Andre somehow still controls it, but they suspect a substantial sum may have gone into offshore accounts.

"It's my guess, it would be nearly impossible to trace that money," Salazar said.

Andreen's mother, Hyacinth Ferron, filed a civil suit against Andre in 2022 on her own behalf; for the couple's daughter, referred to as A.M.; and for Andreen's estate. The civil suit alleged assault and unjust enrichment.

Compared to most wrongful death cases, this one made it to trial quickly, Salazar said. There were no delays over disputes during discovery or over witnesses, he noted.

Salazar and co-lead counsel Ralph Lopez had two goals in mind. First, get a verdict that would have the elements necessary to set up a constructive trust for the daughter, and leave behind a public record that would restore Andreen's good name.

“Andre McDonald not only killed Andreen, [but] when he went to criminal trial, to save his own skin, he absolutely assassinated Andreen’s character,” Salazar said.

"We wanted to leave a record of all her accomplishments for her minor daughter, for when she ultimately goes on the internet to figure out what happened, so that she can see what an incredible woman her mother was, as well as how much her mother loved her and that Andre McDonald lied about [Andreen] to save himself," Salazar said.

During the criminal trial, Andre claimed the argument that led to his wife’s death was because he confronted her about having an affair, and about her plans to start a new business in her name. He claimed on the witness stand that Andreen spat on his face and insulted him and his mother.

Plaintiffs’ counsel convinced the jury Andre's actions were knowing and intentional and that he was unjustly enriched by his wife's death, elements needed to create a constructive trust that could ensure hidden assets would not be discharged in a possible future bankruptcy.

Andre did not appear for trial, although that was his right. He was represented at trial by attorney Robert F. White.

White’s strategy, according to Salazar, was to convince the jury that it was unreasonable to find unjust enrichment or that the defendant acted knowingly and intentionally.

White declined to comment about the trial and verdict.

The civil jury heard evidence from Andreen's mother, who has custody of A.M., and the girl’s aunt, who put her life on hold to move in with her sister to help care for the girl, now 12. Jurors also heard from the girl’s therapist and special-education teacher, who explained how the trauma adversely affected the child.

There was also testimony from the Bexar County Sheriff’s Office’s lead investigator on the murder case and from a probate attorney. The probate attorney's testimony that Andre essentially stole the minor's rightful inheritance formed the basis for an unjust-enrichment claim, Lopez said.

The jury verdict awarded \$60 million in compensatory damages to the child, \$40 million

in compensatory damages to Ferron, and \$10 million in compensatory damages to Andreen's estate for pain and suffering. Another \$100 million was awarded in punitive damages.

Andre will be eligible for parole in six and a half years and is appealing his criminal conviction, Salazar noted. In the event he is released and attempts to move hidden assets, a court-appointed guardian is in place who is responsible for protecting the minor's finances, and an attorney ad litem is in place to take any such evidence to court, Salazar said.

Injury:

Andreen McDonald was beaten to death. She was survived by her minor child and her mother.

The minor child claimed past and future mental anguish, past and future loss of companionship and society, past and future pecuniary loss and loss of inheritance.

The minor child also sought findings that the defendant was unjustly enriched at her expense with respect to 11 items of property, including two cars, two bank accounts, two business organizations and four pieces of real property.

Andreen's mother claimed past and future mental anguish, past and future loss of companionship and society and past and future pecuniary loss.

The estate sought damages for Andreen's pain and mental anguish.

The plaintiffs also sought, as a basis for punitive damages, a finding that the defendant knowingly and intentionally caused Andreen's death or intended to cause serious bodily injury and commit an act clearly dangerous to human life that caused Andreen's death.

Result:

The jury found that the defendant's acts were the proximate cause of Andreen's death. Also, it found by clear and convincing evidence that the defendant knowingly or intentionally caused Andreen's death or intended to cause serious bodily injury and commit an act clearly dangerous to human life that caused Andreen's death.

The jury determined that the plaintiffs' damages totaled \$210 million, including \$100 million in punitive damages.

The jury apportioned the punitives 40 percent to the estate, 40 percent to the minor plaintiff and 20 percent to Ferron.

The jury also found that the defendant was unjustly enriched at the minor child's expense with respect to all 11 items of property.

Andreen McDonald

\$ 40,000,000 Punitive Exemplary Damages

\$ 1,000,000 pain and mental anguish

\$ 41,000,000 Plaintiff's Total Award

A. M.

\$ 12,500,000 Past Loss of Society Companion

\$ 12,500,000 Future Loss of Society Companion

\$ 5,000,000 Loss of Inheritance

\$ 2,500,000 Past Loss of Pecuniary Contribution

\$ 12,500,000 Past Mental Anguish

\$ 12,500,000 Future Mental Anguish

\$ 40,000,000 Punitive Damages

\$ 2,500,000 Future Loss of Pecuniary Contribution

\$ 100,000,000 Plaintiff's Total Award

Hyacinth Ferron

\$ 10,000,000 Past Loss of Society Companion

\$ 10,000,000 Future Loss of Society Companion

\$ 10,000,000 Past Mental Anguish

\$ 10,000,000 Future Mental Anguish

\$ 20,000,000 Punitive Damages

\$ 60,000,000 Plaintiff's Total Award

Trial Information:

Judge: Cynthia Chapa

Offer: \$125,000

Trial Length: 0

**Trial
Deliberations:** 0

**Editor's
Comment:** This report includes reprinted information that was previously published by VerdictSearch's sister publication Texas Lawyer. Additional information was provided by plaintiffs' counsel and gleaned from court documents. Defense counsel declined to contribute.

Writer

John Schneider

Plaintiff claimed intoxicated driver ran red light, caused crash

Type: Verdict-Plaintiff

Amount: \$59,756,223

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 166th, TX

Injury Type(s):

- *face/nose* - face; fracture, jaw
- *gastrointestinal/digestive* - spleen

Case Type:

- *Gross Negligence*
- *Motor Vehicle* - Speeding; Red Light; Multiple Vehicle; Alcohol Involvement

Case Name: Armando Guerrero III v. Nydia Angelica Pena, No. 2017CI15587

Date: September 20, 2019

Plaintiff(s):

- Jose L. Maya
- Alejandra Maya
- Armando Guerrero III (Male, 23 Years)
- Estate of Javier Maya

Plaintiff Attorney(s):

- Brent Farney; Thomas J. Henry Injury Attorneys; San Antonio TX for Armando Guerrero III
- Dennis J. Bentley; Thomas J. Henry Injury Attorneys; San Antonio TX for Armando Guerrero III
- Hunter Morris; ; San Antonio TX for Armando Guerrero III
- Gary Gibson; Carabin & Shaw; San Antonio TX for Jose L. Maya, Alejandra Maya, Estate of Javier Maya

Defendant(s):

- Nydia Angelica Pena

**Defense
Attorney(s):**

- Jeff Frey; Frey, Navarro & Wilkes, PLLC; San Antonio, TX for Nydia Angelica Pena
- Steve Barnett; Frey, Navarro & Wilkes, PLLC; San Antonio, TX for Nydia Angelica Pena

Insurers:

- State Farm Insurance Cos.

Facts:

In May 2016, plaintiff Armando Guerrero III, 23, a café's employee, was involved in an automobile accident. Guerrero occupied a vehicle that was struck while traveling through a San Antonio intersection. The other vehicle's driver, Nydia Pena, was legally intoxicated and traveling nearly twice the speed limit, which was 40 mph, and she had ignored a red traffic signal that governed her entrance to the intersection. Guerrero suffered injuries of his jaw and his spleen. Intervening plaintiff Javier Maya, who occupied the vehicle Guerrero occupied, suffered a fatal injury.

Guerrero sued Pena. The lawsuit alleged that Pena was negligent and grossly negligent in the operation of her vehicle.

Maya's estate, represented by his parents, Alejandra Maya and Jose Maya, intervened as a plaintiff. The estate alleged that Pena was negligent and grossly negligent in the operation of her vehicle.

The estate's claim was resolved via a pretrial settlement. Pena's insurer tendered its policy, which provided \$30,000 of coverage. The matter proceeded to a trial that addressed Guerrero's claim.

Guerrero claimed that the accident was entirely a result of Pena having disregarded a red traffic signal.

Guerrero also claimed that he was not the driver of the vehicle he occupied, but the defense claimed otherwise and suggested that the accident was a result of Guerrero having been overtaken by sleep while approaching the intersection. The defense intended to introduce a medical record that suggested that Guerrero admitted those circumstances, photographs that suggested that Guerrero was the driver, and prior testimony that suggested Guerrero's use of marijuana, but the evidence was precluded. The defense made bills of exception.

Judge Laura Salinas directed a verdict establishing negligence, gross negligence and intoxication assault as to Pena. Pena was deemed entirely liable for the accident, and the trial proceeded to damages.

Injury: Guerrero suffered a fracture of his jaw, damage of his spleen and injuries of his face. The injuries of his jaw and spleen required surgery.

Guerrero claimed that he suffers ongoing pain and limitations. He sought recovery of \$81,223.22 for past medical expenses, damages for past and future physical pain and mental anguish, damages for past and future physical impairment, damages for past and future disfigurement, and punitive damages.

In opposing punitive damages, the defense intended to argue that Pena is serving 10 years in prison because of the accident and has therefore been sufficiently punished, but that argument was precluded. The defense made a bill of exception.

Result: The jury determined that Guerrero's damages totaled \$59,751,223.22, which included punitive damages of \$50 million. Guerrero's recovery is not likely to exceed \$30,000, which was the limit of Pena's insurance's coverage.

Armando Guerrero III

\$81,223 Personal Injury: Past Medical Cost

\$125,000 Personal Injury: Past Physical Impairment

\$1,500,000 Personal Injury: Future Physical Impairment

\$50,000,000 Personal Injury: Punitive Exemplary Damages

\$300,000 Personal Injury: Past Disfigurement

\$250,000 Personal Injury: Future Disfigurement

\$2,500,000 Personal Injury: past physical pain and mental anguish

\$5,000,000 Personal Injury: future physical pain and mental anguish

Trial Information:

Judge: Laura Salinas

Offer: \$30,000 (for Guerrero; insurance coverage's limit)

Trial Length: 5 days

**Trial
Deliberations:** 4 hours

Jury Vote: 10-2

Post Trial: The defense has filed an appeal.

**Editor's
Comment:** This report is based on information that was provided by Guerrero's counsel and defense counsel. Additional information was gleaned from court documents. Maya's estate's counsel was not asked to contribute.

Writer John Schneider

Lawsuit said trucker killed while trying to aid disabled motorists

Type: Verdict-Plaintiff

Amount: \$10,250,272

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 438th, TX

Injury Type(s):

- *other* - death

Case Type:

- *Motor Vehicle* - Pedestrian
- *Wrongful Death* - Survival Damages

Case Name: Theresa Espinoza, Individually and as Heir to the Estate of Pedro Espinoza, Sr., Deceased, Pedro Espinoza, Jr. Individually and as Heir to the Estate of Pedro Espinoza, Sr. v. John Christner Trucking, LLC Three Diamond Leasing, LLC Clayton Kanzigg and Ronnie Estrada, No. 2018CI03948

Date: February 04, 2020

Plaintiff(s):

- Chris Colon
- Jovita Colon
- Patrick Colon
- Julianne Marines
- Theresa Espinoza
- Jezabel Ontiveros
- Pedro Espinoza Jr.
- Bonnie Lee Maldonado
- Estate of Emilio Colon
- Estate of Pedro Espinoza Sr. (Male, 51 Years)

**Plaintiff
Attorney(s):**

- Langdon "Trey" Smith; Jim S. Adler & Associates; Houston TX for Theresa Espinoza, Estate of Pedro Espinoza Sr., Pedro Espinoza Jr., Julianne Marines, Jezabel Ontiveros, Bonnie Lee Maldonado
- Michael Gomez; Jim S. Adler & Associates; Houston TX for Theresa Espinoza, Estate of Pedro Espinoza Sr., Pedro Espinoza Jr., Julianne Marines, Jezabel Ontiveros, Bonnie Lee Maldonado
- Francisco Guerra IV; Watts Guerra LLP; San Antonio TX for Patrick Colon, Estate of Emilio Colon, Chris Colon, Jovita Colon
- R. Louis Bratton; The Bratton Firm, P.C.; Austin TX for Patrick Colon, Estate of Emilio Colon, Chris Colon, Jovita Colon

**Plaintiff Expert
(s):**

- David Macpherson Ph.D.; Economics; San Antonio, TX called by: Langdon "Trey" Smith, Michael Gomez
- Kevin Johnson; Accident Reconstruction; Zionsville, IN called by: Langdon "Trey" Smith, Michael Gomez
- Whitney Morgan; Trucking Industry; Birmingham, AL called by: Langdon "Trey" Smith, Michael Gomez

Defendant(s):

- Ronnie Estrada
- Clayton Kanzigg
- Three Diamond Leasing, LLC
- John Christner Trucking, LLC

**Defense
Attorney(s):**

- P. Clark Aspy; Naman, Howell, Smith & Lee; Austin, TX for John Christner Trucking, LLC, Three Diamond Leasing, LLC, Clayton Kanzigg
- Jay Lea; Naman, Howell, Smith & Lee; Austin, TX for John Christner Trucking, LLC, Three Diamond Leasing, LLC, Clayton Kanzigg
- None reported for Ronnie Estrada

**Defendant
Expert(s):**

- David Krauss Ph.D.; Ergonomics/Human Factors; Los Angeles, CA called by: for P. Clark Aspy, Jay Lea
- Jason Jupe P.E.; Accident Reconstruction; Austin, TX called by: for P. Clark Aspy, Jay Lea
- Andrew Sievers; Trucking Industry; Mahomet, IL called by: for P. Clark Aspy, Jay Lea
- Jeffrey Hickman Ph.D.; Driver Performance/Behavior; Blacksburg, VA called by: for P. Clark Aspy, Jay Lea
- Mauricio Cantu; Safety; Laredo, TX called by: for P. Clark Aspy, Jay Lea

Facts:

On the night of Feb. 15, 2018, plaintiffs' decedent Pedro Espinoza Sr., 51, a truck driver, was driving an 18-wheeler east on Interstate 10 in Guadalupe County. Espinoza came upon an accident scene. Two disabled vehicles, a Ford Explorer and Ford Escape, were in the right lane without their lights on. Espinoza passed them and parked on the shoulder of the road about a quarter mile away. He turned on his hazard lights, exited his truck and walked back to the accident scene to render aid. Clayton Kanzigg, driving in an 18-wheeler on cruise control, struck the disabled vehicles and a concrete bridge barrier. Espinoza was between Kanzigg's 18-wheeler and the barrier. Espinoza died of fatal injuries.

The passenger in the Explorer, Emilio Colon, was also killed, and named as an

intervening plaintiffs' decedent. The driver of the Explorer, Patrick Colon, was listed as an intervening plaintiff. Ronnie Estrada was identified as the driver of the Escape. Police faulted Colon and Estrada for the initial accident and the subsequent accident involving Kanzigg.

Espinoza was survived by his wife, plaintiff Theresa Espinoza, 53, and four adult children: plaintiff Bonnie Lee Maldonado, 35; plaintiff Pedro Espinoza Jr., 33; plaintiff Jezabel Ontiveros, 32; and plaintiff Julianne Marines, 24. Emilio Colon was survived by his two sons and a daughter.

Kanzigg had leased his 18-wheeler from the Three Diamond Leasing LLC and was in the course and scope of his employment with John Christner Trucking LLC (JCT).

Espinoza's estate, widow and adult children sued Kanzigg, JCT, Three Diamond and Estrada. The Colons intervened as plaintiffs. Three Diamond was dismissed before trial. Estrada never answered the lawsuit and he was dropped from the claim before the trial. The Colon plaintiffs settled their claims for undisclosed amounts before trial. The case went to trial on the claims of the Espinoza plaintiffs against Kanzigg and JCT only.

The lawsuit alleged that Kanzigg was negligent in the operation of his vehicle.

Counsel for the Espinozas argued that three drivers, including Espinoza, were able to avoid the disabled vehicles, and maintained that Kanzigg should have been able to avoid them as well. The plaintiffs' accident-reconstruction expert testified that, if Kanzigg had started to take evasive action even one second sooner or if he had been traveling just a few miles per hour slower, he would have been able to avoid colliding with the SUVs. Even if a vehicle was passing Kanzigg on the left, as Kanzigg claimed, the Espinozas' expert said that Kanzigg could have slowed down and let that vehicle pass. The arguments and opinions were based partly on Kanzigg's testimony that he saw the Espinoza vehicle from about half a mile away.

Defense counsel argued that Kanzigg's judgment of the distances was not exact and that he did not see Espinoza's 18-wheeler until it was much closer. Still, they argued, it was hundreds of yards away, and Kanzigg had no reason to slow down or take evasive action. They also argued that slowing down or taking evasive action sooner would not have made a difference.

Kanzigg testified that he tried to change lanes but could not because a vehicle was passing him on his left. Also, data from Kanzigg's truck showed that it was below the speed limit, and defense counsel argued that Kanzigg had no reason to brake or turn off his cruise control.

The main defense argument was that Estrada and Colon were responsible for the accident, including the collision involving Kanzigg. The disabled vehicles were not visible to approaching traffic and created a sudden emergency for Kanzigg, who acted reasonably under the circumstances, defense counsel maintained. The defense asserted affirmative claims against Colon and Estrada and designated them as responsible third parties.

Colon had rear-ended Estrada, who was intoxicated and driving slowly. However, all evidence of Estrada's intoxication was excluded.

Defense counsel further argued that Espinoza should not have exited his vehicle.

The court denied the defense's request to submit Espinoza, Colon and Estrada in the negligence question, and only Kanzigg was submitted.

Injury:

Espinoza was killed. Evidence showed that his death was likely instantaneous.

Espinoza and his wife had been married for 28 years. They lived in Somerset, as did two of their children. Two daughters live in nearby Pleasanton. Their testimony showed that the Espinoza family was close, plaintiffs' counsel said.

The Espinozas retained an economist, who testified that Espinoza's future earnings would have been about \$500,000.

The funeral and burial expenses were \$10,272.

For Espinoza's widow, the Espinozas' counsel asked for \$200,000 for past pecuniary loss; \$2 million for future pecuniary loss; \$500,000 for past loss of companionship and society; \$3 million for future loss of companionship and society; \$500,000 for past mental anguish; and \$3 million for future mental anguish.

For each of Espinoza's adult children, counsel for the Espinozas asked for \$100,000 for past pecuniary loss; \$150,000 for future pecuniary loss; \$200,000 for past loss of companionship and society; \$350,000 for future loss of companionship and society; \$200,000 for past mental anguish; and \$350,000 for future mental anguish.

Defense counsel argued that the amounts sought for noneconomic damages were excessive, given that Espinoza's future earnings would have been only \$500,000, and that they were duplicative.

In rebuttal closing, counsel for the Espinozas argued that the value of a man's life and his value to his family is far greater than his paycheck, and that Espinoza's actions as a good Samaritan supported the requested award.

Result:

The jury found that Kanzigg's negligence proximately caused the accident. Therefore, he and JCT were liable. The jury awarded the trial plaintiffs \$10,250,272.

The trial plaintiffs and Kanzigg/JCT had entered into a confidential high-low agreement before closing argument.

Theresa Espinoza

\$140,000 Wrongful Death: Past Loss Of Pecuniary Contribution

\$2,000,000 Wrongful Death: Future Loss Of Pecuniary Contribution

\$500,000 Wrongful Death: Past Mental Anguish

\$500,000 Wrongful Death: Future Mental Anguish

Pedro Espinoza Jr.

\$200,000 Wrongful Death: Past Loss Of Society Companionship

\$350,000 Wrongful Death: Future Loss Of Society Companionship

\$100,000 Wrongful Death: Past Loss Of Pecuniary Contribution

\$150,000 Wrongful Death: Future Loss Of Pecuniary Contribution

\$200,000 Wrongful Death: Past Mental Anguish

\$200,000 Wrongful Death: Future Mental Anguish

Estate of Pedro Espinoza Sr.

\$10,272 Wrongful Death: Funeral Burial Expense

Bonnie Lee Maldonado

\$200,000 Wrongful Death: Past Loss Of Society Companionship

\$350,000 Wrongful Death: Future Loss Of Society Companionship

\$100,000 Wrongful Death: Past Loss Of Pecuniary Contribution

\$150,000 Wrongful Death: Future Loss Of Pecuniary Contribution

\$200,000 Wrongful Death: Past Mental Anguish

\$200,000 Wrongful Death: Future Mental Anguish

Julianne Marines

\$200,000 Wrongful Death: Past Loss Of Society Companionship

\$350,000 Wrongful Death: Future Loss Of Society Companionship

\$100,000 Wrongful Death: Past Loss Of Pecuniary Contribution

\$200,000 Wrongful Death: Past Mental Anguish

\$200,000 Wrongful Death: Future Mental Anguish

Jezabel Ontiveros

\$200,000 Wrongful Death: Past Loss Of Society Companionship

\$350,000 Wrongful Death: Future Loss Of Society Companionship

\$100,000 Wrongful Death: Past Loss Of Pecuniary Contribution

\$150,000 Wrongful Death: Future Loss Of Pecuniary Contribution

\$200,000 Wrongful Death: Past Mental Anguish

\$200,000 Wrongful Death: Future Mental Anguish

Trial Information:

Judge: Cynthia M. Chapa

Trial Length: 2 weeks

Trial Deliberations: 3 days

Jury Vote: 10-2

Jury Composition: 7 male, 5 female

Editor's Comment: This report is based on information that was provided by defense counsel and counsel of Pedro Espinoza Sr.'s estate, Pedro Espinoza Jr., Theresa Espinoza, Maldonado, Marines and Ontiveros. The remaining plaintiffs' counsel did not respond to the reporters' phone calls.

Writer John Schneider

Plaintiff: Trucking company was negligent in hiring driver

Type: Mediated Settlement

Amount: \$9,000,000

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 73rd, TX

Injury Type(s): • *other - death*

Case Type:

- *Motor Vehicle - Red Light; Intersection; Multiple Vehicle*
- *Wrongful Death - Survival Damages*
- *Worker/Workplace Negligence - Negligent Hiring; Negligent Training; Negligent Retention; Negligent Supervision*

Case Name: Georgann P. Maggio, Individually and as Personal Representative of the Estate of Marikate G. Maggio v. 48Forty Solutions LLC and Miguel Garcia-Moreno, No. 2018CI24231

Date: November 16, 2020

Plaintiff(s):

- Georgann P. Maggio
- Estate of Marikate G. Maggio (Female, 18 Years)

Plaintiff Attorney(s):

- Thomas A. Crosley; Crosley Law Firm, P.C.; San Antonio TX for Georgann P. Maggio, Estate of Marikate G. Maggio
- Shawn M. Mechler; Crosley Law Firm, P.C.; San Antonio TX for Georgann P. Maggio, Estate of Marikate G. Maggio

- Plaintiff Expert(s):**
- H. David Feltoon Ph.D.; Psychology/Counseling; Austin, TX called by: Thomas A. Crosley, Shawn M. Mechler
 - Keith W. Fairchild Ph.D.; Economics; San Antonio, TX called by: Thomas A. Crosley, Shawn M. Mechler
 - Peter J. Sullivan; Truck Fleet Operations; Houston, TX called by: Thomas A. Crosley, Shawn M. Mechler
 - Michael H. Rangel P.E.; Accident Reconstruction; San Antonio, TX called by: Thomas A. Crosley, Shawn M. Mechler

- Defendant(s):**
- Miguel Garcia-Moreno
 - 48Forty Solutions LLC

- Defense Attorney(s):**
- Daniel J. Madden; Fox Rothschild LLP; Dallas, TX for 48Forty Solutions LLC
 - David P. Boyce; Wright & Greenhill, P.C.; Austin, TX for Miguel Garcia-Moreno

- Defendant Expert(s):**
- Lane VanIngen; Truck Fleet Operations; Daphne, AL called by: for Daniel J. Madden
 - Helen Reynolds Ph.D.; Economics; Dallas, TX called by: for Daniel J. Madden

- Insurers:**
- XL Specialty
 - Liberty Mutual Insurance Co.

Facts:

On Sept. 26, 2018, plaintiffs' decedent Marikate Maggio, 18, a college freshman, was driving a Mini Cooper south on U.S. 181 at Farm to Market Road 775, in Wilson County. The intersection was controlled by a traffic light. When Maggio attempted to make a left turn in the intersection, her car was struck by a tractor-trailer driven by Miguel Garcia-Moreno, who had been traveling north on 181 while in the course and scope of his employment. Maggio suffered a fatal injury.

Maggio's mother and estate sued Garcia-Moreno and his employer, 48Forty Solutions LLC. The lawsuit alleged that Garcia-Moreno was negligent and grossly negligent in the operation of the tractor-trailer. The lawsuit further alleged that 48Forty was also liable for negligence and gross negligence in its hiring, training, qualification, retention and supervision of employees, and in permitting a culture of unsafe driving.

The plaintiffs claimed that Maggio was making a protected left turn. During discovery, plaintiffs' counsel obtained the tractor-trailer's two-way dash-camera footage, which clearly showed Garcia-Moreno running a red light at 44 mph. Plaintiffs' counsel argued that 48Forty had the dash-camera footage two hours after the accident, yet the defendants continued to blame Maggio for the accident until plaintiffs' counsel obtained the footage. Garcia-Moreno had provided police with a handwritten statement blaming Maggio, and the officer's initial report, issued 13 days post-accident, faulted Maggio for running a red light. After plaintiffs' counsel provided the officer with the dash-camera footage, the officer amended his report to fault Garcia-Moreno for the accident, and Garcia-Moreno was charged with involuntary manslaughter. In his deposition, Garcia-Moreno asserted his Fifth Amendment rights in response to almost every question. He was no-billed by a grand jury.

Plaintiffs' counsel contended that Garcia-Moreno had been written up three times by 48Forty for preventable accidents, and that he had at least two preventable accidents while working for other trucking companies in the approximately 3.5 years before being hired by 48Forty. He was also convicted of driving at an "unsafe speed" one month before being hired by 48Forty and, in the 2.5 months before the accident, he received coaching or driver follow-up training from 48Forty on seven occasions. This coaching took place when the tractor's SmartDrive camera system captured a preventable risky movement and the third-party vendor sent 48Forty an alert.

Besides Garcia-Moreno, plaintiffs' counsel deposed two 48Forty corporate representatives, Garcia-Moreno's two supervisors and a dispatcher.

The defendants denied gross negligence, and 48Forty also denied the direct negligence claims against it. 48Forty asserted that Garcia-Moreno's two prior wrecks before he was hired by 48Forty were very long ago and that, of the three accidents that happened after he was hired, two were extremely minor and the third was probably not his fault. Per 48Forty, Garcia-Moreno was a good worker, and 48Forty performed proper background checks and proper supervision, training and qualification.

Injury:

Maggio suffered severe multiple trauma and died. She survived about 20 minutes with the assistance of CPR by first responders. However, based on statements from first responders and eyewitnesses, she was nonresponsive the entire time. She was survived by her mother, plaintiff Georgann Maggio.

Maggio's mother sought damages for past and future loss of companionship and society, and past and future mental anguish. Plaintiffs' counsel conducted and produced to the defense about 40 video interviews of Maggio's loved ones, relatives, friends, softball teammates and coaches. Each commented on Maggio's personality and the special bond between Maggio and her mother, with whom Maggio lived.

The estate sought damages for lost earnings, past medical expenses, and funeral and burial expenses. Although Maggio was observed to be nonresponsive by first responders and eyewitnesses, the estate alleged that was likely some amount of conscious pain and suffering, and sought damages for this, as well.

Plaintiffs' economics expert opined on how much Maggio would have earned. Maggio had talked about becoming an orthopedic surgeon or a teacher and coach. The expert opined that her lifetime earnings, after deducting for consumption, would have been \$4,818,873 or \$315,879, depending on which of those career paths she took.

The defense contended that, as a matter of law, lost earnings were not recoverable by Maggio's estate or individually by her mother as a wrongful death beneficiary.

Result:

The parties settled for \$9 million prior to trial. The defendants had \$5 million in primary coverage and \$25 million in excess coverage.

The case was mediated before Joseph Casseb.

Trial Information:**Judge:**

Joseph Casseb

**Editor's
Comment:**

This report is based on information that was provided by plaintiffs' counsel. Defense counsel declined to contribute.

Writer

John Schneider

Speeding, distracted driver caused accident, plaintiff claimed

Type: Verdict-Plaintiff

Amount: \$7,000,000

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 408th, TX

Injury Type(s):

- *hip*
- *back* - fracture, back; fracture, L5; fracture, back; fracture, T1; fusion, lumbar; fracture, vertebra; fracture, L5; fracture, vertebra; fracture, T1
- *neck* - fracture, neck; fracture, C7; fracture, vertebra; fracture, C7
- *chest* - hemothorax; fracture, rib
- *other* - plate; physical therapy; pins/rods/screws; hardware implanted; nondisplaced fracture
- *epidermis* - contusion
- *arterial/vascular* - pseudoaneurysm
- *surgeries/treatment* - laminectomy; laminectomy, lumbar
- *pulmonary/respiratory* - pneumothorax

Case Type:

- *Motor Vehicle* - Speeding; Cell Phone; Rear-ender; Multiple Vehicle; Negligent Entrustment
- *Worker/Workplace Negligence* - Negligent Supervision

Case Name: Oleagrio Aragus Jr. v. Allways Auto Group Ltd. and David Louis Rios, No. 2019-CI-17715

Date: November 22, 2021

Plaintiff(s):

- Oleagrio Aragus, Jr. (Male, 39 Years)

Plaintiff Attorney(s):

- Frank W. Robertson; Jim S. Adler & Associates; Houston TX for Oleagrio Aragus, Jr.
- Michael Gomez; Jim S. Adler & Associates; Houston TX for Oleagrio Aragus, Jr.
- Philip Broderick; Jim S. Adler & Associates; Houston TX for Oleagrio Aragus, Jr.

**Plaintiff Expert
(s):**

- James Evans P.E.; Accident Reconstruction; College Station, TX called by: Frank W. Robertson, Michael Gomez, Philip Broderick
- Jason M. Marchetti M.D.; Life Care Planning; Dallas, TX called by: Frank W. Robertson, Michael Gomez, Philip Broderick
- Gerald Casenave Ph.D.; Vocational Assessment; Dallas, TX called by: Frank W. Robertson, Michael Gomez, Philip Broderick
- Sanjay Misra M.D.; Orthopedic Surgery; San Antonio, TX called by: Frank W. Robertson, Michael Gomez, Philip Broderick
- Jeffrey J. Stein M.D.; Vascular Surgery; San Antonio, TX called by: Frank W. Robertson, Michael Gomez, Philip Broderick
- William Davenport; Economics; San Antonio, TX called by: Frank W. Robertson, Michael Gomez, Philip Broderick

Defendant(s):

- David Louis Rios
- Allways Auto Group Ltd.

**Defense
Attorney(s):**

- Stephen T. Dennis; Clark Hill, PLLC; San Antonio, TX for Allways Auto Group Ltd., David Louis Rios
- Bijan Siahatgar; Clark Hill, PLLC; San Antonio, TX for Allways Auto Group Ltd., David Louis Rios
- Charlie Hayes; Clark Hill, PLLC; San Antonio, TX for Allways Auto Group Ltd., David Louis Rios

**Defendant
Expert(s):**

- Breck C. McDaniel; Electronic Communications; Houston, TX called by: for Stephen T. Dennis, Bijan Siahatgar, Charlie Hayes

Insurers:

- Harco National Insurance Co.

Facts:

On Aug. 15, 2019, plaintiff Oleagrio Aragus Jr., 39, a floor installer, was driving on Interstate 37, in Bexar County. While he was decelerating in traffic, his car's rear end was struck by a trailing pickup truck that was being driven by David Rios. Aragus suffered injuries of his aorta, his back, a hip, his lungs, his neck and his rib cage.

Aragus sued Rios and Rios' employer, Allways Auto Group Ltd. The lawsuit alleged that Rios was grossly negligent in the operation of his vehicle, that Allways Auto Group was liable because the accident occurred during Rios' performance of his job's duties, that Allways Auto Group was grossly negligent in its supervision of Rios, and that Allways Auto Group was grossly negligent in its entrustment of its vehicle.

According to the vehicles' air-bag control modules, at the time of impact, Rios' vehicle was traveling 71 mph and Aragus' vehicle was traveling about 4 mph. Two witnesses claimed that Rios had been speeding and weaving through traffic, and Aragus claimed that Rios had been watching a music video on his cell phone. Rios had four prior moving violations, though none while on duty.

Defense counsel acknowledged Rios' negligence but contended that Allways Auto Group was not negligent or responsible. Rios claimed that he was distracted by traffic slowing in an adjacent lane, and he denied that a music video was playing. The defendants' cell-phone forensics expert opined that, if Rios had been watching a video, his cell phone records would have shown more data being used than they did.

Injury:

Aragus' aorta developed a pseudoaneurysm: an injury of the arterial wall and resultant bleeding. Aragus also suffered a nondisplaced fracture of his C7 and T1 vertebrae, a burst fracture of his L5 vertebra, a severe contusion of a hip, and fractures of eight ribs. He also developed pneumothoraces, which involved a collapse of each lung, and a hemothorax, which involved an accumulation of blood around the lungs.

Aragus was retrieved by an ambulance, and he was transported to a hospital. During the following two days, he underwent a total of four surgeries. He underwent surgical repair of his aorta, including the implantation of a stent; he underwent drainage of his lungs; he underwent open reduction and internal fixation of fractured ribs; and he underwent fusion of two levels of his spine's lumbar region. The latter procedure included implantation of a total of two stabilizing rods and six screws. His hospitalization lasted 16 days.

Aragus' injured hip developed a fluid buildup that necessitated a second, four-day hospitalization in September 2019.

During the ensuing months, Aragus required use of two stabilizing collars and an assistive walking device. He also underwent extensive physical therapy.

Aragus claimed that his back remains painful. He claimed that he cannot lift objects whose weight exceeds 10 pounds, and he also claimed that his pain prevents his tolerance of prolonged periods in which he is seated. He claimed that he resultantly cannot perform any type of work. He also claimed that he would require further physical therapy and further fusion of his spine's lumbar region.

Aragus sought recovery of \$15 million, which included \$118,554.73 for past medical expenses, \$469,000 for future medical expenses, unspecified damages for past and future physical pain, unspecified damages for past and future loss of earning capacity, unspecified damages for past and future mental anguish, unspecified damages for past and future physical impairment, and unspecified damages for past and future disfigurement.

The defense argued that Aragus could perform the duties of a sedentary job and that the noneconomic damages sought were excessive. The damages suggested by the defense totaled about \$1.6 million.

Result:

The jury found that the defendants were liable for the accident. Rios was allocated 80 percent of the liability, and Allways Auto Group was allocated 20 percent of the liability, based on negligent entrustment and supervision. The jury rejected the gross-negligence claims.

The jury determined that Aragus' damages totaled \$7 million.

Oleagrio Aragus

\$ 119,000 Past Medical Cost

\$ 518,000 Future Medical Cost

\$ 500,000 Past Physical Impairment

\$ 1,063,000 Future Physical Impairment

\$ 200,000 Past Disfigurement

\$ 100,000 Future Disfigurement

\$ 500,000 past physical pain

\$ 2,000,000 future physical pain

\$ 500,000 past mental anguish

\$ 300,000 future mental anguish

\$ 100,000 past loss of earning capacity

\$ 1,100,000 future loss of earning capacity

\$ 7,000,000 Plaintiff's Total Award

Trial Information:

Judge: Angelica Jimenez

Demand: \$6,000,000 (total, from both defendants [insurance coverage's limit])

Offer: \$1,950,000 (total, by both defendants)

Trial Length: 5 days

**Trial
Deliberations:** 0

Jury Vote: 10-2

Post Trial: The judgment included prejudgment interest of \$217,287, as well as taxable costs.

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

Writer John Schneider

Plaintiffs claimed pool design led to 3-year-old drowning

Type: Settlement

Amount: \$6,800,000

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 131st, TX

Injury Type(s):

- *other* - death

Case Type:

- *Wrongful Death* - Survival Damages
- *Premises Liability* - Swimming Pool; Dangerous Condition
- *Products Liability* - Design Defect

Case Name: Matthew Ray Bush and Jenevieve Ramos, Individually and as Surviving Parents of Hunter Bentley Bush and as Next Friends of T.B., and M.B., Minors v. Julia DeLaCruz Armstrong, SC Casa LLC, and Keith Zars Pools Ltd., No. 2018CI16581

Date: July 06, 2021

Plaintiff(s):

- M. B., (, 0 Years)
- T. B., (, 0 Years)
- Jenevieve Ramos, (, 0 Years)
- Matthew Ray Bush, (, 0 Years)
- Estate of Hunter Bentley Bush, (Male, 3 Years)

Plaintiff Attorney(s):

- Mark A.J. Fassold; Watts Guerra, LLP; San Antonio TX for Estate of Hunter Bentley Bush,, Matthew Ray Bush,, Jenevieve Ramos,, T. B.,, M. B.
- Francisco Guerra IV; Watts Guerra LLP; San Antonio TX for Estate of Hunter Bentley Bush,, Matthew Ray Bush,, Jenevieve Ramos,, T. B.,, M. B.
- Michael Murray; Watts Guerra, LLP; San Antonio TX for Estate of Hunter Bentley Bush,, Matthew Ray Bush,, Jenevieve Ramos,, T. B.,, M. B.
- Meredith Drukker Stratigopoulos; Watts Guerra, LLP; San Antonio TX for Estate of Hunter Bentley Bush,, Matthew Ray Bush,, Jenevieve Ramos,, T. B.,, M. B.

Plaintiff Expert(s):

- Kim W. Tyson; Pools; Pflugerville, TX called by: Mark A.J. Fassold, Francisco Guerra IV, Michael Murray, Meredith Drukker Stratigopoulos
- Cleve Turner FASLA; Pools; Amarillo, TX called by: Mark A.J. Fassold, Francisco Guerra IV, Michael Murray, Meredith Drukker Stratigopoulos
- Dennis J. Seal Ph.D., P.E.; Safety; Dallas, TX called by: Mark A.J. Fassold, Francisco Guerra IV, Michael Murray, Meredith Drukker Stratigopoulos
- Christopher B. Ticknor M.D.; Psychiatry; San Antonio, TX called by: Mark A.J. Fassold, Francisco Guerra IV, Michael Murray, Meredith Drukker Stratigopoulos

Defendant(s):

- SC Casa LLC
- Keith Zars Pools Ltd.
- Julia DeLaCruz Armstrong

Defense Attorney(s):

- Stephen C. Haynes; Vidaurri Lyde Rodriguez & Haynes; San Antonio, TX for Keith Zars Pools Ltd.
- Pablo Rivera; Vidaurri Lyde Rodriguez & Haynes; San Antonio, TX for Keith Zars Pools Ltd.
- James K. Floyd; Daw & Ray; San Antonio, TX for Julia DeLaCruz Armstrong, SC Casa LLC

Defendant Expert(s):

- Derek Downey; Pools; Solana Beach, CA called by: for Stephen C. Haynes, Pablo Rivera
- Michael A. Oostman; Drownings & Aquatic Injuries; North Reading, TX called by: for Stephen C. Haynes, Pablo Rivera

Insurers:

- Lloyd's of London
- United States Liability Insurance Group
- United Fire & Casualty Co.

Facts:

On May 13, 2018, plaintiffs' decedent Hunter Bentley Bush, 3, drowned in a swimming pool at the home of Julia DeLaCruz Armstrong, in Fair Oaks Ranch. Armstrong was hosting a Mother's Day party at her home. Hunter was at the party with his father, plaintiff Matthew Ray Bush. The property was titled in the name of SC Casa LLC, a family trust. The pool had been designed by Keith Zars Pools Ltd. and built in 2012.

Bush's family and estate sued Armstrong, SC Casa and Keith Zars Pools. The lawsuit alleged that Armstrong and SC Casa were liable on a theory of premises liability and that Keith Zars Pools was liable on a theory of design defect.

The pool had a sun shelf, on which the water was 5 inches deep. The plaintiffs claimed that the shelf had a 4-foot drop-off. As shown by security-camera footage, Hunter stepped from the side of the pool onto the shelf. He then stepped over the edge and, within one second, disappeared underwater. Adults were all around but did not notice. His 10-year-old brother found him at the bottom of the pool seven minutes later.

The plaintiffs argued that Armstrong and SC Casa were negligent for not having a lifeguard or water-watchers. Armstrong had expected as many as 44 people, including many children, at the party, plaintiffs' counsel noted.

The plaintiffs disputed the defense contention that Hunter's father was negligent for not watching him carefully enough. The defense pool expert acknowledged studies showing that parents become fatigued and distracted after three to four hours of monitoring children and that parental monitoring is not enough to prevent accidental drownings.

Against the pool company, plaintiffs' counsel argued that a swimming pool is a hazard by its very nature and that the pool company had included an additional, concealed hazard within this pool by including the sun shelf. Plaintiffs' counsel argued that the homeowners had not requested the sun shelf at all and that, by including it, the pool company needlessly increased the risk of harm. Counsel also pointed out the lack of warnings and lack of a floating rope or a "curb" above the water, along the edge of the shelf.

The defense denied negligence and design defect. It argued that the pool and sun shelf met applicable codes and industry standards by including contrasting-color tiles at the edge of the sun shelf. Also, Armstrong did request the sun shelf, the defense argued.

The defense also denied the existence of a 4-foot drop-off and contended that the shelf had steps and a bench leading to the shallow end of the pool.

The defense argued that Bush alone was negligent, for failing to supervise his son properly.

Injury: Video footage showed Hunter disappear underwater suddenly and then struggle for at least 30 seconds before drowning. He was survived by his mother, his father and two older brothers.

The estate sought damages for conscious pain and suffering, and the family members sought damages for past and future mental anguish and past and future loss of companionship and society.

Result: Armstrong and SC Casa settled about a week before trial for \$6 million. Keith Zars Pools settled for \$800,000 during voir dire.

The policy limit of Armstrong and SC Casa was \$6 million. The first layer of Keith Zars Pools' insurance coverage was \$2 million.

Trial Information:

Judge: Norma Gonzales

Trial Length: 0

Trial Deliberations: 0

Editor's Comment: This report is based on information that was provided by plaintiffs' and Keith Zars Pools' counsel. The remaining defendants' counsel did not respond to the reporter's phone calls.

Writer John Schneider

Lawsuit: Trucker's speed on wet road caused fatal accident

Type: Settlement

Amount: \$5,997,629

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 166th, TX

Injury Type(s):

- *leg* - fracture, leg; fracture, femur
- *back* - sprain, lumbar
- *head*
- *neck* - sprain, cervical
- *brain* - traumatic brain injury
- *chest* - fracture, rib
- *other* - death; sutures; infection; laparotomy; pins/rods/screws; hardware implanted; spleen, laceration; comminuted fracture; nondisplaced fracture
- *urological* - kidney
- *surgeries/treatment* - internal fixation
- *mental/psychological* - anxiety; depression; post-traumatic stress disorder
- *pulmonary/respiratory* - lung, contusion
- *gastrointestinal/digestive* - liver; liver, laceration

Case Type:

- *Motor Vehicle* - Speeding; Passenger; Center Line; Lane Change; Tractor-Trailer; Multiple Vehicle
- *Wrongful Death* - Survival Damages
- *Worker/Workplace Negligence* - Negligent Hiring; Negligent Retention; Negligent Supervision

Case Name: Stephen Thomas Mild and Jeannie Sue Mild, Individually and as Next Friends of ZM, a Minor, and as Representatives of the Estate of Nanasha Ra-Nee Mild v. Detmar Logistics LLC, Detmar Logistics II Inc. and Rodney Obryant, No. 2018CI17441

Date: October 14, 2019

- Plaintiff(s):**
- Z.M. (Female)
 - Jeannie Sue Mild
 - Stephen Thomas Mild
 - Estate of Nanasha Ra-Nee Mild (Female)
- Plaintiff Attorney(s):**
- Hank Stout; Sutliff & Stout, PLLC; Houston TX for Stephen Thomas Mild, Jeannie Sue Mild, Z.M., Estate of Nanasha Ra-Nee Mild
 - Graham E. Sutliff; Sutliff & Stout, PLLC; Houston TX for Stephen Thomas Mild, Jeannie Sue Mild, Z.M., Estate of Nanasha Ra-Nee Mild
 - Heather von Sternberg; Sutliff & Stout, PLLC; Houston TX for Stephen Thomas Mild, Jeannie Sue Mild, Z.M., Estate of Nanasha Ra-Nee Mild
- Defendant(s):**
- Rodney O'Bryant
 - Detmar Logistics LLC
 - Detmar Logistics II Inc.
 - Detmar Logistics Leasing LLC
 - Good Ol' Boy Investments LLC
 - Texas Department of Transportation
- Defense Attorney(s):**
- Lee Thibodeaux; Ramey, Chandler, McKinley & Zito, P.C.; Houston, TX for Rodney O'Bryant, Detmar Logistics II Inc., Detmar Logistics LLC, Detmar Logistics Leasing LLC, Good Ol' Boy Investments LLC
 - Robert L. Ramey; Ramey, Chandler, Quinn & Zito, P.C.; Houston, TX for Rodney O'Bryant, Detmar Logistics II Inc., Detmar Logistics LLC, Detmar Logistics Leasing LLC, Good Ol' Boy Investments LLC
 - Brian Cummings; Attorney General's Office; Austin, TX for Texas Department of Transportation
- Insurers:**
- National Union Fire Insurance Company of Pittsburgh, PA
 - Endurance American Speciality Insurance Co.
 - Navigators Group Inc.

Facts:

On Sept. 6, 2018, plaintiffs' decedent Nanasha Ra-Nee Mild, 39, an animal shelter's employee, was driving on the westbound side of Highway 87, in San Angelo. Her daughter, 14, was a passenger, asleep in the rear seat. Misty rain was falling. An eastbound trucker, Rodney O'Bryant, lost control of his rig while changing lanes. His rig jackknifed, rolled onto one side and slid onto the westbound side of the roadway, where it struck the plaintiffs' car. Mild was killed, and her daughter suffered a serious injury. Police concluded that O'Bryant's failure to control his speed caused the accident.

Mild's parents, acting individually, in behalf of their daughter's estate and in behalf of their granddaughter, who was referenced as "Z.M." in court filings, sued O'Bryant and his employers, Detmar Logistics LLC, Detmar Logistics Leasing LLC, Detmar Logistics II Inc. and Good Ol' Boy Investments LLC. The lawsuit alleged that O'Bryant was negligent in the operation of his vehicle. The lawsuit further alleged that O'Bryant's employers were liable because the accident occurred during O'Bryant's performance of his job's duties. The lawsuit also alleged that O'Bryant's employers were negligent in their hiring, retention and supervision of O'Bryant.

The defendants designated the highway's maintainer, the Texas Department of Transportation, as a responsible third party. The direct defendants alleged that the Texas Department of Transportation was negligent in its maintenance of the roadway and that its negligence caused the accident.

Plaintiffs' counsel later added the Texas Department of Transportation as a defendant but did not present a case against that entity.

O'Bryant had an extensive criminal history, including felony convictions, which he concealed on his job application. O'Bryant had applied for the job about two weeks before the accident, and the employer did not request a criminal background check until six days later. The company let him start driving at about the same time it requested the criminal background check. The employer acknowledged that results of the background check, which it did not receive until the day after the accident, would have disqualified O'Bryant from employment. Shortly before O'Bryant was hired, an internal email said he walked out on his orientation for no reason. The email, from the instructor, described O'Bryant as "impatient, lazy, apathy, irresponsibility, no accountability and no answerability."

Plaintiffs' counsel argued that the company made it clear that meeting customer demand was all that mattered, that safety was treated as a joke, and that the employer rushed its on-boarding process. The company watched and took no action as its driver quality plummeted and its driver turnover skyrocketed, plaintiffs' counsel claimed. During the month before the accident, the employer added 48 drivers to its roster and removed 39, according to plaintiffs' counsel.

O'Bryant and his employer denied negligence. They contended that the Texas Department of Transportation negligently maintained the roadway and that the road conditions and weather conditions caused O'Bryant to lose control. The defense noted that another driver lost control about 100 yards away on the same road later that day.

The defense further argued that a test at the hospital indicated that Mild had a blood-alcohol concentration of 0.17. However, plaintiffs' counsel argued that no one smelled alcohol on her and that no accurate test of her blood alcohol, if any, was performed.

Injury:

Mild was taken to a hospital. She died the following day without having regained consciousness. She had sustained massive blunt force trauma, causing a herniated brain stem and other injuries. Mild was survived by her daughter and parents. All lived in San Angelo. Mild lived on her own, and the daughter lived with her grandparents.

The paid or incurred medical expenses for Mild were about \$215,000, and the funeral and burial expenses were about \$3,600.

Mild's parents sought damages for wrongful death. The daughter sought damages for wrongful death, along with bystander damages and damages for her own bodily injuries.

The minor was taken to the hospital by ambulance. She was asleep when the accident happened but awoke on impact and remained conscious throughout the event. She sustained a large laceration of the spleen, small lacerations of the left kidney and the liver, a comminuted mid-shaft fracture of the left femur, two nondisplaced rib fractures, a lung contusion, fragments of glass in her face, and mild cervical and lumbar strains. Ultimately, she also claimed depression, anxiety, nightmares, panic attacks and post-traumatic stress disorder, as well as susceptibility to infections.

The daughter's initial hospitalization lasted nine days, during which she underwent an exploratory laparotomy, which involves an incision in the abdominal wall to gain access to the abdominal cavity, and, also a splenectomy. The laceration above her eye was sutured, and a rod was placed in her femur. Glass was removed from her face. She underwent physical therapy as well.

A splenectomy, which involves removing all or part of the spleen, generally renders a patient immunodeficient; meaning for the rest of her life, any possible infection must be treated as an emergency. The minor plaintiff developed periodic infections after the incident. She went to the emergency room each time and was treated with antibiotics. She underwent counseling for her psychological issues and claimed that she would continue to need counseling in the future.

The girl's paid or incurred medical expenses were \$12,885.60, and a life care planner prepared a life care plan with a present value of \$665,797. The girl also claimed noneconomic damages, such as past and future physical pain and mental anguish and past and future physical impairment.

Result:

The plaintiffs settled with O'Bryant and his employers for \$5,997,629.30, prior to trial. The direct defendants' primary insurer tendered its policy, which provided \$1 million of coverage, and their excess insurers agreed to pay a total of \$4,997,629.30, from policies that provided combined coverage of \$5 million.

Experts had not been designated yet. The the Texas Department of Transportation was non-suited without payment.

Trial Information:

Editor's Comment: This report is based on information that was provided by plaintiffs' counsel. The Texas Department of Transportation's counsel declined to contribute, and the remaining defendants' counsel did not respond to the reporter's phone calls.

Writer John Schneider

Plaintiff: Rear-ending by 18-wheeler led to neck, back, hip woes

Type: Verdict-Plaintiff

Amount: \$4,025,568

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 131st, TX

Injury Type(s):

- *hip* - labrum, tear (hip)
- *back* - herniated disc, lumbar
- *neck* - fusion, cervical; herniated disc, lumbar; herniated disc, cervical
- *other* - chiropractic; steroid injection; epidural injections
- *epidermis* - edema
- *surgeries/treatment* - discectomy

Case Type:

- *Motor Vehicle* - Truck; Speeding; Rear-ender; Tractor-Trailer; Multiple Vehicle

Case Name: Timothy Budden v. Jose A. Ramos Marrero and J&P Paving Co., No. 2019CI05334

Date: September 02, 2022

Plaintiff(s):

- Timothy Budden, (Male, 55 Years)

Plaintiff Attorney(s):

- Thomas A. Crosley; Crosley Law Firm, PC; San Antonio TX for Timothy Budden
- Shawn M. Mechler; Crosley Law Firm, PC; San Antonio TX for Timothy Budden
- Brennen Jenkins; Crosley Law Firm, PC; San Antonio TX for Timothy Budden

Plaintiff Expert(s):

- Alex Willingham M.D.; Life Care Planning; San Antonio, TX called by: Thomas A. Crosley, Shawn M. Mechler, Brennen Jenkins
- John Smith P.E.; Biomechanical; Parker, CO called by: Thomas A. Crosley, Shawn M. Mechler, Brennen Jenkins
- Yury Sless M.D.; Orthopedic Surgery; San Antonio, TX called by: Thomas A. Crosley, Shawn M. Mechler, Brennen Jenkins
- Brian Garra M.D.; Radiology; Clermont, FL called by: Thomas A. Crosley, Shawn M. Mechler, Brennen Jenkins
- Irvin Sahni M.D.; Orthopedic Surgery; New Braunfels, TX called by: Thomas A. Crosley, Shawn M. Mechler, Brennen Jenkins
- Keith W. Fairchild Ph.D.; Economics; San Antonio, TX called by: Thomas A. Crosley, Shawn M. Mechler, Brennen Jenkins
- Joshua Hill D.C.; Chiropractic; San Antonio, TX called by: Thomas A. Crosley, Shawn M. Mechler, Brennen Jenkins

Defendant(s):

- J&P Paving Co.
- Jose A. Ramos Marrero

Defense Attorney(s):

- Richard W. Espey; Espey & Associates, PC; San Antonio, TX for Jose A. Ramos Marrero, J&P Paving Co.
- Victor M. Campos; Espey & Associates, PC; San Antonio, TX for Jose A. Ramos Marrero, J&P Paving Co.

Defendant Expert(s):

- Neal Rutledge M.D.; Radiology; Austin, TX called by: for Richard W. Espey, Victor M. Campos
- Sergio Viroslav M.D.; Orthopedic Surgery; San Antonio, TX called by: for Richard W. Espey, Victor M. Campos
- Warren Neely M.D.; Spinal Surgery; San Antonio, TX called by: for Richard W. Espey, Victor M. Campos

Insurers:

- Imperium Insurance Co.

Facts:

On March 7, 2018, plaintiff Timothy Budden, 55, a paint mixer for a paint store, was driving a pickup truck on an interstate in San Antonio during rush hour. Jose A. Ramos Marrero rear-ended him in an 18-wheeler. Budden claimed he suffered injuries of his neck, back and hip.

Marrero was in the course and scope of his employment with J&P Paving Co.

Budden sued Marrero and J&P. The lawsuit alleged that Marrero was negligent in the operation of the vehicle and that J&P was liable under respondeat superior. Budden said he had come to a complete stop in traffic and that Marrero rear-ended him shortly thereafter. Plaintiff's counsel argued that Marrero was going too fast, following too closely and not keeping a proper lookout.

The defense argued that it was just an accident, resulting from stop-and-go traffic.

Injury:

Budden went to a chiropractor two days after the accident. He ultimately claimed he suffered herniated cervical and lumbar discs and a torn labrum and edema in his left hip.

He underwent a course of chiropractic care, and a pain management doctor administered three cervical and three lumbar epidural steroid injections. This treatment provided minimal relief, and Budden was referred to a spine surgeon. Budden did not go to the spine surgeon until about 17 months later.

The spine surgeon recommended an anterior cervical discectomy and fusion and a lumbar decompression and fusion. Budden underwent the neck surgery, but had not undergone the lumbar surgery by the time of trial.

Several months after the accident, Budden underwent a total left hip replacement.

Budden's biomechanical and accident reconstruction expert opined that Marrero was going 15 to 20 mph at the time of the impact and the forces were capable of causing the injuries he was claiming.

Budden testified that he can no longer work as a paint mixer. His pain and limited mobility also prevent him from engaging in his hobbies, such as knapping flint, searching for arrowheads and attending barbecues with friends, he said.

The jury charge included an eggshell-plaintiff instruction.

Photos of Budden's vehicle came into evidence. They showed tailgate damage and some frame damage.

Budden sought \$431,279.30 for past medical expenses; \$945,439 for future medical expenses, in present value; \$500,000 for past physical pain; \$1 million for future physical pain; \$500,000 for past mental anguish; \$1 million for future mental anguish; \$500,000 for past physical impairment; and \$1 million for future physical impairment.

The defense retained a spine surgeon and a hip surgeon. They opined that any pathology in Budden's MRIs was preexisting. The spine surgeon opined that the spine surgeries and injections were not warranted. The hip surgeon opined that the hip surgery was necessitated by chronic wear and tear and arthritis, not by the accident.

The defense retained a radiologist, who opined that the pathology in the MRIs was chronic in nature.

The defense argued that any injuries that Budden sustained in the accident would have healed within a few months and would not require any future treatment.

Budden had undergone a right hip replacement about 15 years before the accident.

Result:

The jury found that J&P Paving, acting through one or more of its employees, proximately caused the accident. It determined that Budden's damages totaled \$4,025,568.30.

Timothy Budden

\$ 431,279.30 Past Medical Cost

\$ 344,289 Future Medical Cost

\$ 500,000 Past Physical Impairment

\$ 500,000 Future Physical Impairment

\$ 500,000 past physical pain

\$ 750,000 future physical pain

\$ 500,000 past mental anguish

\$ 500,000 future mental anguish

\$ 4,025,568.30 Plaintiff's Total Award

Trial Information:

Judge: Mary Lou Alvarez

Trial Length: 8 days

**Trial
Deliberations:** 10 hours

Jury Vote: 10-2

**Jury
Composition:** 4 male, 8 female; racially diverse

**Editor's
Comment:**

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

Writer

John Schneider

Multi-vehicle rear-ending led to back injuries, plaintiff claimed

Type: Verdict-Plaintiff

Amount: \$1,985,431

Actual Award: \$2,138,963

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 408th, TX

Injury Type(s):

- *arm*
- *leg*
- *back* - stenosis; lower back; herniated disc, lumbar; herniated disc at L4-5; herniated disc, lumbar; herniated disc at L5-S1
- *head* - headaches
- *neck* - stenosis; disc protrusion, cervical
- *other* - rhizotomy; physical therapy; steroid injection; epidural injections; chronic pain syndrome
- *shoulder*
- *epidermis* - numbness
- *neurological* - radiculopathy; radicular pain / radiculitis
- *mental/psychological* - cognition, impairment; memory, impairment; post-concussion syndrome

Case Type:

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

Case Name: Michelle Gibbons v. Samuel Reyna Montalvo; Danco Construction, Inc.; and Sherine Lindo, No. 2020CI23307

Date: March 04, 2024

Plaintiff(s):

- Michelle Gibbons, (Female, 50 Years)

- Plaintiff Attorney(s):**
- Alexander Begum; Begum Law Group; Brownsville TX for Michelle Gibbons
 - Negin Roberts; Begum Law Group; San Antonio TX for Michelle Gibbons
- Plaintiff Expert(s):**
- John J. Smith P.E.; Biomechanical; Parker, CO called by: Alexander Begum, Negin Roberts
 - Michael Murphy M.D.; Pain Management; San Antonio, TX called by: Alexander Begum, Negin Roberts
- Defendant(s):**
- Sherine Lindo
 - Samuel Reyna Montalvo
 - Danco Construction Inc.
- Defense Attorney(s):**
- Michael DeNuccio; Farmer, House, Osuna & Olvera; San Antonio, TX for Samuel Reyna Montalvo, Danco Construction Inc.
- Defendant Expert(s):**
- Nadine Gonzalez CPC; Coding & Billing (Medical); San Antonio, TX called by: for Michael DeNuccio
 - Michael R. Hill; Biomechanical; San Antonio, TX called by: for Michael DeNuccio
- Insurers:**
- State Farm Insurance Cos.

Facts:

On Dec. 6, 2019, plaintiff Michelle Gibbons, 50, a payroll auditor, was driving in San Antonio. Defendant Samuel Reyna Montalvo rear-ended defendant Sherene Lindo, who then rear-ended Gibbons.

Montalvo was in the course and scope of his employment with defendant Danco Construction Inc.

Lindo was nonsuited well before trial.

Montalvo and Danco stipulated to liability on the day of trial.

Injury:

Gibbons went to an emergency room two days after the collision. She ultimately claimed chronic pain syndrome, 3-millimeter disc herniations at L4-5 and L5-S1, disc protrusions from C3-4 to C6-7, a disc extrusion at C6-7, post-concussion syndrome, headaches, dizziness and memory impairment. She also claimed cervical and lumbar foraminal stenosis and radiculopathy, with pain and numbness radiating into her extremities.

After the ER visit, Gibbons sought no treatment for almost four months. She then treated extensively with a family doctor, pain management doctors and a physical therapy clinic.

Her injections and procedures included two or more lumbar epidural steroid injections, two or more cervical ESIs, two lumbar medial branch blocks, two lumbar rhizotomies and a sacroiliac joint injection. She was still treating with a pain management doctor at the

time of trial. Also, in December 2023, Gibbons complained of worsening pain and underwent an electromyogram.

In August or September 2021, an orthopedic surgeon recommended an L4-5 and L5-S1 laser discectomy, which he estimated would cost about \$76,000.

At trial, a pain management doctor opined that Gibbons would need rhizotomies for the rest of her life. Gibbons testified that each one gave her about eight months of relief.

She testified that it was painful to sit for long periods or walk long distances.

Lindo's vehicle sustained little damage in front and Gibbons' sustained superficial damage to the plastic bumper cover. However, Gibbons' biomechanical expert testified that the metal bar behind the cover was bent by the impact.

Gibbons sought \$242,113.38 for past medical expenses; \$1,327,656 for future medical expenses; and about \$1,694,000 for noneconomic damages. The noneconomic damages were past and future physical pain and mental anguish and past and future physical impairment.

The defense disputed causation of the claimed injuries, pointing to the four-month gap in treatment, as well as the photos of the front of Lindo's vehicle and Gibbons' bumper cover. Defendants' biomechanical expert opined that the accident would have caused only sprains and strains and that the herniations must have been preexisting.

In addition, the defense's medical billing and coding expert reviewed some of the providers' bills and opined that they were excessive. Defense counsel argued that the jury should therefore reduce all of the bills.

Defense counsel suggested an award of \$20,000, for the first seven months' medical expenses only. Alternatively, if the jury believed that all the treatment was related to the accident, the defense suggested that a reasonable award for the medical bills would be \$106,382. Defense counsel did not suggest amounts for noneconomic damages.

Result:

The jury determined that Gibbons' damages totaled \$1,985,430.80.

Defense counsel noted that the court excluded evidence of Gibbons' having health insurance during her treatment, as well as evidence from a provider of what he would have charged if Gibbons had used her insurance.

Michelle Gibbons

\$ 242,113.38 Past Medical Cost

\$ 1,018,317.42 Future Medical Cost

\$ 150,000 Past Physical Impairment

\$ 400,000 Future Physical Impairment

\$ 75,000 physical pain and mental anguish

\$ 100,000 future physical pain and mental anguish

\$ 1,985,430.80 Plaintiff's Total Award

Trial Information:

Judge: Angelica Jimenez

Demand: \$875,000

Offer: \$100,000

Trial Length: 4 days

**Trial
Deliberations:** 7 hours

Jury Vote: 10-2

Post Trial: Montalvo and Danco filed a motion for JNOV, which was denied. The judgment, totaling \$2,138,963.31, included prejudgment interest of 130,644.60 and taxable costs of \$22,887.91.

**Editor's
Comment:**

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

Writer

John Schneider

Motor Vehicle-Rear-enderMotor Vehicle-Multiple Vehicle**Type:** Verdict-Plaintiff**Amount:** \$1,950,999**State:** Texas**Venue:** Bexar County**Court:** Bexar County District Court, 438th, TX**Injury Type(s):**

- *back* - lower back; herniated disc, lumbar
- *neck* - herniated disc, lumbar; herniated disc, cervical
- *other* - ablation; chiropractic; massage therapy; physical therapy; steroid injection; epidural injections; trigger point injection
- *surgeries/treatment* - discectomy

Case Type:

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

Case Name: Carla Mulder v. Julian Carrion, and Crestbrook Insurance Company d/b/a Nationwide Private Client, No. 2021CI05288**Date:** March 31, 2023**Plaintiff(s):**

- Carla Mulder, (Female, 53 Years)

Plaintiff Attorney(s):

- Thomas A. Crosley; Crosley Law Firm; San Antonio TX for Carla Mulder
- Francesca Driussi-Ali; Crosley Law Firm; San Antonio TX for Carla Mulder

Plaintiff Expert (s):

- John J. Smith P.E.; Biomechanics; Parker, CO called by: Thomas A. Crosley, Francesca Driussi-Ali
- Brian Garra M.D.; Radiology; Clermont, FL called by: Thomas A. Crosley, Francesca Driussi-Ali
- David J. Altman M.D.; Life Care Planning; San Antonio, TX called by: Thomas A. Crosley, Francesca Driussi-Ali
- Keith W. Fairchild Ph.D.; Economics; San Antonio, TX called by: Thomas A. Crosley, Francesca Driussi-Ali

Defendant(s):

- Julian Carrion
- Crestbrook Insurance Co.

Defense Attorney(s):

- Mark E. Macias; Langley & Banack; San Antonio, TX for Crestbrook Insurance Co.
- Daniel Saldana; Langley & Banack; San Antonio, TX for Crestbrook Insurance Co.

Defendant Expert(s):

- Jay Ellis M.D.; Pain Management; San Antonio, TX called by: for Mark E. Macias, Daniel Saldana
- Donna Johnson M.Ed.; Vocational Rehabilitation; Corpus Christi, TX called by: for Mark E. Macias, Daniel Saldana
- Edward Ratcliff Anderson III, M.D.; Orthopedic Surgery; San Antonio, TX called by: for Mark E. Macias, Daniel Saldana

Insurers:

- USAA

Facts:

On June 13, 2020, plaintiff Carla Mulder, 53, co-owner and office manager of a family plumbing business, was driving a Dodge Ram pickup truck in San Antonio. She was rear-ended by Julian Carrion, who was in a Toyota Corolla. Mulder claimed she suffered injuries of her neck and back.

Mulder had \$1.5 million in underinsured motorist (UIM) coverage with Crestbrook Insurance Co., doing business as Nationwide Private Client.

Mulder sued Carrion and Crestbrook. The lawsuit alleged that Carrion was negligent in the operation of his vehicle and that Crestbrook was liable for UIM benefits. Mulder settled with Carrion for \$300,000 about three months before trial.

Crestbrook stipulated that Carrion's negligence proximately caused the accident. The case went to trial on the issue of damages only.

Injury:

Mulder sought treatment 24 days after the accident. She ultimately claimed she suffered disc herniations at L3-4 and L5-S1, as well as disc bulges at C3-4, C5-6 and C6-7.

Mulder underwent chiropractic care through September 2020. She also underwent physical therapy and massage therapy.

In addition, Mulder underwent eight cervical and lumbar epidural steroid injections, three trigger point injections, a two-level medial branch block, a three-level medial branch block and two radiofrequency ablations.

She also underwent lumbar discography and percutaneous discectomy.

Her life care plan included anterior cervical disc replacement surgery, as recommended by the orthopedic surgeon, and ongoing pain management for the lumbar spine. She was still under the care of her pain management doctor at the time of trial.

Mulder had no prior neck or back injuries, and her radiology expert opined that Mulder's herniations were caused by trauma. The jury charge included an eggshell-plaintiff instruction.

Mulder testified that the injuries negatively affected her time with family and friends, socializing and work performance, and that the pain made concentrating difficult. She said she was very active before the accident and that, since the accident, she was sedentary. She said the pain increased when she sat or stood for long periods.

Carrion's car was totaled, but it was a 2005 model, and Mulder's pickup sustained no visible damage and was not repaired. Plaintiff's counsel argued that the impact was to Mulder's trailer hitch and that the forces were transferred from it to the cab of the truck.

Mulder sought \$108,773.80 for past medical expenses; \$1,025,000 for future medical expenses; \$127,114 for future equipment, supplies and household services; \$500,000 for past physical pain; \$2.8 million to \$4.2 million for future physical pain; \$500,000 for past mental anguish; \$2.8 million to \$4.2 million for future mental anguish; \$500,000 for past physical impairment; \$2.8 million to \$4.2 million for future physical impairment; and unspecified damages for past and future disfigurement.

The defense stipulated to the reasonableness and necessity of the past medical expenses, but denied that the accident was the cause of Mulder's disc herniations.

The defense argued that herniations were age-related and degenerative in nature and that Mulder had degenerative disc disease. The defense also pointed to the 24-day delay in treatment, the fact that no ambulance came to the scene and the fact that Mulder did not go to an emergency room.

Defense counsel suggested an award of \$88,773 for past medical expenses; \$103,773 for future medical expenses; zero for future equipment, supplies and household services; \$20,000 for past physical pain; \$10,000 for future physical pain; \$20,000 for past mental anguish; \$10,000 for future mental anguish; \$20,000 for past physical impairment; \$10,000 for future physical impairment; \$10,000 for past disfigurement; and \$7,411 for future disfigurement.

Result: The jury determined that Mulder's damages totaled \$1,950,998.66.

Crestbrook was entitled to a \$305,000 credit, based on Mulder's \$300,000 settlement with Carrion and Crestbrook's having paid \$5,000 in personal injury protection benefits.

Carla Mulder

\$ 108,773.80 Past Medical Cost

\$ 726,719.86 Future Medical Cost

\$ 75,000 Past Physical Impairment

\$ 75,000 Future Physical Impairment

\$ 1,000 Past Disfigurement

\$ 5,000 Future Disfigurement

\$ 9,505 future equipment, supplies and household services

\$ 50,000 past physical pain

\$ 700,000 future physical pain

\$ 100,000 past mental anguish

\$ 100,000 future mental anguish

\$ 1,950,998.66 Plaintiff's Total Award

Trial Information:

Judge: Nadine Nieto

Demand: \$750,000

Offer: \$530,899

Trial Length: 5 days

**Trial
Deliberations:** 4 hours

Jury Vote: 10-2

**Jury
Composition:** 1 male, 11 female; 1 black, 9 Hispanic, 2 white

Post Trial: After a bench trial on Mulder's attorney fees, the court awarded attorney fees of \$183,387.50 through trial.

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

Writer John Schneider

Plaintiff said pickup's hitch and trailer's coupler were mismatched

Type: Verdict-Plaintiff

Amount: \$1,135,000

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 166th, TX

Injury Type(s):

- *back* - fusion, lumbar; herniated disc, lumbar
- *neck* - fusion, cervical; herniated disc, lumbar; herniated disc, cervical
- *other* - sutures; chiropractic; physical therapy; epidural injections; aggravation of pre-existing condition
- *shoulder* - rotator cuff, injury (tear)
- *face/nose* - facial laceration; scar and/or disfigurement, face
- *surgeries/treatment* - discectomy; laminectomy; laminectomy, lumbar

Case Type:

- *Motor Vehicle* - Truck; Bicycle
- *Worker/Workplace Negligence* - Negligent Training; Negligent Supervision

Case Name: Michael Jackson v. Texdoor Transportation LLC and Noel Flores, No. 2018CI12221

Date: February 06, 2020

Plaintiff(s):

- Michael Jackson (Male, 50 Years)

Plaintiff Attorney(s):

- Robert P. Wilson; Thomas J. Henry Injury Attorneys; San Antonio TX for Michael Jackson

Plaintiff Expert (s):

- Steven Tuskan; Trailers; Phoenix, AZ called by: Robert P. Wilson
- Anthony Owusu M.D.; Orthopedic Surgery; San Antonio, TX called by: Robert P. Wilson

Defendant(s):

- Noel Flores
- Marcos Castillo
- John Torres-Rodriguez
- Texdoor Transportation LLC

Defense Attorney(s):

- R. Matt Lair; Espey & Associates, P.C.; San Antonio, TX for Noel Flores, Texdoor Transportation LLC, Marcos Castillo, John Torres-Rodriguez
- Dennis O. Moore; Espey & Associates, P.C.; San Antonio, TX for Noel Flores, Texdoor Transportation LLC, Marcos Castillo, John Torres-Rodriguez

Defendant Expert(s):

- David Levey M.D.; Radiology; Shavano Park, TX called by: for R. Matt Lair, Dennis O. Moore
- Warren Neely M.D.; Neurosurgery; San Antonio, TX called by: for R. Matt Lair, Dennis O. Moore

Insurers:

- Cincinnati Insurance Co.

Facts:

On Nov. 1, 2017, plaintiff Michael Jackson, a man in his 50s, was bicycling on a sidewalk that abutted Rittiman Road, in San Antonio. Noel Flores, driving a pickup truck that was towing a flatbed trailer, was traveling in the same direction on Rittiman Road. Flores was in the course and scope of his employment with Texdoor Transportation LLC, a company that installs and repairs garage doors. Two of Flores' co-workers, Marcos Castillo and John Torres-Rodriguez, were also in the truck. Flores' truck hit a bump, and the trailer detached from the truck and jumped the curb. The trailer hit Jackson, who landed on the trailer, which then went through a barbed-wire fence. Jackson claimed that he suffered injuries of his back, his face, his neck and a shoulder.

Jackson sued Texdoor, Flores, Castillo and Torres-Rodriguez. The lawsuit alleged that the employees were negligent in failing to attach the trailer properly and that the company was negligent in the training and supervision of its employees. Jackson also alleged gross negligence.

Texdoor had various trucks and trailers with hitch components of various sizes. Jackson's counsel introduced evidence that the hitch ball on the pickup truck and the coupler on the trailer were mismatched; either the ball should have been smaller or the coupler should have been larger. The crew also should have secured the trailer to the pickup with safety chains, Jackson's counsel argued.

During the charge conference, the court granted a directed verdict for Texdoor, Flores, Castillo and Torres-Rodriguez on gross negligence. They then stipulated to ordinary negligence.

Injury:

Jackson was taken by ambulance to an emergency room. He sustained a cheek laceration after he landed on the trailer and it crashed through a barbed-wire fence. Jackson claimed that he also suffered cervical intervertebral disc herniations, lumbar intervertebral disc herniations and a torn right (dominant) rotator cuff. He further claimed that the accident aggravated preexisting neck and back conditions.

Jackson went to a chiropractor and underwent a course of physical therapy. He also went to a pain management doctor and underwent cervical and lumbar epidural steroid injections. He claimed that the neck and back pain persisted. In June 2018, he underwent a lumbar laminectomy, discectomy and fusion, and in February 2019, he underwent a cervical laminectomy, discectomy and fusion. He also underwent physical therapy after each surgery. In addition, the treating surgeon testified by video deposition that Jackson will need arthroscopic surgery to repair his torn rotator cuff.

Jackson's counsel asked the jury to award \$200,000 for past medical expenses and \$35,000 for future medical expenses. He also sought damages for past and future physical pain and suffering, past and future physical impairment, and past and future disfigurement.

The defense emphasized Jackson's long history of neck and back pain and treatment, which included epidural injections. The defense experts were a neurosurgeon and a radiologist. They opined that Jackson's neck and back injuries were preexisting and not significantly aggravated by the accident.

Result:

The jury awarded Jackson \$1,135,000.

Michael Jackson

\$200,000 Personal Injury: Past Medical Cost

\$35,000 Personal Injury: Future Medical Cost

\$150,000 Personal Injury: Past Physical Impairment

\$300,000 Personal Injury: Future Physical Impairment

\$100,000 Personal Injury: Past Disfigurement

\$250,000 Personal Injury: past physical pain and suffering

\$100,000 Personal Injury: future physical pain and suffering

Trial Information:

Judge: Laura Salinas

Demand: \$5,500,000 (total, from all defendants)

Offer: \$1,100,000 (total, by all defendants)

Trial Length: 6 days

**Trial
Deliberations:** 3 hours

Jury Vote: 12-0

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

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

Writer John Schneider

Plaintiff claimed drunken driver hit him while walking

Type: Verdict-Plaintiff

Amount: \$1,043,078

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 131st, TX

Injury Type(s):

- *arm* - fracture, arm
- *eye*
- *brain* - coma; traumatic brain injury
- *other* - physical therapy

Case Type:

- *Motor Vehicle* - Pedestrian; Single Vehicle; Alcohol Involvement

Case Name: Ramon Mesa v. Benjamin Ramirez, No. 2021CI03027

Date: April 29, 2022

Plaintiff(s):

- Ramon Mesa, (Male, 0 Years)

Plaintiff Attorney(s):

- Jon W. Cappo; Thomas J. Henry Injury Attorneys; San Antonio TX for Ramon Mesa
- Blake Harmon; Thomas J. Henry Injury Attorneys; San Antonio TX for Ramon Mesa

Defendant(s):

- Benjamin Ramirez

Defense Attorney(s):

- Marie A. Galindo; Manuel Diaz Law Firm; San Antonio, TX for Benjamin Ramirez

Facts:

On March 14, 2020, plaintiff Ramon Mesa, about 59, a retiree, claimed he was a pedestrian walking on a sidewalk in San Antonio at night, when a vehicle went out of control and hit him. He claimed that the driver was Benjamin Ramirez. Mesa sustained a broken arm and a head injury.

Mesa sued Ramirez. The lawsuit alleged that Ramirez was negligent in the operation of his vehicle. Mesa further claimed that Ramirez was intoxicated. He said the last thing he remembers before the accident is walking on the sidewalk.

Ramirez denied that he was driving or that Mesa was a pedestrian. He claimed that Mesa was driving Ramirez's truck when it went out of control and that Mesa was ejected. He said he had met Mesa at a bar and that Mesa had offered to drive him home. Ramirez denied being intoxicated, although he acknowledged that he had been drinking.

Injury:

Mesa sustained a fracture in his left (non-dominant) upper arm and a traumatic brain injury. He was in a coma for more than a week.

He spent about three weeks in the hospital, after which he followed up with cognitive and physical therapy. He claimed that his arm still hurts now and then and that he experiences pain in his eyes from the head injury.

He sought \$568,077.68 for past medical expenses. He also sought damages for future medical expenses, past and future physical pain and mental anguish and past and future physical impairment.

The defense argued that Mesa fully recovered from his injuries.

Result:

The jury found that Ramirez was liable for the accident. It determined that Mesa's damages totaled \$1,043,077.68.

The jury did not find that Mesa's negligence, if any, proximately caused the accident.

Ramirez was uninsured.

Ramon Mesa

\$ 568,077.68 Past Medical Cost

\$ 100,000 Future Medical Cost

\$ 100,000 Past Physical Impairment

\$ 75,000 Future Physical Impairment

\$ 200,000 past physical pain and mental anguish

\$ 1,043,077.68 Plaintiff's Total Award

Trial Information:

Judge: Norma Gonzales

Trial Length: 0

Trial 0

Deliberations:

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

Multi-vehicle rear-ending led to back injuries, plaintiff claimed

Type: Mediated Settlement

Amount: \$900,000

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 225th, TX

Injury Type(s):

- *back* - stenosis; fusion, lumbar; nerve impingement; herniated disc, lumbar; herniated disc at L3-4
- *neck* - stenosis; nerve impingement; herniated disc, cervical
- *other* - buttocks; steroid injection; epidural injections; aggravation of pre-existing condition
- *epidermis* - numbness
- *neurological* - nerve impingement; radicular pain / radiculitis
- *surgeries/treatment* - decompression surgery

Case Type:

- *Motor Vehicle* - Rear-ender; Multiple Vehicle
- *Insurance* - First-party Benefits

Case Name: Rosa Isela Dovalina v. Sarah Elise Hanson and Allstate County Mutual Insurance Company, No. 2020CI23924

Date: August 09, 2022

Plaintiff(s):

- Rosa Isela Dovalina, (Female, 60 Years)

Plaintiff Attorney(s):

- Steven Nunez; Crosley Law Firm, PC; San Antonio TX for Rosa Isela Dovalina
- Thomas A. Crosley; Crosley Law Firm, PC; San Antonio TX for Rosa Isela Dovalina

**Plaintiff Expert
(s):**

- Alex Willingham M.D.; Life Care Planning; San Antonio, TX called by: Steven Nunez, Thomas A. Crosley
- John J. Smith P.E.; Accident Reconstruction; Parker, CO called by: Steven Nunez, Thomas A. Crosley
- Keith W. Fairchild Ph.D.; Economics; San Antonio, TX called by: Steven Nunez, Thomas A. Crosley
- Gerardo Zavala M.D.; Neurosurgery; San Antonio, TX called by: Steven Nunez, Thomas A. Crosley

Defendant(s):

- Sarah Elise Hanson
- Allstate County Mutual Insurance Co.

**Defense
Attorney(s):**

- Robert E. Valdez; Valdez & Trevino; San Antonio, TX for Allstate County Mutual Insurance Co.
- Christopher Karl; Valdez & Trevino; San Antonio, TX for Allstate County Mutual Insurance Co.

Facts:

On Jan. 28, 2018, plaintiff Rosa Isela Dovalina, 60, was stopped at a red light in San Antonio. The vehicle behind her was rear-ended and pushed into Dovalina's vehicle. Dovalina claimed she suffered injuries of her lower back.

The driver who hit the vehicle behind Dovalina was Sarah Elise Hanson. Hanson was uninsured. Dovalina, through her husband's business, had uninsured motorist (UM) coverage with Allstate County Mutual Insurance Co.

Dovalina sued Hanson and Allstate. The lawsuit alleged that Hanson was negligent in the operation of her vehicle and that Allstate was liable for UM benefits. Hanson could not be located for service and did not enter an appearance.

Allstate was not strongly disputing liability.

Injury:

Dovalina claimed that the accident exacerbated a prior fusion at L5-S1 and caused a herniated disc at L3-4 and three cervical disc herniations. She further claimed that the herniations caused foraminal stenosis and nerve impingement, as well as buttock pain and numbness in her right foot.

The L5-S1 fusion was in December 2015, and she testified that she was doing well and nearly pain-free by the time of the accident.

After the accident, she treated with her longtime neurosurgeon. In September 2018, she underwent a left piriformis injection, and the following year, she underwent a bilateral sacroiliac joint steroid injection and a right piriformis injection.

In early 2020, she underwent decompression at L3-4, revision of the prior fusion and extension of the fusion from L3 through L5. About a year later, she underwent a sacroiliac joint fusion.

In early 2022, she underwent a diagnostic transforaminal epidural steroid injection at L2-3, which was followed a few months later by an intralaminar epidural steroid injection at the same level. Her surgeon then recommended that, in early 2023, Dovalina undergo revision of the L3-4 hardware, L2-3 decompression and extension of the fusion from T12 to S1.

Plaintiff's counsel argued that the forces of the impact were consistent with the claimed injuries. Counsel noted that the license plate of the vehicle behind Dovalina became lodged in her rear bumper.

Dovalina's paid or incurred medical expenses were \$167,628.87. She was also claiming future medical expenses of about \$680,000, as well as lost wages, past and future physical pain and mental anguish, past and future physical impairment and disfigurement.

Result:

Dovalina settled her claims with Allstate for \$900,000 at pretrial mediation. The policy limit was \$1 million.

Rosa Dovalina

Trial Information:

Judge: Peter Sakai, Joseph Casseb

Trial Length: 0

**Trial
Deliberations:** 0

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

Writer John Schneider

Plaintiffs: Accident with Amazon van led to multiple injuries

Type: Settlement

Amount: \$900,000

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 37th, TX

Injury Type(s):

- *hip* - labrum, tear (hip)
- *back* - herniated disc, lumbar; herniated disc at L4-5; herniated disc, lumbar; herniated disc at L5-S1
- *neck* - herniated disc, cervical; herniated disc at C5-6; herniated disc, cervical; herniated disc at C6-7
- *other* - bursitis; chiropractic; physical therapy; steroid injection; decreased range of motion
- *neurological* - radiculopathy
- *surgeries/treatment* - arthroscopy
- *mental/psychological* - anxiety; depression; post-traumatic stress disorder

Case Type:

- *Motor Vehicle* - Truck; Passenger; Red Light; Cell Phone; Multiple Vehicle; Question of Lights; Negligent Entrustment
- *Worker/Workplace Negligence* - Negligent Hiring; Negligent Training; Negligent Retention; Negligent Supervision

Case Name: Claire L. DeVries, and Benjamin R. DeVries individually, as as Next Friend of GD, a Minor v. Rover Logistics, LLC and Jon-Luc C. Bryant, No. 2022CI09190

Date: October 05, 2023

Plaintiff(s):

- G. DeVries, (Female, 12 Years)
- Claire L. DeVries, (Female, 35 Years)
- Benjamin R. DeVries, (Male, 38 Years)

Plaintiff Attorney(s):

- Steven A. Nunez; Crosley Law Firm P.C.; San Antonio TX for Claire L. DeVries,, Benjamin R. DeVries,, G. DeVries
- Thomas A. Crosley; Crosley Law Firm, P.C.; San Antonio TX for Claire L. DeVries,, Benjamin R. DeVries,, G. DeVries

- Plaintiff Expert(s):**
- Todd P. Joye M.D.; Life Care Planning; Mount Pleasant, SC called by: Steven A. Nunez, Thomas A. Crosley
 - Raymond P. Smith; Accident Reconstruction; Parker, CO called by: Steven A. Nunez, Thomas A. Crosley

- Defendant(s):**
- Jon-Luc C. Bryant
 - Rover Logistics LLC

- Defense Attorney(s):**
- Jennifer G. Durbin; Allen, Stein & Durbin; San Antonio, TX for Rover Logistics LLC, Jon-Luc C. Bryant
 - John B. Grissom; Allen, Stein & Durbin; San Antonio, TX for Rover Logistics LLC, Jon-Luc C. Bryant

- Insurers:**
- Sedgwick Claims Management Services Inc.

Facts: On Sept. 19, 2021, plaintiff Claire DeVries, 35, was a passenger in a vehicle driven by her husband, plaintiff Benjamin DeVries, 38. Their 12-year-old daughter, also a plaintiff, was another passenger. The plaintiffs' vehicle was struck on its right side, toward the back, by an Amazon delivery truck. The impact was significant. The delivery truck's driver, Jon-Luc C. Bryant, was in the course and scope of his employment with Rover Logistics LLC. The accident occurred in Schertz.

The plaintiffs claimed that their light was green and Bryant's was red. Bryant gave conflicting statements and testimony regarding what color his light was. The police report faulted Bryant, for driver inattention and failing to stop at a red light. In addition, Bryant was on his cell phone, a violation of Rover company policy. The plaintiffs alleged that he was grossly negligent.

The plaintiffs also alleged negligent entrustment, hiring, retention, training and supervision by Rover.

The defendants denied negligence.

Injury: Mrs. DeVries' claimed injuries were by far the most severe. Those of Mr. DeVries and their daughter were not a significant part of the settlement discussions.

Mrs. DeVries went to an emergency room the day after the accident and again the following day. Her diagnoses ultimately included a labral tear in her left hip; 3-millimeter disc herniations at L4-5, L5-S1, C5-6 and C6-7; cervical and lumbar radiculopathy and decreased range of motion; and an adjustment disorder with mixed anxiety and depressed mood. She also claimed post-traumatic stress disorder.

She went back to the ER about 10 days later and started physical therapy soon after. It lasted two months and 15 visits and did not provide much relief.

Mrs. DeVries began treating with a chiropractor in January 2022 for her neck and back. Also, her hip pain had not resolved, and in March 2022, a hip MRI was ordered, which showed anterolateral labral tearing, a shallow acetabulum and trochanteric bursitis. She underwent a steroid injection in her hip the following month.

In May 2022, she began treating with a pain management doctor for her neck and back. She was also prescribed a TENS unit.

That same month, she underwent left hip arthroscopy with labral repair and femoral osteochondroplasty.

In June 2022, Mrs. DeVries went to a behavioral health clinic and was diagnosed with an adjustment disorder with mixed anxiety and depressed mood. Her husband underwent counseling, as well.

Mrs. DeVries resumed physical therapy in June 2022, but her husband received a job transfer soon after. They moved to North Carolina, where Mrs. DeVries resumed chiropractic care for her neck and back.

In May 2023, she went to an emergency clinic and complained of ongoing, chronic left hip pain from the accident.

Mrs. DeVries and her husband were very active before the accident, they said, and enjoyed hiking, camping and other outdoor activities. The injuries negatively affected most aspects of their lives and continued to do so even after Mrs. DeVries' surgery, the plaintiffs claimed.

Mrs. DeVries' paid or incurred medical bills were \$46,570.49. Her life care plan was \$812,197.60 and included cervical and lumbar injections, physical therapy, imaging and medication. She was also claiming past and future physical pain and mental anguish and past and future physical impairment.

Result:

Prior to trial, the plaintiffs settled with the defendants for \$900,000, consisting of \$870,000 for Mrs. DeVries' claims; \$26,000 for Mr. DeVries' claims; and \$4,000 for the minor's claims. The defendants' policy limit was \$1 million.

G. DeVries

Benjamin DeVries

Claire DeVries

Trial Information:

Judge: Nicole Garza

Trial Length: 0

**Trial
Deliberations:** 0

**Editor's
Comment:** This report is based on information that was provided by plaintiffs' counsel. Defense counsel declined to contribute.

Writer John Schneider

Multi-vehicle rear-ending led to brain injury, plaintiff claimed

Type: Verdict-Plaintiff

Amount: \$820,436

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 408th, TX

Injury Type(s):

- *back*
- *head* - headaches
- *neck*
- *brain* - traumatic brain injury
- *other* - chiropractic; physical therapy; steroid injection; epidural injections
- *sensory/speech* - tinnitus; speech/language, impairment of
- *mental/psychological* - neuropsychological; cognition, impairment; memory, impairment; post-concussion syndrome; post-traumatic stress disorder

Case Type:

- *Motor Vehicle* - Truck; Head-On; Rear-ender; Multiple Impact; Tractor-Trailer; Multiple Vehicle

Case Name: Danny Williams and Domingo Munoz v. Anthony Stewart and Johnson Bros. Bakery Supply, Inc., No. 2020CI02461

Date: February 22, 2024

Plaintiff(s):

- Domingo Munoz, (Male, 56 Years)
- Danny Williams, (Male, 0 Years)

Plaintiff Attorney(s):

- Shawn M. Mechler; Crosley Law Firm, P.C.; San Antonio TX for Domingo Munoz
- Thomas A. Crosley; Crosley Law Firm, P.C.; San Antonio TX for Domingo Munoz

Plaintiff Expert(s):

- Mike H. Rangel P.E.; Accident Reconstruction; San Antonio, TX called by: Shawn M. Mechler, Thomas A. Crosley
- David J. Altman M.D.; Life Care Planning; San Antonio, TX called by: Shawn M. Mechler, Thomas A. Crosley
- Keith W. Fairchild Ph.D.; Economics; San Antonio, TX called by: Shawn M. Mechler, Thomas A. Crosley
- Janyna M. Mercado Ph.D.; Neuropsychology; Shavano Park, TX called by: Shawn M. Mechler, Thomas A. Crosley
- Travis H. Snyder D.O.; Neuroradiology; Las Vegas, NV called by: Shawn M. Mechler, Thomas A. Crosley
- Jeffrey Lewine Ph.D.; Brain Injury/Trauma; Albuquerque, NM called by: Shawn M. Mechler, Thomas A. Crosley
- Michael L. Murphy M.D.; Pain Management; San Antonio, TX called by: Shawn M. Mechler, Thomas A. Crosley
- William Hwang M.D.; Neurology; Dallas, TX called by: Shawn M. Mechler, Thomas A. Crosley

Defendant(s):

- Anthony Stewart

Defense Attorney(s):

- Gayla Corley; MehaffyWeber, P.C.; San Antonio, TX for Anthony Stewart
- Melissa Casey; MehaffyWeber, P.C.; San Antonio, TX for Anthony Stewart

Defendant Expert(s):

- Eric Davis M.D.; Neuroradiology; Bingham Farms, MI called by: for Gayla Corley, Melissa Casey
- Kate Glywasky Ph.D.; Neuropsychology; San Antonio, TX called by: for Gayla Corley, Melissa Casey
- Carole Devos; Coding & Billing (Medical); Manchaca, TX called by: for Gayla Corley, Melissa Casey
- Kenneth Alan Tetz D.O., J.D.; Life Care Planning; San Antonio, TX called by: for Gayla Corley, Melissa Casey
- Michael Reyes Ph.D.; Biomechanical; San Antonio, TX called by: for Gayla Corley, Melissa Casey

Insurers:

- Utica National Insurance Group

Facts:

On Nov. 15, 2019, plaintiff Domingo Munoz, 56, a manager, was driving a compact car on Interstate 35 in San Antonio, and plaintiff Danny Williams was driving a pickup truck. Anthony Stewart, in an 18-wheeler, rear-ended Williams, who then rear-ended Munoz. Munoz then struck a retaining wall, came to rest facing traffic and was struck by Stewart head-on. That impact turned Munoz's vehicle another 180 degrees and caused it to hit the retaining wall again.

Stewart was in the course and scope of his employment with Johnson Bros. Bakery Supply Inc.

Munoz claimed that, when Stewart struck Williams, traffic was slowing. Telematics data from a GPS device in the 18-wheeler indicated that it was going 69 mph just before it hit the pickup, and the speed limit was 60.

Williams settled long before trial, for an undisclosed amount. Also, Stewart was nonsuited before trial. The case proceeded on Munoz's claims against Johnson Bros.

Johnson Bros. stipulated to liability shortly before trial.

Injury:

The crash occurred on a Friday, and Munoz went to an urgent care facility the following Monday. His family said they convinced him to go after noticing that he was forgetting things. Munoz ultimately claimed a mild traumatic brain injury, as well as mild neck and back pain. He further claimed that the brain injury caused ongoing post-traumatic stress disorder, short-term memory deficits, headaches, phonophobia (sensitivity to sound), tinnitus, mild changes in his speech, changes to his sense of smell and taste and personality changes.

Munoz's counsel said the brain injury was objectively confirmed by diffusion tensor imaging and magnetoencephalography.

Munoz's treatment included chiropractic care, pain medications, physical therapy, cervical epidural steroid injections, cognitive therapy, speech therapy, hearing aids and psychotherapy.

Munoz's neuropsychologist opined that he is "undoubtedly suffering from residual post-concussive sequelae," including impaired higher-order reasoning abilities, deficient verbal learning and memory and impaired nonverbal memory with heightened levels of affective disturbance in the form of PTSD.

Munoz's life care plan totaled about \$564,000, or about \$434,000 in present value.

Munoz's before-and-after witnesses were his supervisor, two other co-workers and his wife and four children.

Munoz sought \$72,935.75 for past medical expenses and a little more than \$434,000 for future medical expenses. He also claimed past and future physical pain, past and future mental anguish and past and future physical impairment. In total, he sought about \$10 million.

The defendants argued that Munoz did not complain of injuries at the scene. Video footage showed that Munoz appeared normal at the scene, and when investigating officers asked how he was doing, he responded that he was OK.

One of the defense experts testified that he could not rule out that Munoz was malingering. Another defense expert, a neuropsychologist, opined that, although his symptoms were likely related to PTSD from the crash, he had no lingering brain-injury symptoms.

Defense counsel suggested an award of about \$400,000.

Result: The jury determined that Munoz's damages totaled \$820,435.75.

Munoz's and defense counsel interviewed most of the jurors afterward. Counsel said that the younger jurors wanted a faster-paced trial and that some of them felt there were too many witnesses and experts. Some jurors noted that Munoz "kept his job, and he could walk and talk fine." According to Munoz's counsel, one juror commented, "[w]hy should we fund this guy's retirement home in the British Virgin Islands?"

Domingo Munoz

\$ 72,935.75 Past Medical Cost

\$ 272,500 Future Medical Cost

\$ 50,000 Past Physical Impairment

\$ 100,000 Future Physical Impairment

\$ 50,000 past physical pain

\$ 100,000 future physical pain

\$ 75,000 past mental anguish

\$ 100,000 future mental anguish

\$ 820,435.75 Plaintiff's Total Award

Danny Williams

Trial Information:

Judge: Laura Salinas

Demand: \$2 million

Trial Length: 8 days

Trial Deliberations: 7 hours

Jury Vote: 10-2

Jury Composition: 4 male, 8 female

Post Trial: Prejudgment interest totaled \$94,237.17, bringing the final judgment to \$914,672.92, plus taxable costs.

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

Writer John Schneider

Plaintiff: Driver ran red light, causing multi-vehicle crash

Type: Verdict-Plaintiff

Amount: \$480,000

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 37th, TX

Injury Type(s):

- *head* - headaches
- *neck* - herniated disc, cervical
- *other* - physical therapy
- *shoulder*
- *neurological* - radiculopathy; radicular pain / radiculitis

Case Type:

- *Motor Vehicle* - Left Turn; Red Light; Intersection; Multiple Impact; Multiple Vehicle; Question of Lights

Case Name: Maria Gonzalez v. William Hargrove, Jennifer Barbaro, Salvatore Barbaro, and Wendy Cajas, No. 2019CI23973

Date: November 16, 2023

Plaintiff(s):

- Maria Gonzalez, (Female, 50 Years)

Plaintiff Attorney(s):

- Cesar Tavares; Williams Hart & Boundas; Houston TX for Maria Gonzalez
- Michael Samaniego; Williams Hart & Boundas; Houston TX for Maria Gonzalez

Plaintiff Expert(s):

- Carlos Jaramillo M.D., Ph.D.; Life Care Planning; San Antonio, TX called by: Cesar Tavares, Michael Samaniego

Defendant(s):

- Wendy Cajas
- Jennifer Barbaro
- William Hargrove
- Salvatore Barbaro

**Defense
Attorney(s):**

- Robert House; Fanaff, Gonzales, Baldwin & Cunningham; Austin, TX for William Hargrove

**Defendant
Expert(s):**

- Joel Jenne M.D.; Orthopedic Surgery; San Antonio, TX called by: for Robert House

Facts:

On Nov. 30, 2017, plaintiff Maria Gonzalez, about 58, unemployed, was stopped at a red light in Bexar County. Defendant William Hargrove was coming from her left, and defendant Wendy Cajas was coming from her right. Cajas attempted a left turn at the intersection, and she and Hargrove, who was going straight, collided. Cajas then struck Gonzalez, who was still stopped at the light.

Gonzalez settled with Cajas a few months before trial for an undisclosed amount.

At trial, plaintiff's counsel argued that Hargrove ran a red light, which is also what Cajas maintained. Cajas said she had a protected green arrow.

Hargrove contended that his light was green.

Defendants Jennifer and Salvatore Barbaro allegedly owned the Hargrove vehicle, but Gonzalez did not pursue claims against them at trial.

Injury:

Gonzalez went to an urgent-care clinic two days after the collision. She ultimately claimed four cervical disc herniations, cervical radiculopathy with pain radiating into her shoulders and post-traumatic headaches.

She underwent physical therapy intermittently through February 2022.

She also underwent a facet joint injection, and in late 2020, she underwent four medial branch blocks.

A cervical fusion was recommended as early as 2018.

Her life care plan included the fusion, physical therapy, a TENS unit, epidural steroid injections and radiofrequency ablations.

Gonzalez sought \$485,000 for future medical expenses; \$200,000 for past physical pain and mental anguish; \$800,000 for future physical pain and mental anguish; \$50,000 for past physical impairment; \$200,000 for future physical impairment; and \$20,000 for future disfigurement.

The defense expert was an orthopedic surgeon. He said that, if Gonzalez had undergone the surgery relatively soon after the recommendation, he would not have criticized it. However, in his opinion, the length of time that had passed without surgery indicated that surgery was probably not needed. He opined that the facet injection was reasonable.

The defense argued that the impact to Gonzalez's vehicle was much less severe than the impact between the defendants' vehicles.

The defense also argued that, if she were going to have a fusion, she would have done so already.

Also, there were many gaps in Gonzalez's treatment. Plaintiff's counsel argued that the COVID pandemic explained many of the gaps.

Result:

The jury found that Hargrove was liable for the occurrence. It did not find that Cajas' negligence, if any, proximately caused the occurrence, and found that Hargrove's did. The jury determined that Gonzalez's damages totaled \$480,000.

Maria Gonzalez

\$ 235,711.12 Future Medical Cost

\$ 100,000 past physical pain and mental anguish

\$ 144,288.88 future physical pain and mental anguish

\$ 480,000 Plaintiff's Total Award

Trial Information:

Judge: Nicole Garza

Demand: \$475,000

Offer: \$70,000

Trial Length: 2 days

**Trial
Deliberations:** 3.75 hours

Jury Vote: 10-2

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

Writer John Schneider

Plaintiff claimed collision led to back injuries

Type: Verdict-Plaintiff

Amount: \$366,352

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 288th, TX

Injury Type(s):

- *back* - herniated disc, lumbar
- *neck* - herniated disc, lumbar
- *other* - chiropractic; steroid injection; epidural injections

Case Type:

- *Motor Vehicle* - Parking Lot; Multiple Vehicle; Reversing Vehicle

Case Name: Sylvia Henderson v. Edward Rodriguez and Allstate Fire and Casualty Insurance Company, No. 2017CI10181

Date: May 06, 2022

Plaintiff(s):

- Sylvia Henderson, (Female, 47 Years)

Plaintiff Attorney(s):

- Lucas Williams; DeSouza Injury Lawyers; San Antonio TX for Sylvia Henderson
- Jason DeSouza; DeSouza Injury Lawyers; San Antonio TX for Sylvia Henderson

Plaintiff Expert (s):

- Sanjay Misra M.D.; Orthopedic Surgery; San Antonio, TX called by: Lucas Williams, Jason DeSouza

Defendant(s):

- Edward Rodriguez
- Allstate Fire and Casualty Insurance Co.

Defense Attorney(s):

- Wesley Ward; Hope & Causey; Houston, TX for Allstate Fire and Casualty Insurance Co.
- Marissa Rodriguez; Hope & Causey; San Antonio, TX for Allstate Fire and Casualty Insurance Co.

**Defendant
Expert(s):**

- Brian Buck M.D.; Physical Medicine; Austin, TX called by: for Wesley Ward, Marissa Rodriguez

Facts:

On Sept. 7, 2015, plaintiff Sylvia Henderson, 47, a hairstylist, was a passenger in a vehicle in a parking lot in San Antonio. Her husband was driving, and their two children were in back. Edward Rodriguez was backing out of a parking space, and his vehicle and the plaintiff's collided. Henderson claimed she suffered injuries of her back.

Rodriguez had \$30,000 in liability coverage. Henderson had \$30,000 in underinsured motorist (UIM) coverage with Allstate Fire and Casualty Insurance Co.

Henderson sued Rodriguez and Allstate. The lawsuit alleged that Rodriguez was negligent in the operation of his vehicle and that Allstate was liable for UIM benefits. Henderson settled with Rodriguez for his \$30,000 policy limit before trial. Also, Henderson's extracontractual claims against Allstate were severed before trial.

Henderson testified that her vehicle was at a stop and that Rodriguez backed into it.

Allstate contended that Henderson's husband broadsided Rodriguez and was negligent for cutting across the parking lot and not keeping a proper lookout. The vehicles came to rest more or less at right angles to each other, as shown by photos.

Injury:

Henderson went to a chiropractor three weeks after the accident. She ultimately claimed she suffered two herniated lumbar discs.

She treated with the chiropractor about 36 times, until January 2016. Also, an orthopedic surgeon performed three lumbar epidural steroid injections and recommended a lumbar microdiscectomy.

Henderson testified that, because of her injuries, she was unable to pick up her young children

She also said that she can perform only half as much work as before the accident. She acknowledged that she makes as much as before, but attributed it to the fact that she now charges more.

Plaintiff's counsel argued that, although the plaintiff's vehicle sustained little damage other than the license-plate holder being torn off, the forces involved in the accident were significant.

Henderson sought \$14,268.70 for past medical expenses; \$85,000 for future medical expenses; \$84,000 for past loss of earning capacity; \$150,000 for future loss of earning capacity; \$105,000 for past physical pain; \$25,000 for future physical pain; \$150,000 for past mental anguish; \$70,000 for past physical impairment; \$35,000 for future physical impairment; and \$5,000 for future disfigurement.

The defense disputed causation of the claimed injuries, based in part on photos showing little damage to the Henderson vehicle. The defense also noted the delay in treatment and the lack of any emergency room visits.

The defense also noted the lack of any treatment since January 2016. In addition, Henderson's medical expert, the orthopedic surgeon, said the surgery would not be very invasive.

Defense counsel suggested an award of \$30,000, consisting of past medical expenses and past physical pain, if the jury reached the damages question at all.

Result:

The jury found that Rodriguez's negligence proximately caused the accident. It determined that Henderson's damages totaled \$366,351.70.

A trial on the severed, extracontractual claims is set for May 22, 2023.

Sylvia Henderson

\$ 14,268.70 Past Medical Cost

\$ 85,000 Future Medical Cost

\$ 70,000 Past Physical Impairment

\$ 5,000 Future Disfigurement

\$ 7,283 past loss of earning capacity

\$ 4,800 future loss of earning capacity

\$ 105,000 past physical pain

\$ 25,000 future physical pain

\$ 50,000 past mental anguish

\$ 366,351.70 Plaintiff's Total Award

Trial Information:

Judge: Cynthia Chapa

Demand: \$30,000 (policy limit)

Offer: \$2,000

Trial Length: 4 days

**Trial
Deliberations:** 2.5 hours

Jury Vote: 12-0

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

Writer John Schneider

Plaintiff claimed neck and back injuries after rear-ending

Type: Verdict-Plaintiff

Amount: \$272,372

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 408th, TX

Injury Type(s):

- *arm*
- *leg*
- *back* - herniated disc, lumbar; herniated disc at L2-3; herniated disc, lumbar; herniated disc at L3-4; herniated disc, thoracic; herniated disc at T7-8; herniated disc, thoracic; herniated disc at T8-9; herniated disc, thoracic; herniated disc at T10-11
- *neck* - herniated disc, cervical; herniated disc at C4-5
- *other* - chiropractic; physical therapy; steroid injection; epidural injections
- *epidermis* - numbness
- *neurological* - radicular pain / radiculitis

Case Type:

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

Case Name: Darlene Garcia v. Eria Simpson, No. 2019CI11128

Date: June 01, 2022

Plaintiff(s):

- Darlene Garcia, (Female, 26 Years)

Plaintiff Attorney(s):

- F. Scott de la Garza; DLG Luce Salazar PLLC; Austin TX for Darlene Garcia
- Zachary O. Luce; DLG Luce Salazar PLLC; San Antonio TX for Darlene Garcia

Plaintiff Expert(s):

- Karl Lautenschlager M.D.; Pain Management; San Antonio, TX called by: F. Scott de la Garza, Zachary O. Luce

Defendant(s):

- Eria Simpson

Defense Attorney(s):

- Bradford T. Bennett; Chavez Legal Group; San Antonio, TX for Eria Simpson
- Michelle Garcia Shaw; Chavez Legal Group; San Antonio, TX for Eria Simpson

Insurers:

- Fred Loya

Facts:

On Jan. 14, 2019, plaintiff Darlene Garcia, 26, a home health worker, was driving in Bexar County. She was stopped at an intersection when Eria Simpson rear-ended her. Garcia claimed she suffered injuries of her neck and back.

Garcia sued Simpson. The lawsuit alleged that Simpson was negligent in the operation of her vehicle.

Simpson denied negligence, but did not attend trial, and her deposition was not played. The defense focused on damages, but also questioned whether Garcia met her burden on liability. Garcia acknowledged that she did not see Simpson before the impact.

Injury:

Garcia went to an urgent-care center the day after the accident. She ultimately claimed she suffered herniated discs at C4-5, T7-8, T8-9, T10-11, L2-3 and L3-4. She further claimed that the injuries caused radiating pain and numbness and tingling in her arms and legs.

She began treating with a chiropractor within a few days. She underwent chiropractic care and physical therapy with him for about a month. In April 2019, she began seeing a pain management doctor. He administered two cervical epidural steroid injections.

Garcia testified that she is still in pain and that the injuries make her daily activities, including her work, more difficult.

Garcia sought \$23,372 for past medical expenses; \$160,000 for future medical expenses; \$50,000 for past physical pain; \$110,000 for future physical pain; \$40,000 for past physical impairment; and \$120,000 for future physical impairment.

Photos of the vehicles did not show much damage. The defense argued that this impact could not be the cause of injuries as severe and long-lasting as those the plaintiff was claiming.

The defense also noted the lack of any treatment in the three years before trial.

Result:

The jury found that Simpson was liable for the accident. It determined that Garcia's damages totaled \$272,372.

Darlene Garcia

\$ 23,372 Past Medical Cost

\$ 160,000 Future Medical Cost

\$ 24,000 Past Physical Impairment

\$ 40,000 Future Physical Impairment

\$ 25,000 past physical pain

\$ 272,372 Plaintiff's Total Award

Trial Information:

Judge: Angelica Jimenez

Demand: \$30,000 (Stowers)

Offer: \$30,000 (after expiration of Stowers demand)

Trial Length: 2 days

**Trial
Deliberations:** 3 hours

Jury Vote: 11-1

**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

Plaintiff claimed sprains and strains after car accident

Type: Verdict-Plaintiff

Amount: \$268,815

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 45th, TX

Injury Type(s):

- *back* - nerve impingement; disc protrusion, lumbar
- *neck* - sprain, cervical; strain, cervical; nerve impingement
- *other* - chiropractic; physical therapy; epidural injections
- *neurological* - nerve impingement; radicular pain / radiculitis

Case Type:

- *Motor Vehicle* - Lane Change; Multiple Vehicle

Case Name: Joshua Miers v. Valentin Baeza Urquidez, Jr., No. 2016CI08824

Date: December 06, 2019

Plaintiff(s):

- Joshua Miers (Male, 38 Years)

Plaintiff Attorney(s):

- Candelario S. Trevino Jr.; Trevino Injury Law; San Antonio TX for Joshua Miers
- Andrew E. Toscano; Gene Toscano Inc.; San Antonio TX for Joshua Miers

Plaintiff Expert (s):

- Stephen E. Earl M.D.; Orthopedic Surgery; San Antonio, TX called by: Candelario S. Trevino Jr., Andrew E. Toscano

Defendant(s):

- Valentin Baeza Urquidez Jr.

Defense Attorney(s):

- Tabor J.G. Dorsey; Susan L. Florence & Associates; San Antonio, TX for Valentin Baeza Urquidez Jr.

Insurers:

- Allstate Insurance Co.

Facts:

On Oct. 16, 2015, plaintiff Joshua Miers, 38, a drilling fluids supervisor, was driving a pickup truck west on De Zavala Road, in San Antonio. Valentin Urquidez was driving south on J.V. Bacon Parkway and attempted to merge onto De Zavala. Miers' front end struck the left side of Urquidez's car. Miers claimed that he suffered injuries of his back and neck.

Miers sued Urquidez. The lawsuit alleged that Urquidez was negligent in the operation of his vehicle.

Miers claimed that he could not have avoided the collision.

Urquidez testified that he saw no traffic before trying to merge. Defense counsel argued that it was just an accident, not negligence, and that Urquidez acted reasonably under the circumstances by reducing his speed and not proceeding until he checked for traffic and said he did not see any.

Injury:

Five days after the accident, Miers went to a chiropractor. He started physical therapy and chiropractic care for sharp, aching pain in his neck, mid-back and lower back.

Miers ultimately claimed that he suffered sprains and strains of his cervical region and a protrusion of his L5-S1 intervertebral disc. He claimed that the L5-S1 disc caused impingement of a spinal nerve and resultant radiculitis.

On Dec. 21, 2015, Miers went to a pain management doctor for lower back pain, and a week later, he underwent a lumbar epidural steroid injection. He followed up with the pain management doctor on Jan. 11, 2016. Home exercises and anti-inflammatory medications were recommended. He finished his physical therapy and chiropractic manipulations the next day.

Miers followed up with the pain management doctor again on Jan. 25 and Feb. 22, 2016, and reported relief. The doctor said to continue the home exercises and medication. He also noted that Miers may experience exacerbations in the future and need additional treatment.

About three months later, Miers sustained neck and back injuries in a second motor-vehicle collision. He sought treatment from the same health care providers. The treatment after the second accident included two lumbar epidural steroid injections, repeat cervical and lumbar MRIs and a surgical evaluation. That surgeon said Miers would need a lumbar laminectomy and discectomy because of injuries caused by the second collision.

On March 20, 2018, Miers sought a second opinion, from orthopedic surgeon Dr. Stephen Earl. Earl opined that Miers' cervical and lumbar injuries were permanent, would worsen and would require surgery to correct, and that the injuries were a direct result of trauma from the Urquidez accident. Earl opined that Miers would need a cervical laminectomy/discectomy and a lumbar laminectomy/discectomy, and that the injuries requiring surgery were shown in Miers' MRIs taken before the second accident. Earl estimated the cost of the surgeries at \$370,000.

Plaintiff's counsel asked the jury to award \$16,313 for past medical expenses, \$370,000 for future medical expenses, \$20,000 for past lost income, \$50,000 for future lost income, \$25,000 for past physical pain and mental anguish, \$150,000 for future physical pain and mental anguish, \$25,000 for past physical impairment, \$150,000 for future physical impairment, and \$10,000 for future disfigurement.

The defense argued that Miers was exaggerating his injuries from the first accident for monetary gain. The defense emphasized the opinions of the first surgeon, who said the need for surgery resulted from injuries caused by Miers' second accident. The defense also emphasized that Miers sought no treatment in the two years before he sought the second opinion; that Miers continued to work in his labor-intensive field; that the vehicle damage from the Urquidez collision was minor; that the vehicle damage from the second collision was major; and that, at the time of trial, Miers had taken no medication and undergone no treatment for his claimed injuries.

Result:

The jury found that Urquidez was liable for the accident. It determined that Miers' damages totaled \$268,815.

Joshua Miers

\$23,815 Personal Injury: Past Medical Cost

\$230,000 Personal Injury: Future Medical Cost

\$15,000 Personal Injury: FutureLostEarningsCapability

Trial Information:

Judge: Mary Lou Alvarez

Demand: \$50,000 (Stowers demand)

Offer: \$15,000

Trial Length: 2 days

**Trial
Deliberations:** 2 days

Jury Vote: 11-1

Post Trial: The parties reached a confidential post-verdict settlement, and no judgment was entered.

**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

Rear-ending led to multiple injuries, plaintiff claimed

Type: Settlement

Amount: \$250,000

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 224th, TX

Injury Type(s):

- *leg* - bruise
- *back* - stenosis; lower back; annular tear; herniated disc, lumbar; herniated disc at L4-5
- *head* - headaches
- *neck* - stenosis; annular tear; fusion, cervical
- *other* - swelling; chiropractic; physical therapy; steroid injection; epidural injections; tendinitis/tendinosis; trigger point injection; decreased range of motion
- *shoulder* - rotator cuff, injury (tear); supraspinatus muscle/tendon, tear
- *face/nose* - face; face, bruise
- *surgeries/treatment* - discectomy

Case Type:

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

Case Name: Regina Marth v. Connor Pickering, No. 2020CI19882

Date: September 12, 2021

Plaintiff(s):

- Regina Marth, (Female, 50 Years)

Plaintiff Attorney(s):

- Brennen S. Jenkins; Crosley Law Firm, P.C.; San Antonio TX for Regina Marth
- Thomas A. Crosley; Crosley Law Firm, P.C.; San Antonio TX for Regina Marth

Plaintiff Expert(s):

- R. Warren Rogers M.D.; Spinal Surgery; Buffalo, NY called by: Brennen S. Jenkins, Thomas A. Crosley
- Amy Albert P.A.; Physician Assistant; Buffalo, NY called by: Brennen S. Jenkins, Thomas A. Crosley

Defendant(s):

- Connor Pickering

**Defense
Attorney(s):**

- Mark R. Lapidus; Lapidus Knudsen, PC; Houston, TX for Connor Pickering
- Kendall J. Prince; Lapidus Knudsen, PC; Houston, TX for Connor Pickering

Insurers:

- Amica Mutual Insurance Co.

Facts:

On June 6, 2019, plaintiff Regina Marth, 50, a retiree, was driving a sedan south on West Elmira Street in San Antonio. She came to a stop at a red light at San Pedro Avenue, and Connor Pickering rear-ended her in a sport utility vehicle. Pickering apologized to Marth and admitted fault to police at the scene. He said he thought Marth was going to turn right. Marth claimed she suffered injuries of her neck, back, leg, face and shoulder, as well as headaches.

Marth sued Pickering. The lawsuit alleged that he was negligent in the operation of his vehicle. Pickering acknowledged in discovery that he was lost and checking his GPS at the time of the accident.

Pickering filed a general denial. He said he saw Marth at the red light and slowed down, expecting Marth to turn.

Injury:

Marth was transported by ambulance to an emergency room. She ultimately claimed that she sustained bruising and swelling of her left shin; an intervertebral disc herniation at L4-5 with an annular tear; an annular bulge at L5-S1; cervical canal stenosis at C4-5, C5-6 and C6-7; multiple tears of her left supraspinatus tendon; and left shoulder tendinosis. She further claimed that her face hit the steering wheel, which caused bruising, and that she suffered headaches. She claimed that her neck injuries restrict the range of motion of her head and neck.

She underwent conservative treatment, which included the use of analgesics, several months of extensive physical therapy, chiropractic care and pain management. She underwent trigger point injections, a bilateral medial branch block at L3-4, a dorsal block at L5, a cervical epidural steroid injection, a cervical interlaminar epidurogram and a sacroiliac steroid injection. She later underwent an anterior cervical discectomy and fusion from C4 to C7. Post-surgery physical therapy was ongoing at the time the case resolved. She claimed that she needs shoulder surgery, at an estimated cost of \$65,000.

She claimed that the reduced ranges of motion severely affected her daily activities and that she cannot perform her household chores, pick up her grandchildren or wash her hair.

Her vehicle sustained severe damage. Pickering's vehicle damage was at least moderate.

Marth treated in upstate New York, where she resided. Plaintiff's counsel noted that medical costs there are much lower than in Texas. Marth's paid or incurred medical bills were \$59,133 when the case resolved.

Result:

The parties settled for \$250,000, the policy limit, prior to trial and prior to any depositions.

Regina Marth

Trial Information:

Judge: Cathy Stryker

Trial Length: 0

Trial Deliberations: 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 phone calls.

Writer

John Schneider

Plaintiff: Home Depot driver was on cell phone prior to crash

Type: Verdict-Plaintiff

Amount: \$250,000

Actual Award: \$150,000

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 285th, TX

Injury Type(s):

- *leg*
- *back* - lower back; herniated disc, lumbar
- *neck* - herniated disc, lumbar; herniated disc, cervical
- *other* - chiropractic; steroid injection; epidural injections
- *neurological* - radicular pain / radiculitis

Case Type:

- *Motor Vehicle* - Left Turn; Cell Phone; Multiple Vehicle
- *Worker/Workplace Negligence* - Negligent Hiring; Negligent Training

Case Name: Samuel Forrester v. Home Depot U.S.A., Inc d/b/a Home Depot and Terry Lee Donelson, No. 2020CI15071

Date: February 02, 2024

Plaintiff(s):

- Samuel Forrester, (Male, 0 Years)

Plaintiff Attorney(s):

- Stefani Barton; Thomas J. Henry; Dallas TX for Samuel Forrester
- Gregory Cotton; Thomas J. Henry; San Antonio TX for Samuel Forrester

**Plaintiff Expert
(s):**

- John Swiger Ph.D.; Economics; San Antonio, TX called by: Stefani Barton, Gregory Cotton
- James Lewis; Transportation; College Station, TX called by: Stefani Barton, Gregory Cotton
- Colten Rodriguez; Accident Reconstruction; San Antonio, TX called by: Stefani Barton, Gregory Cotton
- Vibhuti Patel O.D.; Optometry; New Braunfels, TX called by: Stefani Barton, Gregory Cotton
- Jacqueline V. Mendez; Vocational Rehabilitation; San Antonio, TX called by: Stefani Barton, Gregory Cotton

Defendant(s):

- Terry Lee Donelson
- Home Depot USA Inc.

**Defense
Attorney(s):**

- Amy C. Welborn; Gordon Rees Scully Mansukhani LLP; Austin, TX for Terry Lee Donelson, Home Depot USA Inc.
- Brittany Murphree; Gordon Rees Scully Mansukhani LLP; Austin, TX for Terry Lee Donelson, Home Depot USA Inc.

**Defendant
Expert(s):**

- Breck C. McDaniel; Electronic Communications; Houston, TX called by: for Amy C. Welborn, Brittany Murphree
- Brian Piper Ph.D.; Economics; Austin, TX called by: for Amy C. Welborn, Brittany Murphree
- Hiral Patel; Vocational Rehabilitation; Houston, TX called by: for Amy C. Welborn, Brittany Murphree
- James Michael Graham Ph.D., M.D.; Orthopedic Surgery; The Woodlands, TX called by: for Amy C. Welborn, Brittany Murphree

Facts:

On Oct. 2, 2021, plaintiff Samuel Forrester, about 78, a hospitality contractor, was driving a sedan on a highway in San Antonio at night. Defendant Terry Lee Donelson, in a pickup truck, pulled out from a gas station on Forrester's left, intending to make a left turn. Donelson struck Forrester's left side. Donelson was in the course and scope of his employment with defendant Home Depot USA Inc.

Forrester alleged that Donelson failed to keep a proper lookout and that he was on his cell phone. Forrester further alleged negligent hiring and training by Home Depot.

Also, Forrester's experts included an optometrist who had referred Donelson for cataract surgery. Donelson had not undergone the surgery at the time of the accident.

The defendants denied negligence. Donelson testified that he looked left, right and left and that he did not see the plaintiff until just before the impact. Defense counsel argued that Forrester's headlights may not have been on.

Donelson also testified that he did not use his cell phone until after the accident when he called his employer and 911.

Regarding negligent training, the defense noted that Donelson had a clean driving record.

Injury:

Forrester went to a pain management doctor nine days after the accident. He ultimately claimed cervical and lumbar disc herniations, with pain radiating into his legs.

His treatment included chiropractic care and cervical and lumbar epidural steroid injections. He also underwent surgery on his cervical and lumbar spine. He was still treating at the time of trial, and he used a walker at trial.

Forrester sought \$347,329.45 for past medical expenses. He also claimed future medical expenses, past and future loss of earning capacity, past and future physical pain, past and future mental anguish and past and future physical impairment. In total, he sought about \$3.5 million.

The defense argued that Forrester's neck and back issues were age-related, preexisting and degenerative in nature. The treatment and injury claims were litigation-driven and exaggerated, the defense argued.

Regarding the claim for past loss of earning capacity, the defense argued that, if Forrester's hospitality business suffered, it was because of the COVID pandemic, not his alleged injuries.

Result: The jury found negligence and comparative responsibility of 60 percent on Donelson and 40 percent on Forrester. It determined that Forrester's damages totaled \$250,000, for past medical expenses only, but the comparative-negligence reduction produced net damages of \$150,000.

The jury did not find that Home Depot's negligence, if any, proximately caused the occurrence. However, Home Depot was liable under respondeat superior.

Samuel Forrester

Trial Information:

Judge: Mary Lou Alvarez

Trial Length: 2 weeks

**Trial
Deliberations:** 4 hours

**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 email message and phone call.

Writer John Schneider

Plaintiff: Defendant was driving too fast on wet road

Type: Mediated Settlement

Amount: \$195,000

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 73rd, TX

Injury Type(s):

- *back* - stenosis; hypolordosis
- *neck* - stenosis; hypolordosis; bulging disc, cervical; herniated disc, cervical; herniated disc at C5-6
- *elbow*
- *other* - myospasm; capitellum; chiropractic; steroid injection; epidural injections; tendon, severed/torn
- *epidermis* - contusion

Case Type:

- *Motor Vehicle* - Truck; Passenger; Tractor-Trailer; Multiple Vehicle

Case Name: Ana Wyatt v. Jesse Gonzalez, No. 2020CI19922

Date: April 01, 2022

Plaintiff(s):

- Ana Wyatt, (Female, 46 Years)

Plaintiff Attorney(s):

- Daniel M. Pacheco; Crosley Law Firm, P.C.; San Antonio TX for Ana Wyatt

Plaintiff Expert (s):

- Adam Bruggeman M.D.; Orthopedic Surgery; San Antonio, TX called by: Daniel M. Pacheco

Defendant(s):

- Jesse Gonzalez

**Defense
Attorney(s):**

- John M. Flores Eisenmenger; Valdez & Trevino; San Antonio, TX for Jesse Gonzalez

Insurers:

- USAA

Facts:

On Aug. 22, 2019, plaintiff Ana Wyatt, 46, unemployed, was a passenger in her husband's tractor-trailer east on Interstate 10 West in San Antonio. The road was wet. Jesse Gonzalez was eastbound in a subcompact car. Gonzalez hydroplaned and struck the left-hand concrete barrier. He then struck the left side of the Wyatt trailer and went under it, also hitting the trailer's spare tire. The investigating officer placed contributing factors on Gonzalez for failing to control his speed and keep a proper lookout. Wyatt claimed she suffered injuries of her neck and right elbow.

Wyatt sued Gonzalez. The lawsuit alleged that he was negligent in the operation of his vehicle. She claimed that Gonzalez was going too fast for the road conditions and not keeping a proper lookout.

Gonzalez denied negligence. He said he hydroplaned while braking and that the accident was unavoidable.

Injury:

Wyatt went to a pain management doctor in early October 2019. Wyatt ultimately claimed she suffered tendinosis and a partial-thickness articular-side tear of the common extensor tendon in her right (dominant) elbow; a bone contusion of the right capitellum; cervical hypolordosis; cervical muscle spasms; a bulge of the C3-4 intervertebral disc; and a herniation of the C5-6 intervertebral disc. She further claimed that the herniation impinged on the thecal sac and caused spinal stenosis.

The pain management doctor ordered MRIs and subsequently prescribed pain medication. He also referred Wyatt to a chiropractor. Wyatt went to the chiropractor in late October 2019 and underwent physical therapy with him for 12 weeks. She also underwent two cervical epidural steroid injections; a cervical facet joint injection in February 2020; and a right medial epicondyle injection. Radiofrequency ablations were recommended but not performed.

Wyatt claimed that her treatment did not provide complete relief; that she continued to have occasional pain; and that the pain affected her ability to sit or stand for long periods.

She consulted with an orthopedic surgeon, who recommended an anterior discectomy and fusion at C5-6 in December 2021.

Gonzalez's vehicle damage was extensive. The 18-wheeler had some visible damage.

Wyatt's paid or incurred medical expenses were about \$48,800, including about \$34,800 for pain management and \$6,300 for imaging.

The defense questioned causation of the injuries, noting the delay in treatment.

Result:

The parties settled for \$195,000 in pretrial mediation. The settlement amount was the mediator's proposal.

Ana Wyatt

Trial Information:

Judge: David Canales, Krishna Reddy

Trial Length: 0

Trial 0
Deliberations:

Editor's This report is based on information that was provided by plaintiff's counsel. Defense
Comment: counsel declined to contribute.

Writer John Schneider

Pedestrian: Driver negligence led to accident in crosswalk

Type: Mediated Settlement

Amount: \$178,000

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 407th, TX

Injury Type(s):

- *hip*
- *back*
- *head* - headaches; concussion
- *knee*
- *neck*
- *elbow*
- *other* - hematoma; swelling; laceration; decreased range of motion
- *wrist*

Case Type:

- *Gross Negligence*
- *Motor Vehicle* - Truck; Pedestrian; Single Vehicle
- *Worker/Workplace Negligence* - Negligent Hiring; Negligent Training; Negligent Retention; Negligent Supervision

Case Name: John Kwon v. Freshpoint South Texas, Inc. and Arthur Gutierrez, No. 2019CI21690

Date: September 11, 2020

Plaintiff(s):

- John Kwon, (Male, 30 Years)

Plaintiff Attorney(s):

- Thomas A. Crosley; Crosley Law Firm, P.C.; San Antonio TX for John Kwon
- Dan Pacheco; Crosley Law Firm, P.C.; San Antonio TX for John Kwon

Plaintiff Expert(s):

- David J. Altman M.D., CLCP; Life Care Planning; San Antonio, TX called by: Thomas A. Crosley, Dan Pacheco

Defendant(s):

- Arthur Gutierrez
- Freshpoint South Texas Inc.

Defense Attorney(s):

- Monica Vaughan; Tribble Ross; Houston, TX for Freshpoint South Texas Inc., Arthur Gutierrez

Facts:

On April 8, 2019, plaintiff John Kwon, 30, was a pedestrian crossing North Presa Street in downtown San Antonio, from west to east. Arthur Gutierrez was driving a box truck east on College Street and making a left turn onto Presa. Gutierrez struck Kwon in the crosswalk. Gutierrez told police he did not see Kwon when he started his turn. Gutierrez was in the course and scope of his employment with Freshpoint South Texas Inc. Kwon sued Gutierrez and Freshpoint. The lawsuit alleged that Gutierrez was negligent and grossly negligent in the operation of his vehicle and that Freshpoint was negligent and grossly negligent in the hiring, training, retaining and supervision of its employees. Kwon claimed that Gutierrez failed to stop at the stop sign on College Street. The truck's dash-cam video showed that Kwon was in a crosswalk. Plaintiff's counsel argued that Gutierrez was eating an apple and had one hand on the steering wheel, and that Gutierrez admitted in deposition that he was negligent and grossly negligent. The defendants denied the allegations and argued that Kwon was on his cell phone and not keeping a proper lookout.

Injury:

Kwon sustained a concussion, a large hematoma and laceration in the left parietal area, back lacerations, right knee swelling and a left radial tunnel injury. He also complained of headaches, right wrist pain, neck pain and left hip pain. He claimed that the radial tunnel injury caused stiffness and limited range of motion and that the pain was worse when lifting.

Kwon was taken by ambulance to a hospital and kept overnight.

The head injury resolved. Kwon treated extensively for his elbow injury and testified that he continued to experience stiffness and limited range of motion in that area. His doctors recommended injections and possible radial tunnel surgery.

Kwon was in San Antonio on business at the time of the accident. He resided in Arizona. His paid or incurred medical expenses were \$46,626.28. He also sought past lost wages of \$344, and he alleged future medical expenses, future loss of earning capacity, past and future physical pain and mental anguish, past and future physical impairment and past and future disfigurement.

The defense argued that Kwon would not need future treatment.

The defense also filed a counteraffidavit from an accountant to challenge the reasonableness of the past medical expenses. However, after a hearing, the court granted Kwon's motion to strike this expert.

Result:

The parties settled for \$178,000 in mediation, prior to trial. FreshPoint had a \$750,000 self-insured retention.

Trial Information:

Judge: Tina Torres, Richard Sparr

Trial Length: 0

**Trial
Deliberations:** 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 phone calls.

Writer John Schneider

Fender bender in parking lot led to shoulder issues, plaintiff claimed

Type: Verdict-Plaintiff

Amount: \$148,000

Actual Award: \$143,298

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 37th, TX

Injury Type(s):

- *back*
- *neck* - sprain, cervical; strain, cervical
- *other* - physical therapy; strains and sprains
- *shoulder* - rotator cuff, injury (tear); supraspinatus muscle/tendon, tear

Case Type:

- *Motor Vehicle* - Parked Car; Parking Lot; Multiple Vehicle; Reversing Vehicle; Underinsured Motorist
- *Insurance* - First-party Benefits

Case Name: David Schafer v. Joshua Varga, No. 2019CI09117

Date: June 13, 2023

Plaintiff(s):

- David Schafer, (Male, 48 Years)

Plaintiff Attorney(s):

- Robert F. White; Law Office of Robert F. White, P.C.; for David Schafer

Plaintiff Expert (s):

- Andrew Whaley M.D.; Orthopedic Surgery; San Antonio, TX called by: Robert F. White

Defendant(s):

- Joshua Varga
- State Farm Mutual Automobile Insurance Co.

Defense Attorney(s):

- Jeff B. Frey; Frey & Navarro; San Antonio, TX for State Farm Mutual Automobile Insurance Co.

Insurers:

- Government Employees Insurance Co.

Facts:

In May 2017, plaintiff David Schafer, 48, an attorney, was parked in a space in a parking lot when defendant Joshua Varga backed into him. Varga settled for his \$50,000 policy limit, and Schafer sought underinsured motorist (UIM) benefits from defendant State Farm Mutual Automobile Insurance Co. The UIM policy limit was \$300,000. Shortly before trial, State Farm stipulated that Varga's negligence proximately caused the accident.

Injury:

Schafer went to an urgent-care clinic on the night of the accident. He ultimately claimed a full-thickness tear of his left (nondominant) supraspinatus tendon. He also claimed neck and back sprains and strains, but they resolved with physical therapy.

After the urgent-care visit, he followed up with his primary care doctor and underwent a short course of physical therapy. It was November 2017 when he went to an orthopedic surgeon, who recommended arthroscopic shoulder surgery. Schafer elected not to undergo the surgery, however, and he did not seek treatment again until October 2021, when he saw shoulder specialist Dr. Andrew Whaley for the first time. Schafer said his gap in treatment was a result of the COVID-19 pandemic and other family members' health issues.

Whaley ordered a repeat shoulder MRI, which showed that the tear, previously 1 centimeter, was now 5 to 6 centimeters. Whaley concluded that Schafer was no longer a candidate for arthroscopy and that he instead needed reconstructive surgery, likely to be followed by shoulder replacement. Schafer followed up with Whaley a few more times in 2022 and 2023. Schafer had not undergone surgery by the time of trial.

Schafer testified that the injury affects most of his activities and that he was very active before. He can no longer swim or carry heavy objects, such as file boxes or bags of groceries, he said, and he has to give one-armed hugs to his wife and children.

Whaley testified that Schafer's impairment will be permanent, even with the surgeries. Plaintiff's counsel said Whaley was not critical of Schafer's decision not to undergo arthroscopy when it was recommended or to have the reconstructive surgery yet.

Schafer claimed future medical expenses, past and future physical pain and mental anguish and past and future physical impairment.

The defense argued that he will not undergo surgery and that, by failing to undergo the arthroscopy when it was recommended, he failed to mitigate his damages.

Result: The jury determined that Schafer's damages totaled \$148,000. After State Farm's \$50,000 credit, Schafer's damages recovery was \$98,000.

David Schafer

\$ 60,000 Future Medical Cost

\$ 12,500 Past Physical Impairment

\$ 22,500 Future Physical Impairment

\$ 25,000 past physical pain and mental anguish

\$ 28,000 future physical pain and mental anguish

\$ 148,000 Plaintiff's Total Award

Trial Information:

Judge: Nicole Garza

Demand: \$295,000

Offer: \$50,000

Trial Length: 2 days

**Trial
Deliberations:** 0

Jury Vote: 10-2

Post Trial: The final judgment against State Farm included \$98,000 in damages (after State Farm's \$50,000 credit); \$42,337.29 in prejudgment interest; and \$2,960.46 in taxable costs, for a total judgment of \$143,297.75.

**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 neck and back injuries in rear-ender collision

Type: Verdict-Plaintiff

Amount: \$132,423

State: Texas

Venue: Bexar County

Court: Bexar County District Court, 285th, TX

Injury Type(s):

- *arm*
- *leg*
- *back* - stenosis; lower back; nerve impingement; herniated disc, lumbar; herniated disc at L3-4; herniated disc, lumbar; herniated disc at L4-5; herniated disc, lumbar; herniated disc at L5-S1; disc protrusion, lumbar
- *neck* - stenosis; nerve impingement; herniated disc, cervical; herniated disc at C3-4; herniated disc, cervical; herniated disc at C4-5; herniated disc, cervical; herniated disc at C5-6; disc protrusion, cervical
- *other* - buttocks; chiropractic; physical therapy; steroid injection; epidural injections
- *epidermis* - numbness
- *neurological* - nerve impingement; radicular pain / radiculitis

Case Type:

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

Case Name: Neiland McCloney v. Dominique Windom, No. 2018CI08304

Date: September 26, 2019

Plaintiff(s):

- Neiland McCloney (Male, 44 Years)

Plaintiff Attorney(s):

- Candelario S. Trevino Jr.; Trevino Injury Law; San Antonio TX for Neiland McCloney
- Andrew E. Toscano; Gene Toscano Inc.; San Antonio TX for Neiland McCloney

Plaintiff Expert (s):

- Stephen E. Earle M.D.; Orthopedic Surgery; San Antonio, TX called by: Candelario S. Trevino Jr., Andrew E. Toscano

Defendant(s): • Dominique Windom

Defense Attorney(s): • Edward J. Batis Jr.; Ortiz & Batis P.C.; San Antonio, TX for Dominique Windom
• Leslie Megin Koch; Ortiz & Batis P.C.; San Antonio, TX for Dominique Windom

Defendant Expert(s): • David A. Roberts M.D.; Orthopedic Surgery; San Antonio, TX called by: for Edward J. Batis Jr., Leslie Megin Koch

Facts: On April 25, 2017, plaintiff Neiland McCloney, 44 and who works in information technology, was driving a sedan on the U.S. Highway 281 access road in San Antonio. Dominique Windom rear-ended him in a sport utility vehicle. McCloney claimed neck and lower back injuries.

McCloney sued Windom. He alleged that she was negligent in the operation of her vehicle.

Windom testified that she looked over her shoulder to see if she could change lanes but misjudged the distance between her and McCloney's car. She acknowledged fault, but defense counsel argued that it was just an accident and that Windom acted reasonably under the circumstances.

Injury:

Three days after the accident, McCloney went to a primary care doctor. He complained of neck and lower back pain. He ultimately claimed herniations and protrusions of the C3-4, C4-5, C5-6, C6-7, L3-4, L4-5 and L5-S1 intervertebral discs, as well as headaches. He further claimed nerve root impingement at C7; right arm pain and numbness; and also bilateral leg and buttock pain. In addition, he claimed that the C3-4 disc caused thecal sac impingement and that the C5-6, C6-7 and L5-S1 discs caused mild foraminal stenosis.

Six and seven days after the accident, respectively, he started chiropractic care and physical therapy. The treatment lasted until July 21, about three months after the accident. Cervical epidural steroid injections were recommended in mid-July but McCloney refused them.

He was evaluated by an orthopedic surgeon on Aug. 15. Both cervical and lumbar surgery were recommended. McCloney's only other option was to live with the pain, the doctor said.

On Oct. 26, 2018, after about 14 months without additional treatment, McCloney started a second round of physical therapy and chiropractic care. This treatment lasted about two months. Repeat cervical and lumbar MRIs were performed in February 2019, followed by three cervical epidural steroid injections. The injections provided relief for less than six weeks, he said.

The orthopedic surgeon opined that McCloney sustained traumatic injuries to his neck and lower back as a result of the collision; that these injuries were permanent and would worsen over time; and that he would need surgery at an estimated cost of \$330,000.

McCloney testified that the pain affected his daily activities and sleep patterns.

Both vehicles sustained moderate damage.

Plaintiff's counsel asked the jury to award \$31,423 for past medical expenses; \$330,000 for future medical expenses; \$31,423 for past physical pain and mental anguish; \$330,000 for future physical pain and mental anguish; \$31,423 for past physical impairment; \$330,000 for future physical impairment, \$1,000 for past lost income; and \$20,000 for future lost income.

The defense expert, an orthopedic surgeon, opined that McCloney suffered from spinal degeneration and that his neck or lower back problems were degenerative and not caused by the collision. The collision may have caused a preexisting condition to flare up, but he opined that MRIs showed continued degeneration, which he said confirmed his opinion that any ongoing problems were degenerative. He further stated that, but for the radicular complaints, McCloney would not be a surgical candidate at all.

Defense counsel argued that McCloney was exaggerating his injuries for monetary gain. Defense counsel pointed to the fact that McCloney never took the prescribed pain medication; continued to work two jobs; went 14 months without treatment; and had not undergone surgery by the time of trial.

Result: The jury found Windom negligent and awarded McCloney \$132,423.

Neiland McCloney

\$31,423 Personal Injury: Past Medical Cost

\$1,000 Personal Injury: Past Lost Earnings Capability

\$100,000 Personal Injury: past physical pain and mental anguish

Trial Information:

Judge: Aaron Haas

Demand: \$30,000 (Stowers)

Offer: \$40,000 (at trial)

Trial Length: 5 days

Trial Deliberations: 2.5 hours

Jury Vote: 11-1

Post Trial: On Oct. 14, 2019, a judgment was entered for \$146,963.20, including prejudgment interest and taxable costs. After a defense motion for JNOV was denied in November, the parties reached a confidential settlement, and the judgment was withdrawn by agreement.

Editor's Comment: This report is based on information that was provided by plaintiff's counsel. Defense counsel declined to contribute.

Writer John Schneider