



Plaintiffs claimed truck driver's road rage caused severe injuries

Type: Verdict-Plaintiff

Amount: \$52,708,374

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *arm* - fracture, arm; fracture, humerus
- *back*
- *head* - closed head injuries
- *brain* - brain damage; traumatic brain injury
- *chest* - fracture, rib
- *other* - kyphoplasty; unconsciousness; comminuted fracture; compression fracture
- *neurological* - nerve damage/neuropathy; nerve, severed/torn; reflex sympathetic dystrophy; complex regional pain syndrome
- *arterial/vascular* - blood loss
- *mental/psychological* - post-traumatic stress disorder

Case Type:

- *Motor Vehicle* - Work Zone; Center Line; Multiple Vehicle; Negligent Entrustment
- *Worker/Workplace Negligence* - Negligent Supervision

Case Name: Matthew John Lennig, Michael Lennig and Rosa Lennig v. CRST, CRST Inc., CRST Expedited Inc., CRST Van Expedited Inc., CRST Lincoln Sales Inc., CRST Lincoln Services Inc., Case Pacific Company, Hector Contreras, Dayton Certified Welding Inc., Foundation Pile Inc., Granite Construction Company, Integrity Rebar Placers, State of California Cal Trans and Does 1 through 250, inclusive, No. MC025288

Date: February 21, 2018

Plaintiff(s):

- Rosa Lennig
- Michael Lennig (Male, 36 Years)
- Matthew John Lennig (Male, 29 Years)

**Plaintiff
Attorney(s):**

- R. Rex Parris; PARRIS Law Firm; Lancaster CA for Matthew John Lennig, Michael Lennig, Rosa Lennig
- Brian J. Panish; Panish Shea & Boyle LLP; Los Angeles CA for Matthew John Lennig, Michael Lennig, Rosa Lennig
- Khail Parris; PARRIS Law Firm; Lancaster CA for Matthew John Lennig, Michael Lennig, Rosa Lennig
- Bruce Schechter; PARRIS Law Firm; Lancaster CA for Matthew John Lennig, Michael Lennig, Rosa Lennig

**Plaintiff Expert
(s):**

- H. Ronald Fisk M.D.; Neurology; Beverly Hills, CA called by: R. Rex Parris, Brian J. Panish, Khail Parris, Bruce Schechter
- Don F. Mills M.D.; Pain Management; Irvine, CA called by: R. Rex Parris, Brian J. Panish, Khail Parris, Bruce Schechter
- Jan Roughan R.N., B.S.N.; Life Care Planning; Pasadena, CA called by: R. Rex Parris, Brian J. Panish, Khail Parris, Bruce Schechter
- Rick A. Sarkisian Ph.D.; Vocational Rehabilitation; Bakersfield, CA called by: R. Rex Parris, Brian J. Panish, Khail Parris, Bruce Schechter
- Fardad Mobin M.D.; Neurosurgery; Beverly Hills, CA called by: R. Rex Parris, Brian J. Panish, Khail Parris, Bruce Schechter
- Kallon Basquin L.C.S.W., Ph.D.; Psychotherapy; Claremont, CA called by: R. Rex Parris, Brian J. Panish, Khail Parris, Bruce Schechter
- Lester M. Zackler M.D.; Neuropsychiatry; Sherman Oaks, CA called by: R. Rex Parris, Brian J. Panish, Khail Parris, Bruce Schechter
- Anthony E. Reading Ph.D.; Psychology/Counseling; Beverly Hills, CA called by: R. Rex Parris, Brian J. Panish, Khail Parris, Bruce Schechter
- Jeffrey A. Schaeffer Ph.D.; Neuropsychology; Beverly Hills, CA called by: R. Rex Parris, Brian J. Panish, Khail Parris, Bruce Schechter
- Kenneth A. Solomon Ph.D.; Accident Reconstruction; Westlake, CA called by: R. Rex Parris, Brian J. Panish, Khail Parris, Bruce Schechter
- Tamorah G. Hunt M.B.A., Ph.D.; Economics; Santa Ana, CA called by: R. Rex Parris, Brian J. Panish, Khail Parris, Bruce Schechter
- Nicholas E. Rose M.D.; Orthopedic Surgery; Newport Beach, CA called by: R. Rex Parris, Brian J. Panish, Khail Parris, Bruce Schechter

Defendant(s):

- CRST
- CRST Inc.
- Case Pacific Co.
- Hector Contreras
- CRST Expedited Inc.
- Foundation Pile Inc.
- CRST Lincoln Sales Inc.
- CRST Van Expedited Inc.
- Integrity Rebar Placers
- Granite Construction Co.
- CRST Lincoln Services Inc.
- Dayton Certified Welding Inc.
- State of California Cal Trans

**Defense
Attorney(s):**

- Fred M. Blum; Bassi Edlin Huie & Blum LLP; San Francisco, CA for Hector Contreras, CRST, CRST Expedited Inc., CRST Inc., CRST Lincoln Sales Inc., CRST Van Expedited Inc., CRST Lincoln Services Inc.
- Michael E. Gallagher, Jr.; Bassi Edlin Huie & Blum LLP; Los Angeles, CA for Hector Contreras, CRST, CRST Expedited Inc., CRST Inc., CRST Lincoln Sales Inc., CRST Van Expedited Inc., CRST Lincoln Services Inc.
- None reported for Case Pacific Co., Dayton Certified Welding Inc., Foundation Pile Inc., Granite Construction Co., Integrity Rebar Placers, State of California Cal Trans

**Defendant
Expert(s):**

- Erik D. Power P.E.; Accident Reconstruction; Corvallis, OR called by: for Fred M. Blum, Michael E. Gallagher, Jr.
- Lisa Fitzpatrick O.T.R./C.H.T.; Occupational Therapy; La Jolla, CA called by: for Fred M. Blum, Michael E. Gallagher, Jr.
- Mark H. Strassberg M.D.; Neurology; San Francisco, CA called by: for Fred M. Blum, Michael E. Gallagher, Jr.
- Mary E. Jesko Ed. D.; Life Care Planning; San Diego, CA called by: for Fred M. Blum, Michael E. Gallagher, Jr.
- Daniel A. Nation Ph.D.; Psychology/Counseling; Los Angeles, CA called by: for Fred M. Blum, Michael E. Gallagher, Jr.
- George K. Henry Ph.D.; Neuropsychology; Los Angeles, CA called by: for Fred M. Blum, Michael E. Gallagher, Jr.
- George A. Macer, Jr. M.D.; Orthopedic Surgery; Long Beach, CA called by: for Fred M. Blum, Michael E. Gallagher, Jr.
- Jennie M. McNulty C.P.A., M.B.A.; Economics; Los Angeles, CA called by: for Fred M. Blum, Michael E. Gallagher, Jr.
- Ronald C. Albucher M.D.; Psychiatry; San Francisco, CA called by: for Fred M. Blum, Michael E. Gallagher, Jr.
- Thomas Chen M.D.; Neurosurgery; Los Angeles, CA called by: for Fred M. Blum, Michael E. Gallagher, Jr.
- Matthew J. Meunier M.D.; Orthopedic Surgery; San Diego, CA called by: for Fred M. Blum, Michael E. Gallagher, Jr.

Facts:

On July 7, 2014, plaintiff Matthew Lennig, 29, a salesman, was driving a 2013 Ford F-250 pickup truck with his brother, plaintiff Michael Lennig, 36, a deputy sheriff, as a front seat passenger. As they were traveling on northbound State Route 14, also known as Aerospace Highway, in the Mojave area, they entered a construction zone, whereby the lanes of traffic narrowed to a single lane in each direction and only a double yellow line and orange plastic pylons separated the opposing lanes of traffic. While in the construction zone, the Lennigs' northbound truck was struck almost head-on by a CRST tractor operated by Hector Contreras, who was southbound. The collision caused severe damage to the Lennigs' entire vehicle. Matthew Lennig claimed injuries to his head and left arm, and Michael Lennig claimed injuries to his back and head.

The Lennigs sued Contreras; CRST; and several CRST entities, including CRST Inc., CRST Expedited Inc., CRST Van Expedited Inc., CRST Lincoln Sales Inc., and CRST Lincoln Services Inc. The Lennigs also sued entities believed to be responsible for the construction area, but the entities were ultimately dismissed prior to trial. Thus, the Lennigs alleged that Contreras was negligent in the operation of the tractor and that the CRST entities were vicariously liable for Contreras' actions while he was in the course and scope of his employment.

Plaintiffs' counsel contended that in an attempt to pass another southbound vehicle, Contreras crossed over the double yellow lines and orange pylons, and entered the opposing northbound lane, causing the crash. Counsel argued that Contreras was traveling to Riverside and was several hours behind schedule at the time of the collision. Counsel also argued that Contreras was driving angrily and engaged in road rage when he attempted to pass the other southbound vehicle by crossing over to the northbound lane. In addition, plaintiffs' counsel argued that Contreras and the CRST entities hid or destroyed data from several recording devices that were installed on the CRST tractor that would have recorded speed information and tracked Contreras' GPS coordinates. However, post-incident inspections by CRST were documented by photographs, which allegedly showed that some of the devices were, in fact, recovered.

Plaintiffs' counsel contended that CRST had a policy that all new employee drivers were required to undergo a probationary period, in which the employee is only permitted to operate a truck owned by CRST if there is a co-driver present to aid the employee in operating the truck. Counsel also contended that Contreras was hired in December 2013 and that between the date of his hire and the date of the collision, Contreras had caused a total of four preventable collisions, not including the collision with the Lennigs' truck. Two of those collisions occurred within the time period of June 26, 2014 and July 3, 2014. Thus, plaintiffs' counsel argued that despite causing the four preventable collisions, CRST only required Contreras to attend one defensive driving course, even though CRST had a policy of requiring all employee drivers who cause a preventable collision to take a defensive driving course or be fired.

Prior to trial, Contreras and the CRST entities stipulated to liability and vicarious liability. Thus, the jury was to only decide what amount of compensatory damages the Lennigs deserved and whether punitive damages were warranted.

Injury:

Matthew Lennig lost consciousness at the scene. He also sustained a left, comminuted humeral fracture with massive soft tissue defect that nearly severed the arm, as his ulnar and radial nerves were completely severed. In addition, he sustained multiple left rib fractures and significant blood loss. Matthew Lennig was subsequently airlifted from the remote collision location to the nearest trauma center in Antelope Valley. He requested that the arm be saved, if possible, and that amputation was a last resort.

Orthopedic specialists were successful in reattaching Matthew Lennig's arm, requiring more 33 surgeries and procedures to do so. The arm is now a helper extremity with significant functional limitations. Matthew Lennig, who has two children under the age of 6, claimed that he developed complex regional pain syndrome, also known as reflex sympathetic dystrophy or causalgia, a chronic pain condition, as a result of the arm injury and that he sustained a mild traumatic brain injury. He further claimed that he suffers from severe post-traumatic stress disorder and has not returned to working.

Michael Lennig sustained several compression fractures to his thoracic spine and other trauma to his lumbar spine. He subsequently underwent a kyphoplasty, which is a surgical filling of injured or collapsed vertebrae. He also allegedly suffered a mild traumatic brain injury.

Michael Lennig, who has two children under the age of 10, claimed that he continues to suffer from chronic back pain, as well as physical limitations due to his compromised back. He also claimed that he suffers from severe post-traumatic stress disorder. He alleged that although he was able to return to work, he can now only perform light duty activity.

Michael Lennig's wife, Rosa Lennig, initially presented a derivative claim, but she was ultimately removed as a plaintiff.

After the plaintiffs' case-in-chief, the court ruled that punitive damages should not go to the jury.

Defense counsel acknowledged that the injuries were serious, but argued that the injuries were not as severe as the brothers described. Defense counsel specifically focused on the Lennigs' functional ability and obtained months of sub-rosa surveillance conducted upon the Lennigs, which yielded dozens of hours of video. Counsel argued that the videos showed that the Lennig brothers made significant recoveries since 2014.

Result:

The jury determined that the Lennigs' damages totaled \$52,708,374, including \$19,242,604 for Michael Lennig's damages and \$33,465,770 for Matthew Lennig's damages.

Matthew John Lennig

\$1,845,485 Personal Injury: Future Medical Cost

\$266,429 Personal Injury: Past Lost Earnings Capability

\$1,353,856 Personal Injury: FutureLostEarningsCapability

\$10,000,000 Personal Injury: past noneconomic loss

\$20,000,000 Personal Injury: future noneconomic loss

Michael Lennig

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

\$93,624 Personal Injury: Past Lost Earnings Capability

\$448,980 Personal Injury: FutureLostEarningsCapability

\$7,000,000 Personal Injury: past non-economic loss

\$9,500,000 Personal Injury: future non-economic loss

Trial Information:

Judge: J. Stephen Czuleger

Trial Length: 16 days

**Trial
Deliberations:** 3 days

Post Trial: A confidential settlement was reached after the verdict.

**Editor's
Comment:** This report is based on information that was provided by plaintiffs' counsel. Counsel of Contreras and the CRST entities did not respond to the reporter's phone calls, and the remaining defendants' counsel were not asked to contribute.

Writer Priya Idiculla

Plaintiffs struck by intoxicated driver claimed severe injuries

Type: Verdict-Plaintiff

Amount: \$20,968,903

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *leg* - fracture, leg; fracture, tibia; fracture, leg; fracture, fibula
- *head* - headaches
- *knee* - meniscus, tear; fracture, patella
- *ankle* - fracture, ankle
- *brain* - traumatic brain injury
- *other* - hernia; abrasions; dysarthria; laceration; laparotomy; scar and/or disfigurement
- *wrist* - fracture, wrist
- *shoulder* - rotator cuff, injury (tear)
- *foot/heel* - fracture, foot; fracture, talus
- *neurological* - radiculopathy; reflex sympathetic dystrophy; complex regional pain syndrome
- *arterial/vascular* - internal bleeding
- *surgeries/treatment* - open reduction; internal fixation
- *mental/psychological* - depression; cognition, impairment

Case Type:

- *Motor Vehicle* - Head-On; Passenger; Center Line; Alcohol Involvement

Case Name: Jose Cardona, Irene Cardona and Eduardo Cardona v. Galdino Navarro Cortes, No. MC023925

Date: June 15, 2015

Plaintiff(s):

- Jose Cardona (Male, 59 Years)
- Irene Cardona (Female, 53 Years)
- Eduardo Cardona (Male, 22 Years)

**Plaintiff
Attorney(s):**

- Alexander R. Wheeler; R. Rex Parris Law Firm; Lancaster CA for Jose Cardona, Irene Cardona, Eduardo Cardona
- Jason P. Fowler; R. Rex Parris Law Firm; Lancaster CA for Jose Cardona, Irene Cardona, Eduardo Cardona

**Plaintiff Expert
(s):**

- C. Thomas Vangsness Jr., M.D.; Orthopedic Surgery; Los Angeles, CA called by: Alexander R. Wheeler, Jason P. Fowler
- H. Ronald Fisk M.D.; Neurology; Los Angeles, CA called by: Alexander R. Wheeler, Jason P. Fowler
- Ann Barnes R.N.; Life Care Planning; Glendale, CA called by: Alexander R. Wheeler, Jason P. Fowler
- Rick Sarkisian Ph.D.; Vocational Rehabilitation; Fresno, CA called by: Alexander R. Wheeler, Jason P. Fowler
- Daniel P. Voss M.S.; Biomechanics; Long Beach, CA called by: Alexander R. Wheeler, Jason P. Fowler
- Vernon B. Williams M.D.; Pain Management; Los Angeles, CA called by: Alexander R. Wheeler, Jason P. Fowler
- Jeffrey A. Schaeffer Ph.D.; Neuropsychology; Los Angeles, CA called by: Alexander R. Wheeler, Jason P. Fowler
- Tamorah G. Hunt Ph.D.; Economics; Santa Ana, CA called by: Alexander R. Wheeler, Jason P. Fowler

Defendant(s):

- Galdino Navarro Cortes

**Defense
Attorney(s):**

- Steve R. Belilove; Yee & Belilove, LLP; Pasadena, CA for Galdino Navarro Cortes
- Steven R. Yee; Yee & Belilove, LLP; Pasadena, CA for Galdino Navarro Cortes

**Defendant
Expert(s):**

- Gene Bruno M.S., C.R.C., C.D.M.S.; Life Care Planning; Encino, CA called by: for Steve R. Belilove, Steven R. Yee
- Arthur P. Kowell M.D., Ph.D.; Neurology; Encino, CA called by: for Steve R. Belilove, Steven R. Yee
- Robert A. Wilson M.D.; Orthopedic Surgery; Beverly Hills, CA called by: for Steve R. Belilove, Steven R. Yee

Insurers:

- QBE Insurance Group
- American Claims Management Inc.

Facts:

On Feb. 6, 2011, plaintiff Jose Cardona, 59, a welder, made a left turn onto 47th Street East, near the intersection with Fort Tejon Road, also known as State Route 138, in Palmdale. His wife, plaintiff Irene Cardona, 53, was a front seat passenger in the Ford Taurus and his son, plaintiff Eduardo Cardona, 22, was a rear-seat passenger. While the Taurus was traveling south on 47th Street East, a northbound Ford Explorer operated by Galdino Navarro Cortes lost control and crossed into the Cardonas' lane of travel, striking the Ford Taurus head-on. Jose Cardona sustained multiple fractures and an alleged brain injury. His son suffered a knee fracture and an abdominal injury, resulting in internal bleeding. Irene Cardona suffered a wrist fracture and an alleged brain injury.

The Cardonas sued Cortes, alleging that Cortes was negligent in the operation of his sport utility vehicle. Specifically, the Cardonas claimed that Cortes was intoxicated and caused the crash.

The plaintiff's biomechanics expert testified that Cortes was traveling approximately 50 mph at the time of impact and that the Cardonas' car was traveling between 15 and 20 mph.

Cortes conceded liability.

Injury:

The Cardonas were transported by ambulance to an emergency room at a nearby hospital.

Jose Cardona was diagnosed with multiple fractures to both legs, including a right ankle fracture and bilateral patellar fractures. He was also given a 15 on the Glasgow Coma Scale. During trauma surgery, Jose Cardona required the removal of his right talus bone and the repair of a fibula fracture. Two days later, he underwent surgery to repair meniscus tears in both knees, as well as repair the major fractures in his right tibia and both patellas. Jose Cardona also sustained a tear of the rotator cuff in his right, dominant shoulder.

Jose Cardona claimed that he now has pain and fatigue while ambulating. He alleged that as a result, is unable to walk without the assistance of a walker or a wheelchair. He was also diagnosed with cerebral damage, resulting in cognitive deficits years after the accident. As a result, Jose Cardona suffers from slurred speech, blurred vision, tremors, dizziness, anxiety, depression, unpredictable moods, loss of concentration, memory problems, and headaches. He also is allegedly left with worsening dysarthria, which causes facial numbness, tingling, and difficulty swallowing. Thus, Jose Cardona claimed that he has never made a fully recovery and that he has not been able to return to work since the accident.

Irene Cardona suffered numerous abrasions to her legs and chest, and a head injury that allegedly causes persistent headaches and blurred vision. Her head injury was ultimately diagnosed as a traumatic brain injury. Irene Cardona was also diagnosed with a complex fracture of the right wrist, requiring open reduction and internal fixation surgery on the date of the accident. She claimed that her wrist bones are now fused and that her pain never went away. As a result, hardware from the surgery was removed in October 2014.

Irene Cardona claimed that despite the surgeries, she continues to suffer pain radiating from her wrist into her right arm and shoulder. She was ultimately diagnosed with complex regional pain syndrome, also known as reflex sympathetic dystrophy or causalgia, a chronic pain condition. She alleged that the severity of her chronic pain even

causes her to lose consciousness.

Eduardo Cardona was admitted to the hospital with lacerations to his chest, bruising on his legs, and swollen ankles. He was also determined to have sustained a rupture of the abdominal wall, resulting in internal bleeding and causing anemia due to the blood loss. As a result, he required an emergency laparotomy and surgical repair of a complex abdominal wall hernia. Eduardo Cardona later developed an intestinal blockage, requiring another surgical intervention.

As a result of his injuries and surgeries, Eduardo Cardona was left with a large scar on his stomach. He also claimed that he continues to suffer abdominal pain. Although he was hospitalized for six days and had to drop out of trade school, he was ultimately able to return to school, graduate, and work full time since 2012. As a result, he is able to provide his parents with additional care due to the severity of their injuries.

Thus, plaintiffs' counsel asked the jury to award \$33,547,067 for Jose Cardona's total damages and \$16,050,183 for Irene Cardona's total damages. Counsel left Eduardo Cardona's damages to the discretion of the jury.

Defense counsel strongly contested the nature and extent of the plaintiffs' alleged injuries. Specifically, defense counsel denied that Jose Cardona suffered any cognitive deficits from a head injury. Counsel also disputed Irene Cardona's alleged CRPS.

While the defense's expert orthopedic surgeon denied Irene Cardona's alleged CRPS, the defense's neurological expert found that she did suffer from the condition.

Result:

The jury found that the Cardonas had sustained permanent injuries. Thus, it determined that the Cardonas' damages totaled \$20,968,903, including \$14,134,828 for Jose Cardona's damages, \$6,240,075 for Irene Cardona's damages and \$600,000 for Eduardo Cardona's damages. However, the jury was deadlocked on the alleged punitive damages issue, but the plaintiffs' dismissed the claim with prejudice to avoid a mistrial.

Cortes has a \$30,000 policy limit with QBE Insurance Group, which the carrier offered to tender. However, an action is commencing against the third-party administrator, American Claims Management Inc., over its alleged mishandling of the claim and refusal to settle for policy limits.

Eduardo Cardona

\$400,000 Personal Injury: past non-economic loss

\$200,000 Personal Injury: future non-economic loss

Irene Cardona

\$1,734,000 Personal Injury: Future Medical Cost

\$56,075 Personal Injury: past loss of home services

\$1,530,000 Personal Injury: past non-economic loss

\$2,920,000 Personal Injury: future non-economic loss

Jose Cardona

\$4,000,000 Personal Injury: Future Medical Cost

\$216,730 Personal Injury: Past Lost Earnings Capability

\$347,750 Personal Injury: FutureLostEarningsCapability

\$45,348 Personal Injury: past loss of home services

\$3,700,000 Personal Injury: past non-economic loss

\$5,825,000 Personal Injury: future non-economic loss

Trial Information:

Judge: John J. Kralik

Demand: \$5,499,999

Offer: \$30,000 (policy limits)

Trial Length: 13 days

**Trial
Deliberations:** 2 days

Jury Vote: 9-3 and 10-2 on 20 items

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

Writer Max Robinson

Pltf claimed electric flatbed truck had insufficient warnings

Type: Verdict-Plaintiff

Amount: \$10,210,707

Actual Award: \$8,918,964

State: California

Venue: Alameda County

Court: Superior Court of Alameda County, Hayward, CA

Injury Type(s):

- *other* - loss of consortium
- *foot/heel* - foot; fracture, foot; fracture, talus; crush injury, foot; fracture, heel/calcaneus; fracture, calcaneus/heel
- *amputation* - foot
- *neurological* - reflex sympathetic dystrophy; complex regional pain syndrome
- *surgeries/treatment* - skin graft; debridement; internal fixation

Case Type:

- *Products Liability* - Warnings; Design Defect; Failure to Warn

Case Name: Christopher Corbo and Lydia Corbo v. New United Motor Manufacturing Inc., CTS Advantage Logistics, Vascor Ltd., Toyota Material Handling, Foundation Systems Inc., Ensemble Workforce Solutions Inc., Taylor- Dunn Manufacturing Company, Tai Lam, Sergio Fernandez and American Cybersystems Inc., No. HG09477272

Date: September 29, 2011

Plaintiff(s):

- Lydia Corbo (Female)
- Christopher Corbo (Male, 33 Years)

Plaintiff Attorney(s):

- William L. Veen; The Veen Firm, P.C.; San Francisco CA for Christopher Corbo, Lydia Corbo
- Kevin Lancaster; The Veen Firm, P.C.; San Francisco CA for Christopher Corbo, Lydia Corbo
- Kimberly A. Wong; The Veen Firm, P.C.; San Francisco CA for Christopher Corbo, Lydia Corbo

**Plaintiff Expert
(s):**

- Gary M. Berke M.S., C.P.; Prosthetics; Redwood City, CA called by: William L. Veen, Kevin Lancaster, Kimberly A. Wong
- John R. Manning Ph.D.; Mechanical; San Francisco, CA called by: William L. Veen, Kevin Lancaster, Kimberly A. Wong
- Roger A. Mann M.D.; Orthopedic Surgery; Oakland, CA called by: William L. Veen, Kevin Lancaster, Kimberly A. Wong
- Tracy Albee R.N., L.N.C.C., C.L.C.P.; Life Care Planning; Tracy, CA called by: William L. Veen, Kevin Lancaster, Kimberly A. Wong
- Wayne E. Anderson D.O.; Pain Management; San Francisco, CA called by: William L. Veen, Kevin Lancaster, Kimberly A. Wong
- Philip H. Allman Ph.D.; Economics; San Francisco, CA called by: William L. Veen, Kevin Lancaster, Kimberly A. Wong
- Robert Riopelle M.D.; Psychiatry; San Francisco, CA called by: William L. Veen, Kevin Lancaster, Kimberly A. Wong
- Thomas P. Yankowski M.S., C.V.E.; Vocational Rehabilitation; Oakland, CA called by: William L. Veen, Kevin Lancaster, Kimberly A. Wong

Defendant(s):

- Tai Lam
- Vascor, Ltd.
- Sergio Fernandez
- CTS Advantage Logistics
- Foundation Systems, Inc.
- Toyota Material Handling
- American Cybersystems, Inc.
- Taylor-Dunn Manufacturing Company
- Ensemble Workforce Solutions, Inc.
- New United Motor Manufacturing, Inc.

**Defense
Attorney(s):**

- Matthew P. Guichard; Guichard, Teng & Portello; Concord, CA for New United Motor Manufacturing, Inc.
- Christopher J. Beeman; Clapp, Moroney, Bellagamba, Vucinich, Beeman + Scheley; Pleasanton, CA for American Cybersystems, Inc., Ensemble Workforce Solutions, Inc.
- Richard S. Diestel; Bledsoe, Cathcart, Diestel, Pedersen & Treppa, LLP; San Francisco, CA for Toyota Material Handling
- John Graves; Joseph Costella & Associates; Walnut Creek, CA for Toyota Material Handling
- John P. Walovich; Lewis, Brisbois, Bisgaard & Smith, LLP; San Francisco, CA for Taylor-Dunn Manufacturing Company
- None reported for American Cybersystems, Inc.
- Robert A. Bragg; Bragg & Kuluva; San Francisco, CA for Tai Lam, Foundation Systems, Inc.
- James L. English; Law Offices of James L. English; San Francisco, CA for CTS Advantage Logistics, Sergio Fernandez
- Andrew I. Port; Emard, Danoff, Port, Tamulski & Patezold, LLP; San Francisco, CA for Vascor, Ltd.
- Katharine S. Essick; Emard, Danoff, Port, Tamulski & Patezold, LLP; San Francisco, CA for Vascor, Ltd.

**Defendant
Expert(s):**

- Jon W. Gribble P.E.; Mechanical; Anaheim, CA called by: for John P. Walovich
- Ralph R. Coughlin M.D.; Orthopedic Surgery; San Francisco, CA called by: for John P. Walovich
- Bernard S. Rappaport M.D.; Psychiatry; Berkeley, CA called by: for John P. Walovich
- Reginald L. Gibbs M.S.; Vocational Rehabilitation/Counseling; Billings, MT called by: for John P. Walovich

Facts:

On Oct. 3, 2007, plaintiff Christopher Corbo, 33, who was employed by CTS Advantage Logistics and Vascor Ltd. in logistics support at the New United Motor Manufacturing Inc. plant in Fremont, was speaking with Tai Lam, an employee of Foundation Systems Inc. and NUMMI, and another co-worker, who were stopped outside the factory at an industrial staircase. Lam was operating an electric flatbed industrial truck, manufactured by Taylor-Dunn Manufacturing Company, when another of Corbo's co-workers, Sergio Fernandez, jumped into the cart's front seat between Lam and the other employee and the 2,000-pound cart allegedly suddenly accelerated, knocking Corbo backward and crushing his left foot and ankle against the industrial staircase tread, nearly amputating the entire lower left foot.

Corbo sued Taylor-Dunn for products liability, alleging defective design. Corbo also initially sued Lam for negligence, as he was not trained in operating the truck, NUMMI and Foundation Systems for vicarious liability, as Lam's employers, and Toyota Material Handling USA, as the party responsible for selling, leasing and maintaining the truck. The lawsuit also named Corbo's employers, CTS and Vascor, as special employers of a borrowed servant, and Ensemble Workforce Solutions Inc., as a flexible employee manager for NUMMI (although Ensemble had declared for bankruptcy protection, Corbo got leave to sue from the court).

All defendants except for Taylor-Dunn either settled or were dismissed before trial, for a total settlement amount of \$8 million. Ensemble was dismissed on summary judgment, as it had no control as a flexible employee manager. Foundation's assets were purchased by American Cybersystems Inc. long after the Corbo accident, and that claim was thus dismissed. Toyota Material Handling, CTS and Fernandez were also dismissed as defendants before trial.

The case proceeded to trial against Taylor-Dunn on the basis that the machine was defectively designed, allowing for inadvertent activation of its directional switch. Plaintiff's counsel also claimed that Taylor-Dunn failed to warn of this propensity.

Counsel for Taylor-Dunn contended that the machine was unforeseeably misused and/or that Corbo had himself been contributorily negligent in standing in front of the truck while it was parked.

Injury:

Corbo's left foot was crushed against the industrial staircase, resulting in severed nerves, arteries and tendons and several fractured bones; the foot and heel pad was also partially amputated. He was first taken to Washington Hospital, where the arteries were ligated, debridement took place and internal fixation was performed on fractured bones in the talus and hind foot. Surgeons also unsuccessfully attempted to close the wound site, and Corbo was hospitalized for about a week.

The plaintiff returned home but later suffered a blood clot and was hospitalized again, where he underwent skin-grafting surgeries. After two years, an attempt was made to re-orient the foot by tightening the ligaments and putting the heel pad under the calcaneus bone. Wound care continued for 3.5 years, while the foot wound remained open for longer than that time. Corbo suffers from complex regional pain syndrome (also known as reflex sympathetic dystrophy, or RSD).

Plaintiff's counsel noted that suggested surgeries are triple arthrodesis, ankle fusion and implantation of a spinal cord stimulator, for pain management. Counsel also said Corbo would be competitively unemployable. The plaintiff sought \$16 million in pain and suffering damages, \$3.8 million in lost earning capacity and \$3.75 million in medical expenses.

Corbo's wife sought approximately \$1 million for loss of consortium and \$1 million in loss of household services.

Result:

The jury awarded damages of \$10,210,707, but also found all parties negligent. The jury assigned liability 2-percent against Corbo, 20-percent against NUMMI, 4-percent Vascor, 9-percent Taylor-Dunn, 35-percent Lam and 30-percent Fernandez.

Given that the verdict award was only recoverable against Taylor-Dunn, and the pretrial settlements in the amount of \$8 million, Corbo recovered \$8,918,963.63.

Christopher Corbo

\$148,631 Personal Injury: Past Medical Cost

\$1,900,000 Personal Injury: Future Medical Cost

\$279,853 Personal Injury: Past Lost Earnings Capability

\$1,800,000 Personal Injury: FutureLostEarningsCapability

\$4,000,000 Personal Injury: future non-economic loss

\$37,223 Personal Injury: past loss of household services

\$195,000 Personal Injury: future loss of household services

\$1,500,000 Personal Injury: past non-economic loss

Lydia Corbo

\$350,000 Personal Injury: loss of consortium

Trial Information:

Judge: Ronni B. MacLaren

Demand: \$1,000,000

Offer: none

Trial Length: 6 weeks

**Trial
Deliberations:** 3 days

Jury Vote: 11-1

Post Trial: Taylor-Dunn filed a partial motion for JNOV on the ground that the plaintiffs failed to establish that a failure to warn was a substantial factor in causing the incident. The court granted the motion and found there was no evidence from which the jury could have reasonably concluded that the accident would not have occurred if one of the warnings proposed by the plaintiffs had been provided. The court vacated the judgment against Taylor-Dunn, and judgment will be entered against the plaintiffs.<

Editor's Comment: This report is based on information that was provided by counsel for the plaintiff, New United Motor Manufacturing, CTS Advantage Logistics, Vascor, Toyota Material Handling, Foundation Systems, Ensemble Workforce Solutions, Lam and Fernandez. Counsel for American Cybersystems was not asked to contribute. Counsel for Taylor-Dunn Manufacturing did not contribute.

Writer Priya Idiculla

Repairman in pickup injured when sideswiped by big rig

Type: Verdict-Plaintiff

Amount: \$10,205,711

State: California

Venue: Los Angeles County

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

Injury Type(s):

- *back* - bulging disc, lumbar
- *knee*
- *neck* - bulging disc, cervical
- *other* - fibromyalgia; loss of consortium
- *neurological* - reflex sympathetic dystrophy

Case Type:

- *Motor Vehicle* - Truck; Red Light; Sideswipe; Intersection; Tractor-Trailer
- *Damages* - Loss of Consortium

Case Name: Frank Donahue, Teresa Donahue v. Youldous Youkhan, YY Trucking, D&K Trucking Inc., No. MC016741

Date: June 27, 2007

Plaintiff(s):

- Frank Donahue (Male, 42 Years)
- Teresa Donahue (Female, 40 Years)

Plaintiff Attorney(s):

- R. Rex Parris; R. Rex Parris Law Firm; for Frank Donahue
- Stephen K. McElroy; R. Rex Parris Law Firm; Lancaster CA for Frank Donahue
- Jennifer B. Smith; Law Offices of C. Ray Carlson; Valencia CA for Teresa Donahue

Plaintiff Expert(s):

- Alan Keith Miller; Accident Reconstruction; Pasadena, CA called by: R. Rex Parris, Stephen K. McElroy, Jennifer B. Smith
- Robert R. Lawrence M.D.; Orthopedic Surgery; Lancaster, CA called by: R. Rex Parris, Stephen K. McElroy, Jennifer B. Smith
- Francis Riegler M.D.; Anesthesiology; Palmdale, CA called by: R. Rex Parris, Stephen K. McElroy, Jennifer B. Smith
- Jennifer Hill M.D.; Neuroradiology; Lancaster, CA called by: R. Rex Parris, Stephen K. McElroy, Jennifer B. Smith

Defendant(s):

- YY Trucking
- Youldous Youkhan
- D&K Trucking Inc.

Defense Attorney(s):

- James E. Siepler; Law Offices of Gilsleider & Siepler; Sherman Oaks, CA for D&K Trucking Inc., Youldous Youkhan, YY Trucking

Defendant Expert(s):

- Harold B. Markowitz M.D.; Orthopedic Surgery; Los Angeles, CA called by: for James E. Siepler

Insurers:

- Progressive Insurance Company (liability policy of \$750,000 and \$1 million excess)

Facts:

On Oct. 15, 2004, plaintiff Frank Donahue, 42, a fire extinguisher service technician and repairman, was driving a pickup southbound on a street in Lancaster. Youldous Youkhan was driving a semi-truck in the opposite direction on the same roadway.

Donahue stopped at a red light, while Youkhan ran the red light. Youkhan then swerved to avoid a westbound vehicle that was in the intersection, and the left side of Youkhan's semi sideswiped the left side of Donahue's pickup.

Claiming physical damages, Donahue sued Youkhan and his entities, YY Trucking and D&K Trucking Inc., for motor vehicle negligence.

The defense admitted liability.

Injury: Donahue sustained bulging lumbar and cervical discs; damaged cartilage in his right knee; reflex sympathetic dystrophy; and fibromyalgia. He made no claim for medical specials, but asked for future medical expenses of between \$4.2 million and \$4.6 million for a cervical fusion, a lumbar fusion and pain management including morphine pumps.

Donahue reported that he was rendered disabled from his employment, but he made no wage loss claim.

Donahue made an unspecified demand for pain and suffering, but sought a total of about \$32 million.

Donahue's wife--plaintiff Teresa Donahue, 40s, who was unemployed but got a job in a bakery after the accident--sought between 25% and 30% of Mr. Donahue's award for loss of consortium.

The defense disputed the nature and extent of the damages, contending that this was a minor impact with soft-tissue injuries (MIST) case.

The defense argued that Donahue recovered completely after a few months with no treatment, and that he did not require any future medical care or treatment.

Result: The jury returned a plaintiff verdict, awarding a total of \$10,205,711.

Frank Donahue

\$3,185,711 Personal Injury: Future Medical Cost

\$420,000 Personal Injury: Past Pain And Suffering

\$4,980,000 Personal Injury: Future Pain And Suffering

Teresa Donahue

\$126,000 Personal Injury: Past Loss Of Consortium

\$1,494,000 Personal Injury: Future Loss Of Consortium

Trial Information:

Judge: Alan S. Rosenfield

Demand: \$725,000 as per CCP 998 from Mr. Donahue \$25,000 as per CCP 998 from Ms. Donahue

Offer: \$150,000 as per CCP 998 to both Donahues

Trial Length: 17 days

**Trial
Deliberations:** 4 hours

Jury Vote: 10-2 or 11-1 on most votes

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

Post Trial: The Donahues' request for prejudgment interest as per their CCP 998 offer is scheduled to be heard on Sept. 13, 2007.

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

Writer Rob MacKay

Plaintiff claimed fall at theatre caused wrist injury

Type: Verdict-Plaintiff

Amount: \$9,117,716

State: California

Venue: San Diego County

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

Injury Type(s):

- *arm* - fracture, arm; fracture, radius
- *head* - headaches
- *other* - fracture, distal; physical therapy; hardware implanted; nondisplaced fracture; decreased range of motion
- *wrist* - fracture, wrist
- *neurological* - reflex sympathetic dystrophy; complex regional pain syndrome

Case Type:

- *Slips, Trips & Falls* - Slip and Fall
- *Premises Liability* - Dangerous Condition; Negligent Repair and/or Maintenance; Amusement Park/Place of Entertainment

Case Name: Regina Hampton v. American Multi-Cinema, Inc. and ROIC Creekside Plaza LLC, No. 37-2020-00012463-CU-PO-CTL

Date: August 30, 2022

Plaintiff(s):

- Regina Hampton, (Female, 54 Years)

Plaintiff Attorney(s):

- Pejman A. Ben-Cohen; Carpenter & Zuckerman, LLP; Beverly Hills CA for Regina Hampton
- Robert J. Ounjian; Carpenter & Zuckerman, LLP; Beverly Hills CA for Regina Hampton
- Frederick M. Dudek; Dudek Law Firm APC; San Diego CA for Regina Hampton

Defendant(s):

- ROIC Creekside Plaza LLC
- American Multi-Cinema, Inc.

**Defense
Attorney(s):**

- Kenneth S. Kawabata; Manning & Kass, Ellrod, Ramirez, Trester LLP; San Diego, CA for American Multi-Cinema, Inc., ROIC Creekside Plaza LLC

Facts:

On June 17, 2018, plaintiff Regina Hampton, 54, a paralegal, went with her family to the AMC movie theatre in Poway. After purchasing popcorn and a soda at the concession stand, Hampton headed down a hallway toward the auditorium where the movie was playing. As she was walking, she passed a family style bathroom that had a sign stating that it was out of order. She then turned a corner to go into the auditorium, but as she stepped off the carpet and onto a tile floor, she immediately slipped and fell. Hampton fell forward onto her outstretched hands, allegedly injuring her right wrist, before the rest of her body hit the ground.

Hampton sued the owner and operator of the theatre, American Multi-Cinema Inc. She alleged that American Multi-Cinema (AMC) failed to repair and/or maintain the family style bathroom, creating a dangerous condition outside of the bathroom.

Hampton claimed that a plumbing leak caused water to come out of the family style bathroom, causing the tile floor to become slippery. She alleged that as a result, she slipped and fell on the water that was left on the tile floor.

Hampton's counsel noted that AMC employees testified that they were aware of a plumbing issue inside the subject bathroom prior to Hampton's fall and that the issue was causing water to leak outside the bathroom door and onto the walkway. The employees further testified that management was aware of the plumbing issues, but did nothing to correct or repair it. Thus, Hampton's counsel argued that AMC's inaction created a dangerous condition that caused Hampton to fall.

Defense counsel disputed liability, arguing that AMC did not have actual or constructive notice of the alleged water condition that caused Hampton's fall.

Injury:

Hampton sustained a non-displaced fracture of her right wrist's distal radius. She claimed her wrist injury ultimately developed into complex regional pain syndrome, also known as reflex sympathetic dystrophy or causalgia, a chronic pain condition.

After her fall, Hampton was transported by ambulance from the theatre to the emergency room at Pomerado Hospital, in Poway. Three days later, Hampton went to see her primary care doctor, as she was still in a lot of pain. She then followed up with the doctors at Arch Health Medical Group, in Ramona, approximately eight times. However, she claimed the pain in her right wrist was progressively getting worse. As a result, the doctors at Arch Health kept recasting her hand and wrist with the hopes of trying to find a solution. Unfortunately, they were not able to resolve her pain.

While she was treating at Arch Health, Hampton began undergoing a course of physical therapy with a therapist at All Star Physical Therapy, in Ramona, who had experience with CRPS. Hampton had 105 visits between Aug. 20, 2018, and Dec. 9, 2019. During her

last visit, it was noted that Hampton's wrist pain was an eight out of 10, that she had limited active and passive range of motion, and that she had profound grip weakness and wrist tremors. During that time, Hampton also underwent two stellate ganglion blocks on May 6, 2019, and May 20, 2019. However, she claimed the ganglion blocks did not provide her with any relief.

Hampton ultimately underwent surgery to implant a trial spinal cord stimulator ("SCS") on Feb. 4, 2020. The procedure was performed by a pain management physician. Hampton claimed that the trial SCS provided her with 75 percent relief of her symptoms. As a result, the same pain management physician performed a permanent SCS implantation surgery on Feb. 25, 2020.

Hampton claimed that while the permanent SCS provided her some relief of her symptoms, she developed occipital headaches because of nerve irritation caused by the SCS leads. As a result, she was referred to her treating pain management expert for a second opinion. On Feb. 16, 2021, the treating expert removed the previously implanted leads, replaced the leads, and revised the pocket where the battery was placed. Hampton then participated in the treating expert's four-week, outpatient comprehensive interdisciplinary rehabilitation program, which consisted of Ketamine injections, targeted physical therapy, neurofeedback, psychological evaluation, 15 individual psychotherapy sessions, and medication management. The treatment was from Sept. 13, 2021, through Oct. 28, 2021. After that, Hampton underwent 13 Ketamine infusions.

Hampton has not worked since the subject accident. However, she claimed she intends to return to work after she received further treatment.

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

Defense counsel disputed the causation of Hampton's alleged CRPS. Counsel argued that the alleged CRPS and other chronic pain were caused by Hampton's pre-existing fibromyalgia and extensive surgical history, including a lumbar fusion, two elbow surgeries and surgeries to both knees.

Result:

The jury found that AMC was negligent and 100 percent liable for the accident. It determined that Hampton's damages totaled \$9,117,715.96.

Regina Hampton

\$ 343,561.96 Past Medical Cost

\$ 1,007,838 Future Medical Cost

\$ 197,029 Past Lost Earnings

\$ 369,287 Future Lost Earnings

\$ 5,000,000 Future Pain Suffering

\$ 2,200,000 Past Pain Suffering

\$ 9,117,715.96 Plaintiff's Total Award

Trial Information:

Judge: Joel R. Wohlfeil

Demand: \$1.2 million

Offer: \$200,000

Trial Length: 8 days

**Trial
Deliberations:** 0

Post Trial: According to plaintiff's counsel, with the inclusion of CCP § 998 interest and costs, the total judgment is expected to exceed \$10.8 million. Also, plaintiff's counsel believes that the case might be the largest CRPS verdict in the city of San Diego.

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

Writer

Priya Idiculla