



Motorcycle accident forced early retirement, claims plaintiff

Type: Settlement

Amount: \$1,500,000

State: California

Venue: Contra Costa County

Court: Superior Court of Contra Costa County, Contra Costa, CA

Injury Type(s):

- *back* - fracture, back; fracture, L1; fracture, back; fracture, L2; fracture, back; fracture, T12; fracture, vertebra; fracture, L1; fracture, vertebra; fracture, L2; fracture, vertebra; fracture, T12
- *chest* - chest flail; fracture, rib
- *other* - effusion
- *shoulder* - fracture, shoulder; fracture, clavicle
- *surgeries/treatment* - open reduction; internal fixation
- *pulmonary/respiratory* - pneumothorax; collapsed lung

Case Type:

- *Motor Vehicle* - Motorcycle; Intersection; Question of Lights

Case Name: Kristopher John Larson v. Gregory Dennis Varni; Does 1 through 30, inclusive, No. C23-00404

Date: September 26, 2023

Plaintiff(s):

- Kristopher John Larson, (Male, 62 Years)

Plaintiff Attorney(s):

- Adam M. Carlson; Casper, Meadows, Schwartz & Cook; Walnut Creek CA for Kristopher John Larson

Plaintiff Expert (s):

- Katerina Blazek Ph.D., P.E.; Mechanical; Mountain View, CA called by: Adam M. Carlson

Defendant(s):

- Gregory Dennis Varni

Defense Attorney(s):

- Michael S. Burke; Vogl Meredith Burke & Streza LLP; San Francisco, CA for Gregory Dennis Varni
- Dominic J. Supple; Vogl Meredith Burke & Streza LLP; San Francisco, CA for Gregory Dennis Varni

Insurers:

- Amica Mutual Insurance Co.

Facts:

On Sept. 28, 2022, plaintiff Kristopher Larson, 62, a former retail salesperson, was driving his motorcycle through the intersection of Danville Boulevard and Livornia Road in Unincorporated Contra Costa County, when he was broadsided by a vehicle driven by Gregory Varni. Larson claims to have suffered injuries to his shoulder, chest and back which he claims were the result of the accident.

Larson sued Varni, alleging negligence in the operation of his vehicle.

Larson's counsel contended that Varni ran a red light when his vehicle entered the intersection and noted that two independent witnesses claimed to have observed Varni enter the intersection while the light was red.

Varni claims the light was green for him when he entered the intersection.

Injury:

Larson was taken by ambulance to a hospital where he was hospitalized and subsequently transferred to a different hospital where he stayed for three additional days. He was found to have suffered a fracture of the right clavicle; received fractures to ribs four through 11 on his right side; a collapsed lung; right pleural effusion; flail chest; and fractures of the T12, L1 and L2 vertebrae.

For treatment, Larson underwent an open reduction and internal fixation of his right clavicle. His rib and chest injuries were treated with a chest tube and also required surgery, involving an open reduction and internal fixation of ribs three through nine on his right side. Larson claims he suffered fatigue after his treatment and surgeries and was unable to return to work.

According to Larson, he had planned on working until he was 65 but his injuries forced him into an early retirement, which resulted in a loss of income. Larson sought recovery for approximately \$39,000 in wage loss, \$638,397.63 in medical specials and sought additional compensation for noneconomic damages.

Result:

After Varni's deposition, plaintiff made his offer to settle in the amount of \$1,500,001 and the defense paid Varni's insurance policy limits of \$1.5 million.

Kristopher Larson

Trial Information:

Judge: Jill C. Fannin

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 Priya Idiculla

Vehicle data indicated plaintiff ran stop sign: lawsuit

Type:	Verdict-Defendant
Amount:	\$0
State:	California
Venue:	Contra Costa County
Court:	Superior Court of Contra Costa County, Contra Costa, CA
Injury Type(s):	<ul style="list-style-type: none">• <i>head</i> - concussion• <i>brain</i> - traumatic brain injury• <i>mental/psychological</i> - cognition, impairment
Case Type:	<ul style="list-style-type: none">• <i>Motor Vehicle</i> - Broadside; Intersection
Case Name:	Debra Weiss-Ishai and Sagiv Weiss-Ishai v. Merry P. Cheonis and Ernest Cheonis, No. MSC17-01159
Date:	April 14, 2023
Plaintiff(s):	<ul style="list-style-type: none">• Debra Weiss-Ishai , (Female, 0 Years)• Sagiv Weiss-Ishai , (Male, 0 Years)
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Eric V. Traut; Traut Firm; Santa Ana CA for Debra Weiss-Ishai ,, Sagiv Weiss-Ishai• Edward J, Nevin Jr.; Law Offices of Edward J. Nevin; Petaluma CA for Debra Weiss-Ishai ,, Sagiv Weiss-Ishai• James K. Moore; Law Office of James K. Moore, Inc.; Auburn CA for Debra Weiss-Ishai ,, Sagiv Weiss-Ishai

**Plaintiff Expert
(s):**

- Ted M. Kobayashi M.S.; Accident Reconstruction; Livermore, CA called by: Eric V. Traut, Edward J, Nevin Jr., James K. Moore
- Gary M. Abrams M.D.; Neurology; San Francisco, CA called by: Eric V. Traut, Edward J, Nevin Jr., James K. Moore
- Barry Ben-Zion Ph.D.; Economics; Santa Rosa, CA called by: Eric V. Traut, Edward J, Nevin Jr., James K. Moore
- James C. Wilson Ph.D.; Neuropsychology; San Rafael, CA called by: Eric V. Traut, Edward J, Nevin Jr., James K. Moore
- Sharon P. Berry Psy.D.; Neuropsychology; San Francisco, CA called by: Eric V. Traut, Edward J, Nevin Jr., James K. Moore

Defendant(s):

- Ernest Cheonis
- Merry P. Cheonis

**Defense
Attorney(s):**

- James M. Treppa; Bledsoe, Diestel, Treppa & Crane LLP; San Francisco, CA for Merry P. Cheonis, Ernest Cheonis
- Holly A. Graves; Bledsoe, Diestel, Treppa & Crane LLP; San Francisco, CA for Merry P. Cheonis, Ernest Cheonis

**Defendant
Expert(s):**

- Eric J. Drabkin Ph.D.; Economics; San Francisco, CA called by: for James M. Treppa, Holly A. Graves
- John M. Greene M.D.; Forensic Psychiatry; Los Gatos, CA called by: for James M. Treppa, Holly A. Graves
- Sandra L. Shefrin M.D.; Neurology; Sausalito, CA called by: for James M. Treppa, Holly A. Graves
- Kirsten White M.S., P.E.; Accident Reconstruction; Hayward, CA called by: for James M. Treppa, Holly A. Graves

Facts:

On July 15, 2015, plaintiff Dr. Debra Weiss-Ishai, a pediatrician, was driving her vehicle at an intersection in Alamo when the passenger side of her vehicle was broadsided by a vehicle being driven by Merry Cheonis. Debra Weiss-Ishai claimed head injuries as a result of the collision.

Debra Weiss-Ishai and her husband Sagiv Weiss-Ishai sued Merry Cheonis, as well as a co-owner of the vehicle, Ernest Cheonis, alleging that she was negligent in the operation of the vehicle and that as the vehicle's co-owner, Ernest Cheonis was vicariously liable. Sagiv Weiss-Ishai alleged that the incident had a negative impact on the couple's marriage.

Plaintiffs' counsel contended Merry Cheonis drove through the intersection illegally and caused the collision.

Defense counsel denied liability for the incident, arguing that Debra Weiss-Ishai had run through the intersection's stop sign without stopping. The data from Debra Weiss-Ishai's vehicle confirmed she did not stop and also noted an unexplained wheel turn, which defense counsel contended was an indication Debra Weiss-Ishai was inattentive while driving, prior to the collision.

Injury:

Debra Weiss-Ishai was taken to the emergency room by a family member after the incident. Debra Weiss-Ishai claimed she suffered a mild traumatic brain injury from the crash. Debra Weiss-Ishai claims she is left with cognitive deficits from the concussion and these prevent her from performing her medical professional duties at the same capacity as she had prior to the incident. Debra Weiss-Ishai alleged to have had past lost earnings of \$813,669, future lost earnings of \$3,105,469, \$896,000 in past non-economic damages and \$1,810,040 in future non-economic damages. She asked the jury to award \$6.7 million.

Additionally, Sagiv Weiss-Ishai, Debra Weiss-Ishai's husband, alleged loss of consortium in the loss of home services due to his wife's alleged traumatic brain injury and cognitive defects.

Defense counsel disputed that the subject accident was the cause of Debra Weiss-Ishai's alleged workplace insufficiencies, or Sagiv Weiss-Ishai's loss of consortium.

Result:

The jury returned a defense verdict finding that Merry Cheonis was not negligent.

Sagiv Weiss-Ishai

Debra Weiss-Ishai

Trial Information:

Judge: Danielle K. Douglas

Trial Length: 0

**Trial
Deliberations:** 0

Post Trial: Plaintiffs' motion for judgment notwithstanding the verdict was denied. Plaintiffs' motion for new trial was denied. Defendants' motion for costs was granted and \$39,518 in costs were awarded to defendants.

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

Writer Priya Idiculla

Plaintiff: Traumatic brain injury after being struck in crosswalk**Type:** Verdict-Plaintiff**Amount:** \$5,143,141**State:** California**Venue:** Contra Costa County**Court:** Superior Court of Contra Costa County, Contra Costa, CA**Injury Type(s):**

- *back*
- *head* - ear; eardrum
- *knee*
- *neck*
- *brain* - traumatic brain injury
- *dental* - fractured teeth
- *face/nose* - jaw; fracture, jaw

Case Type:

- *Motor Vehicle* - Crosswalk; Pedestrian

Case Name: Laura Guillen Flores v. Zahoor Ahmad dba American Cab Co., No. MSC17-01544**Date:** January 30, 2023**Plaintiff(s):**

- Laura Guillen Flores, (Female, 35 Years)

Plaintiff Attorney(s):

- Christopher V. Bulone; Dordick Law Corporation; Beverly Hills CA for Laura Guillen Flores
- Mark J. Leonardo; Dordick Law Corporation; Los Angeles CA for Laura Guillen Flores

Plaintiff Expert(s):

- Dr. Murray A. Solomon M.D.; Neuroradiology; Los Gatos, CA called by: Christopher V. Bulone, Mark J. Leonardo

Defendant(s):

- Zahoor Ahmad

**Defense
Attorney(s):**

- Andrew K. Murphy; Clapp Moroney Vucinich Beeman + Scheley; Pleasanton, CA for Zahoor Ahmad
- Randolph D. Greenwald; Clapp Moroney Vucinich Beeman + Scheley; Pleasanton, CA for Zahoor Ahmad

Facts:

On Nov. 18, 2015 at 6 a.m., plaintiff Laura Flores, 35, who worked as an office cleaner and at a car wash, was crossing 23rd Street near the intersection with Bush Avenue in San Pablo when a vehicle operated by Zahoor Ahmad, doing business as American Cab Co., struck Flores in the crosswalk. Flores alleges that her face slammed onto the hood of the car and the vehicle carried her on its hood approximately 30 feet before stopping. Flores sustained injuries to her face, teeth, head, neck and back.

Flores sued Ahmad, as well as American Cab Co., alleging negligence while operating a vehicle.

According to Flores, she'd been struck by Ahmad's taxi cab while crossing a marked crosswalk, however the defense argued that Flores was outside of the crosswalk and not visible in the early morning darkness.

The court allowed the investigating police officer's opinion that Flores was outside of the crosswalk and at fault for the accident, however the officer denied being an eyewitness to the incident and admitted to not being an expert in reconstruction or human factors, nor had he spoken with the plaintiff before arriving at his conclusion.

The court excluded evidence that suggested that the plaintiff used the crosswalk every morning as a matter of habit on her way to the same bus stop.

Injury:

Immediately following the accident Flores was reportedly unresponsive. She was transported to a hospital by ambulance. She had suffered three fractures to her jaw and, she alleges, a traumatic brain injury, though she had not been diagnosed for having suffered one during her time at the hospital. She had also lost six of her teeth.

For treatment, at the hospital, she underwent emergency surgery on her jaw, and her mouth was wired shut. She was released from the hospital the following day. The defense did not dispute that the impact between the hood of the vehicle and Flores' face fractured her jaw in three places and dislodged six of her teeth. Flores maintained that she suffered a permanent brain injury in the accident.

Plaintiff's expert in neuroradiology opined that the brain MRIs depicted white matter gliosis scars, which were consistent with axonal shearing. This expert also noted that the 7.9 percent fractional anisotropy value asymmetry, which had to do with brain volume, where the left uncinatus fasciculus (UNC) was 7.9 percent less volume compared to the right UNC. Three standard deviations would be 7.8 percent, and thus, the 7.9 percent volume disparity was more than three standard deviations from the mean, rendering this disparity having a less than 1 percent chance of being normal, and therefore indicative of brain injury.

Flores returned to one of her two jobs washing cars at a car wash, which she had done for 12 years, but was eventually let go, allegedly because she could not do the work as quickly as she had been able to prior to the incident.

On the day of the accident she was on her way to her other job cleaning an office. At the time of trial she was working at McDonald's. Flores claimed \$104,479.05 in past medical costs and that she would require \$3.5 million to \$4.9 million in future medical costs due to her brain injury.

The defense conceded that Flores' jaw was broken but disputed that Flores suffered a permanent brain injury. The defense noted that the plaintiff had a perfect Glasgow Coma Scale score of 15/15 as conducted by a paramedic at the scene of the incident.

Defense counsel also disputed that Flores had ever lost consciousness and claimed that Flores' brain injury was first diagnosed five years prior to the accident and that the white matter scarring on the plaintiff's brain could have easily been the product of HIV neurocognitive disorder. The court also admitted evidence of prior existing schizophrenia and HIV.

Result:

The jury found Flores had no comparative fault and concluded that 100 percent of the fault belonged to Ahmad. The jury awarded Flores \$5,143,141.

Laura Flores

\$ 100,480 Past Medical Cost

\$ 2,042,661 Future Medical Cost

\$ 2,000,000 Future Pain Suffering

\$ 1,000,000 Past Pain Suffering

\$ 5,143,141 Plaintiff's Total Award

Trial Information:

Judge: Clare Maier

Demand: \$1 million (C.C.P. 998)

Offer: \$700,000

Trial Length: 14 days

**Trial
Deliberations:** 1 days

Jury Vote: 12-0 (all questions)

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

Post Trial: Motion for judgment notwithstanding the verdict denied, but motion for new trial has been granted.

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

Writer

Priya Idiculla

Parties disputed non-economic damages for wrongful death

Type: Verdict-Plaintiff

Amount: \$800,000

State: California

Venue: Contra Costa County

Court: Superior Court of Contra Costa County, Contra Costa, CA

Injury Type(s):

- *other - death; multiple trauma*

Case Type:

- *Wrongful Death*
- *Motor Vehicle - Pedestrian*

Case Name: Mei-Chun Tsui, Alexander Wei Tsui and Annie Tsui Ogata v. Qing Lei, No. MSC20-02241

Date: October 13, 2022

Plaintiff(s):

- Mei-Chun Tsui, (Female, 87 Years)
- Annie Tsui Ogata, (Female, 60 Years)
- Alexander Wei Tsui, (Male, 61 Years)
- Estate of Tien-Yu Tsui, (Male, 89 Years)

Plaintiff Attorney(s):

- Luke Ellis; Gillin, Jacobson, Ellis, Larsen & Lucey; Orinda CA for Estate of Tien-Yu Tsui,, Mei-Chun Tsui,, Alexander Wei Tsui,, Annie Tsui Ogata
- Kristin Lucey; Gillin, Jacobson, Ellis, Larsen & Lucey; Orinda CA for Estate of Tien-Yu Tsui,, Mei-Chun Tsui,, Alexander Wei Tsui,, Annie Tsui Ogata

Plaintiff Expert (s):

- John S. MacGregor M.D.; Cardiology; San Francisco, CA called by: , Luke Ellis, Kristin Lucey
- Paul S.D. Berg Ph.D.; Economics; Oakland, CA called by: , Luke Ellis, Kristin Lucey

Defendant(s):

- Qing Lei

**Defense
Attorney(s):**

- Elizabeth A. Skane; Skane Mills LLP; San Diego, CA for Qing Lei
- Debra R. Cahir; Skane Mills LLP; San Diego, CA for Qing Lei

**Defendant
Expert(s):**

- Matthew Budoff M.D.; Cardiology; Los Angeles, CA called by: for Elizabeth A. Skane, Debra R. Cahir

Insurers:

- GMF Financial Services Corporation

Facts:

On July 10, 2020, plaintiffs' decedent Tien-Yu Tsui, 89, retired, was outside his home in Walnut Creek when he was struck by a vehicle operated by his neighbor, Qing Lei. Tsui died later that day at a hospital.

Tien-Yu Tsui's wife, Mei-Chun Tsui and their adult children, Alexander Tsui and Annie Tsui-Ogata, sued Lei, alleging that he was negligent in the operation of his vehicle.

Lei admitted liability for causing the death of Tsui and plaintiffs waived economic damages. The jury was tasked only with determining how much money would reasonably compensate each plaintiff for their non-economic loss.

Injury:

Tien-Yu Tsui died in the hospital, succumbing to his injuries on the same day of the incident.

The plaintiffs sought to recover both past and future non-economic damages related to the wrongful death of Tien-Yu Tsui.

Result:

The jury awarded the family \$800,000 for the loss of Tien-Yu Tsui.

Annie Ogata

\$ 25,000 Past wrongful death damages

\$ 25,000 Future wrongful death damages

\$ 50,000 Plaintiff's Total Award

Alexander Tsui

\$ 25,000 Past wrongful death damages

\$ 25,000 Future wrongful death damages

\$ 50,000 Plaintiff's Total Award

Mei-Chun Tsui

\$ 350,000 Past wrongful death damages

\$ 350,000 Future wrongful death damages

\$ 700,000 Plaintiff's Total Award

Estate of Tien-Yu Tsui

Trial Information:

Judge: Jill Fannin

Demand: \$749,900 (C.C.P. 998)

Offer: \$300,000 (C.C.P. 998)

Trial Length: 8 days

**Trial
Deliberations:** 0

Post Trial: According to plaintiffs' counsel, costs of \$77,868.61 were agreed to between the parties while defendant's motion to tax costs was pending. The total verdict paid, including costs, was \$877,868.61.

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

Writer Priya Idiculla

Plaintiff claimed injuries from rear-end collision

Type: Verdict-Plaintiff

Amount: \$137,759

Actual Award: \$215,000

State: California

Venue: Contra Costa County

Court: Superior Court of Contra Costa County, Contra Costa, CA

Injury Type(s):

- *back* - stenosis; lower back; bulging disc, lumbar
- *neck* - stenosis; herniated disc, cervical; herniated disc at C5-6; herniated disc, cervical; herniated disc at C6-7
- *other* - chiropractic
- *epidermis* - numbness

Case Type:

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

Case Name: Dennis Shay v. Jakari Hynes-Akil, No. MSC19-01776

Date: March 04, 2022

Plaintiff(s):

- Dennis Shay, (Male, 49 Years)

Plaintiff Attorney(s):

- Anthony C. Chiosso; Chiosso Law; San Francisco CA for Dennis Shay
- Che L. Hashim; Law Office of Che L. Hashim; San Francisco CA for Dennis Shay
- Albert L. Thuesen III; Coit Law Group; San Francisco CA for Dennis Shay

Plaintiff Expert(s):

- Heidi E. Olson D.C.; Chiropractic; Concord, CA called by: Anthony C. Chiosso, Che L. Hashim, Albert L. Thuesen III
- Santi D. Rao M.D.; Orthopedic Surgery; Concord, CA called by: Anthony C. Chiosso, Che L. Hashim, Albert L. Thuesen III
- Joseph J. Kavanagh M.D.; Radiology; Winter Springs, FL called by: Anthony C. Chiosso, Che L. Hashim, Albert L. Thuesen III
- Robert O. Katona D.C.; Chiropractic; Castro Valley, CA called by: Anthony C. Chiosso, Che L. Hashim, Albert L. Thuesen III
- Kenneth I. Light M.D.; Orthopedic Surgery; San Leandro, CA called by: Anthony C. Chiosso, Che L. Hashim, Albert L. Thuesen III
- Phillip H. Allman III Ph.D.; Economics; Oakland, CA called by: Anthony C. Chiosso, Che L. Hashim, Albert L. Thuesen III

Defendant(s):

- Jakari Hynes-Akil

Defense Attorney(s):

- Kara L. Hitchcock; Jeanette N. Little & Associates; Pleasanton, CA for Jakari Hynes-Akil

Defendant Expert(s):

- Abid A. Qureshi M.D.; Orthopedic Surgery; Walnut Creek, CA called by: for Kara L. Hitchcock
- Rene A. Castaneda P.E.; Accident Reconstruction; Fresno, CA called by: for Kara L. Hitchcock
- Donald A. Chu Ph.D.; Physical Therapy; Castro Valley, CA called by: for Kara L. Hitchcock
- Dimitriy G. Kondrashov M.D.; Orthopedic Surgery; San Francisco, CA called by: for Kara L. Hitchcock

Insurers:

- State Farm Insurance Cos.

Facts:

On Nov. 15, 2018, plaintiff Dennis Shay, 49, a union pipefitter, was driving his pickup truck on Interstate 680, near Alamo, Calif., when his truck was rear-ended by a compact vehicle being operated by Jakari Hynes-Akil. As a result, Hynes-Akil's vehicle went under Shay's pickup truck. Shay claimed injuries to his neck and back.

Shay sued Hynes-Akil, alleging that Hynes-Akil was negligent in the operation of his vehicle.

Hynes-Akil admitted liability. The trial addressed damages.

There was little visible damage to Shay's pickup truck, with most of the damage to the truck's trailer hitch. However, Hynes-Akil's vehicle was totaled. As a result, plaintiff's counsel argued that they should be given the opportunity to examine/impeach Hynes-Akil's testimony regarding his estimated speed at the time of the crash. Judge John Devine agreed that the examination was necessary because it allowed the jury to evaluate the opinions of the defense's accident reconstruction expert.

Injury:

Shay did not go to a hospital from the scene. He first sought treatment the next day, when he presented to his chiropractor. Shay had been using chiropractic services since he was in high school.

Shay underwent MRIs of his spine five months after the subject accident. He claimed he sustained herniated cervical discs at the C5-6 and C6-7 levels. He also claimed trauma produced bulging lumbar discs at the L4-5 and L5-S1 levels.

Shay's post-accident treatment consisted solely of chiropractic care. At the chiropractor, Shay complained of numbness along with shoulder, neck, back and sciatic pain. Eight months after the subject accident, Shay consulted with his treating orthopedic surgeon, who recommended medial branch block injections and radiofrequency ablations. However, Shay did not undergo the recommended treatment, and he did not follow up with the surgeon until one month before trial.

Shay claimed he was unable to do any pipefitting work for six months after the subject accident. However, he was able to move to a less strenuous position in HVAC maintenance for two years. However, at the time of trial, he was out of work due to an unrelated injury.

The plaintiff's expert neurosurgeon recommended a one-level cervical disc replacement surgery and a two-level lumbar spinal fusion.

Shay sought recovery of his past and future medical expenses, past and future lost earnings, and damages for his past and future pain and suffering. Shay's counsel asked the jury to award Shay \$1.7 million in total damages.

Defense counsel contended that the subject accident involved a minor collision that could not have caused an injury to Shay. Instead, counsel maintained that Shay's spinal injuries stemmed from his poor pre-accident health.

Result:

The jury found that Hynes-Akil's negligence was a substantial factor in causing harm to Shay. It determined that Shay's damages totaled \$137,759.

Dennis Shay

\$ 69,759 Past Lost Earnings

\$ 68,000 Past Pain Suffering

\$ 137,759 Plaintiff's Total Award

Trial Information:

Judge: John P. Devine

Demand: \$100,000 (C.C.P. § 998); policy limit

Offer: \$30,000 (C.C.P. § 998)

Trial Length: 8 days

**Trial
Deliberations:** 6 hours

Post Trial: The defendant agreed to pay costs and interest via a settlement with the plaintiff. When those payments were added to the verdict, Shay's recovery totaled \$215,000.

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

Writer Priya Idiculla

Plaintiff claimed multiple vehicle collision left him paralyzed

Type: Settlement

Amount: \$3,375,000

State: California

Venue: Contra Costa County

Court: Superior Court of Contra Costa County, Martinez, CA

Injury Type(s):

- *leg* - fracture, leg; fracture, femur
- *neck* - fracture, neck; fracture, C6; fracture, neck; fracture, C7; fracture, vertebra; fracture, C6; fracture, vertebra; fracture, C7
- *chest* - fracture, rib
- *other* - spleen, laceration
- *urological* - neurogenic bowel; neurogenic bladder
- *paralysis/quadruplegia* - quadriplegia; paralysis, partial

Case Type:

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

Case Name: Ronald Cardenas v. Jorge Ernesto Maldonado, Jr., Theresa M. Maldonado, Manette Boragno, Richard J. Boragno, Anthony Joseph Boragno, and Does 1-30, No. CIVMSC19-01690

Date: September 30, 2020

Plaintiff(s):

- Ronald Cardenas (Male, 67 Years)

Plaintiff Attorney(s):

- Andrew C. Schwartz; Casper, Meadows, Schwartz & Cook; Walnut Creek CA for Ronald Cardenas

Plaintiff Expert(s):

- Alex Barchuk M.D.; Physical Medicine; Kentfield, CA called by: Andrew C. Schwartz
- Carol R. Hyland M.A., M.S., C.L.C.P.,C.D.M.S; Life Care Planning; Lafayette, CA called by: Andrew C. Schwartz
- Rajeev Kelkar Ph.D.; Biomechanical; Menlo Park, CA called by: Andrew C. Schwartz
- Vanessa J. Hill C.P.A.; Economics; San Francisco, CA called by: Andrew C. Schwartz

Defendant(s):

- Manette Boragno
- Richard J. Boragno
- Theresa M. Maldonado
- Anthony Joseph Boragno
- Jorge Ernesto Maldonado Jr.

Defense Attorney(s):

- John D. Hourihan; Hartsuyker, Stratman & Williams-Abrego; Oakland, CA for Jorge Ernesto Maldonado Jr., Theresa M. Maldonado
- Joshua A. Quinones; Clark Hill LLP; Los Angeles, CA for Manette Boragno, Richard J. Boragno, Anthony Joseph Boragno
- Steven S. Abern; Haapala, Thompson & Abern, LLP; Oakland, CA for Manette Boragno, Richard J. Boragno, Anthony Joseph Boragno

Defendant Expert(s):

- David C. Bradshaw M.D.; Physical Medicine; Castro Valley, CA called by: for Joshua A. Quinones, Steven S. Abern

Insurers:

- Allstate Insurance Co.
- RLI Corp.
- 21st Century Insurance Group

Facts:

On Feb. 4, 2019, plaintiff Ronald Cardenas, 67, a retiree, was driving on Five Canyons Parkway, in an unincorporated area of Alameda County. His vehicle collided with a vehicle operated by Jorge Maldonado Jr. and a vehicle operated by Anthony Boragno. Cardenas' vehicle was broadsided by Maldonado's vehicle and rear-ended by Boragno's vehicle, but it was disputed which occurred first. Cardenas claimed injuries to his neck, chest and a leg.

Cardenas sued Maldonado; the co-owner of Maldonado's vehicle, Theresa Maldonado; Boragno; and the owners of Boragno's vehicle, Manette Boragno and Richard Boragno. Cardenas alleged that Jorge Maldonado and Anthony Boragno were negligent in the operation of their respective vehicles. Cardenas also alleged that Theresa Maldonado was vicariously liable for Jorge Maldonado's actions and that Manette Boragno and Richard Boragno were vicariously liable for Anthony Boragno's actions.

Cardenas claimed that his vehicle was broadsided by Jorge Maldonado's vehicle and that his vehicle was then rear-ended by Anthony Boragno's vehicle. Cardenas contended that both defendant drivers were negligent and liable for the accident.

Maldonado and Boragno each blamed the other for causing the accident.

Injury: Cardenas suffered fractures of his C6 and C7 vertebrae. He also suffered a fracture of his right leg's femur, rib fractures and a splenic laceration, and he developed a neurogenic bowel and bladder.

Cardenas was taken to a hospital, and he ultimately underwent surgeries. However, he was left partially paralyzed. He claimed that he suffers partial quadriplegia.

Cardenas sought recovery of past and future medical costs, and he sought recovery of damages for past and future pain and suffering.

Defense counsel disputed the nature and extent of Cardenas' alleged injuries.

Result: The parties agreed to a \$3,375,000 settlement prior to a trial. The Maldonado defendants agreed to settle for \$125,000, which they paid by tendering their \$100,000 policy and personally contributing \$25,000. The insurers for the Boragno defendants agreed to tender their policies totaling \$3.25 million, which included \$250,000 from their primary insurer and \$3 million from their excess insurer.

Trial Information:

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

Writer Priya Idiculla

Parents claimed school failed to properly supervise student

Type: Settlement

Amount: \$1,250,000

State: California

Venue: Contra Costa County

Court: Superior Court of Contra Costa County, Martinez, CA

Injury Type(s):

- *hip* - fracture, hip
- *other* - comminuted fracture; decreased range of motion
- *surgeries/treatment* - open reduction; internal fixation

Case Type:

- *School* - Negligent Supervision
- *Slips, Trips & Falls* - Fall from Height

Case Name: Yesenia Moreno Montebello, a minor, by and through her Guardian ad Litem, Lidia Montebello Gomez v. West Contra Costa Unified School District, No. CIVMSC16-01186

Date: March 27, 2020

Plaintiff(s):

- Yesenia Moreno Montebello (Female, 6 Years)

Plaintiff Attorney(s):

- Michael E. Gatto; Van Blois & Associates; Oakland CA for Yesenia Moreno Montebello
- Roseann Torres; Torres Law Group; Oakland CA for Yesenia Moreno Montebello

Plaintiff Expert (s):

- Paul R. Harmatz M.D.; Pediatric Gastroenterology; Oakland, CA called by: Michael E. Gatto, Roseann Torres

Defendant(s):

- West Contra Costa Unified School District

Defense Attorney(s):

- Timothy P. Murphy; Edrington, Schirmer & Murphy, LLP; Pleasant Hill, CA for West Contra Costa Unified School District
- James H. Ly; Edrington, Schirmer & Murphy, LLP; Pleasant Hill, CA for West Contra Costa Unified School District

Facts:

On Sept. 14, 2015, Yesenia Montebello, 6, a first-grade student who suffers from Hurler syndrome, a debilitating, congenital, neurological condition that also causes orthopedic complications, fell from a play structure at Shannon Elementary School, in Pinole. Yesenia sustained a fracture to her left hip.

Yesenia's parents, Lidia Montebello Gomez and Wilman Moreno, acting as Yesenia's guardian ad litem, sued the operator of the elementary school, the West Contra Costa Unified School District. They alleged that the school district failed to properly supervise Yesenia.

Yesenia had received treatment at Oakland Children's Hospital -- primarily from her treating gastroenterologist, an internationally renowned pediatric gastroenterologist and expert on Hurler syndrome -- since she was 2 years old. Plaintiff's counsel contended that, given Yesenia's Hurler syndrome and risk of severe injury from falls, the hospital had notified the school district -- prior to Yesenia's enrollment -- that Yesenia should not be allowed on tall play structures. However, during Yesenia's second year at the school, the district's staff allegedly failed to communicate Yesenia's limitation to the school's aides/playground supervisors. Plaintiff's counsel contended that as a result, Yesenia was allowed upon a tall play structure and suffered a fall, resulting in a hip fracture. Counsel also contended that, because of Yesenia's physical and cognitive impairment as a result of her Hurler syndrome, Yesenia had an individualized education plan, which, among other things, called for Yesenia to have one-on-one supervision during recess time on the playground, which she did not have on the subject date.

Injury:

Yesenia suffered a transverse, comminuted fracture of her left greater and lesser trochanter, which is a tubercle of the femur near its joint with the hip bone. She was taken to a hospital, where she underwent open reduction with internal fixation. She then followed up with physical therapy. The fracture healed without complication, and a physical therapy note, approximately nine months post-incident, documented Yesenia as ambulating 300 feet on her own.

On Dec. 27, 2016, Yesenia underwent surgery to remove the hardware in order to allow her femur to grow as she physically matured. She did not have any orthopedic complications associated with the surgery, but she did not regain ability to ambulate without touch assistance.

Yesenia claimed her hip injury made her non-ambulatory five years prematurely. She also claimed the injury reduced her life expectancy by five years.

The plaintiff's treating pediatric gastroenterologist supported Yesenia's claims.

Yesenia's parents had health insurance through Medi-Cal, which paid approximately \$60,000 for the two surgeries and their daughter's care related to the incident. Although Yesenia's parents' wrongful death claim was not yet ripe, the school district would not entertain a settlement unless Yesenia's parents waived and released any prospective wrongful death claim. However, plaintiff's counsel asserted that the school district had to "buy" the future prospective wrongful death claim to resolve the case. Yesenia's parents also stated that they intended to seek leave to file an amended complaint to recover attorney fees for the violations of Yesenia's rights as a disabled student. However, the school district's counsel asserted that such an amendment was barred by omission in a Government Code claim and the controlling Supreme Court precedent.

Result:

The parties agreed to a \$1.25 million settlement prior to trial. The settlement was paid on behalf of the school district with \$850,000 being for Yesenia's personal injury claim and \$400,000 being for Yesenia's parents' future wrongful death claim. The allocation of the settlement breakdown was approved by Judge Charles Burch.

Trial Information:**Editor's
Comment:**

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

Writer

Priya Idiculla

Bus stop obstructed view, causing crosswalk accident: pedestrian

Type: Settlement

Amount: \$13,100,000

State: California

Venue: Contra Costa County

Court: Superior Court of Contra Costa County, Contra Costa, CA

Injury Type(s):

- *brain* - brain damage; hydrocephalus; traumatic brain injury; subarachnoid hemorrhage
- *other* - hematoma; craniotomy; unconsciousness; nondisplaced fracture
- *epidermis* - contusion
- *arterial/vascular* - hemorrhage
- *mental/psychological* - cognition, impairment
- *paralysis/quadriplegia* - quadriplegia

Case Type:

- *Government* - Counties
- *Motor Vehicle* - Crosswalk; Pedestrian; Visibility
- *Premises Liability* - Dangerous Condition of Public Property

Case Name: Megan Beach v. Sheena M. Glover, Jimmie L. Glover, Contra Costa County and Eastern Contra Costa Transit Authority, No. CIVMSC17-00077

Date: February 28, 2020

Plaintiff(s):

- Megan Beach (Female, 31 Years)

Plaintiff Attorney(s):

- Cynthia McGuinn; Rouda, Feder, Tietjen & McGuinn; San Francisco CA for Megan Beach
- Timothy G. Tietjen; Rouda, Feder, Tietjen & McGuinn; San Francisco CA for Megan Beach
- John M. Feder; Rouda, Feder, Tietjen & McGuinn; San Francisco CA for Megan Beach
- Robert Igleheart; Rouda, Feder, Tietjen & McGuinn; San Francisco CA for Megan Beach

**Plaintiff Expert
(s):**

- Tom Shelton; Accident Reconstruction; Walnut Grove, CA called by: Cynthia McGuinn, Timothy G. Tietjen, John M. Feder, Robert Igleheart
- Carol R. Hyland M.A.; Life Care Planning; Lafayette, CA called by: Cynthia McGuinn, Timothy G. Tietjen, John M. Feder, Robert Igleheart
- Jerome A. Barakos M.D.; Neuroradiology; San Francisco, CA called by: Cynthia McGuinn, Timothy G. Tietjen, John M. Feder, Robert Igleheart
- Robert W. Johnson M.B.A.; Economics; Los Altos, CA called by: Cynthia McGuinn, Timothy G. Tietjen, John M. Feder, Robert Igleheart
- Deborah L. Doherty M.D.; Physical Medicine; Novato, CA called by: Cynthia McGuinn, Timothy G. Tietjen, John M. Feder, Robert Igleheart
- Joellen Gill M.S.; Ergonomics/Human Factors; Spokane, WA called by: Cynthia McGuinn, Timothy G. Tietjen, John M. Feder, Robert Igleheart
- Michael A. Mayda; Visibility Studies; Fresno, CA called by: Cynthia McGuinn, Timothy G. Tietjen, John M. Feder, Robert Igleheart
- Michael Cynecki P.E., P.T.O.E.; Traffic; Phoenix, AZ called by: Cynthia McGuinn, Timothy G. Tietjen, John M. Feder, Robert Igleheart

Defendant(s):

- Sheena M. Glover
- Jimmie L . Glover
- Contra Costa County
- Eastern Contra Costa Transit Authority

**Defense
Attorney(s):**

- Lisa R. Roberts; McNamara, Ney, Beatty, Slattery, Borges & Ambacher LLP; Walnut Creek, CA for Sheena M. Glover, Jimmie L . Glover
- Richard S. Diestel; Bledsoe, Cathcart, Diestel, Pedersen & Treppa, LLP; San Francisco, CA for Eastern Contra Costa Transit Authority
- R. Dewey Wheeler; McNamara, Ney, Beatty, Slattery, Borges & Ambacher, LLP; Walnut Creek, CA for Sheena M. Glover, Jimmie L . Glover
- Paul B. O'Keefe; Skane Wilcox, LLP; San Francisco, CA for Contra Costa County
- Wendy L. Wilcox; Skane Wilcox LLP; Los Angeles, CA for Contra Costa County
- Dylan T. Radke; Office of the County Counsel; Martinez, CA for Contra Costa County
- Benjamin L. Stock; Burke, Williams & Sorensen, LLP; San Rafael, CA for Eastern Contra Costa Transit Authority

Defendant Expert(s):

- Karl Erik Volk M.A., B.S.; Economics; Walnut Creek, CA called by: for Paul B. O'Keefe, Wendy L. Wilcox, Dylan T. Radke
- Tate Kubose Ph.D.; Ergonomics/Human Factors; Los Altos, CA called by: for Lisa R. Roberts, R. Dewey Wheeler
- Craig Fries; Automobile Accident Animation; Grass Valley, CA called by: for Paul B. O'Keefe, Wendy L. Wilcox, Dylan T. Radke
- David Fox; Traffic Accident Analysis; Sacramento, CA called by: for Paul B. O'Keefe, Wendy L. Wilcox, Dylan T. Radke
- Karen L. Aznavoorian M.A.; Life Care Planning; Fresno, CA called by: for Paul B. O'Keefe, Wendy L. Wilcox, Dylan T. Radke
- Nancy Fraser Michalski R.N.; Coding & Billing (Medical); Los Angeles, CA called by: for Paul B. O'Keefe, Wendy L. Wilcox, Dylan T. Radke
- Scott J. Kush M.D.; Life Expectancy & Mortality; Menlo Park, CA called by: for Paul B. O'Keefe, Wendy L. Wilcox, Dylan T. Radke
- Robert B. Post Ph.D.; Ergonomics/Human Factors; Granite Bay, CA called by: for Paul B. O'Keefe, Wendy L. Wilcox, Dylan T. Radke
- Thomas A. Braun P.E.; Accident Reconstruction; Livermore, CA called by: for Lisa R. Roberts, R. Dewey Wheeler
- Maureen D. Miner M.D.; Physical Medicine; Gilroy, CA called by: for Paul B. O'Keefe, Wendy L. Wilcox, Dylan T. Radke
- Christopher R. Ryan P.E.; Traffic; Davis, CA called by: for Paul B. O'Keefe, Wendy L. Wilcox, Dylan T. Radke

Insurers:

- Travelers Property Casualty Corp.
- Mid-Century Insurance Co.
- CSAC Excess Insurance Authority

Facts:

On Jan. 15, 2016, plaintiff Megan Beach, an unemployed 31 year old, exited a bus that had stopped on Willow Pass Road, near the intersection with Bella Vista Ave, in an unincorporated area of Bay Point. She walked 50 feet ahead of the bus and began to cross the street in a marked, uncontrolled crosswalk. However, within three seconds of entering the crosswalk, Beach was struck by a van operated by Sheena Glover. Beach sustained injuries to her head and she was rendered a quadriplegic.

Beach sued Glover and the maintainer of the intersection, Contra Costa County. Beach alleged that Glover was negligent in the operation of her vehicle and that the county was liable for the intersection's dangerous condition of public property.

The bus company, Eastern Contra Costa Transit Agency, was also named as a defendant, but it agreed to tender its \$2 million policy limits in order to settle the claims against it in 2018.

Contra Costa County's counsel moved for summary judgment on the grounds that there was no dangerous condition, that the county lacked notice of the allegedly dangerous condition and that the county had design immunity. However, Judge Jill Fannin denied the motion, ruling that there were triable issues of fact regarding the existence of a dangerous condition and pre-approval for design immunity purposes.

Beach claimed that although she had no recall of the incident, she remembered that the stopped bus blocked her view of oncoming traffic to her left.

Plaintiff's counsel asserted that the location of the bus stop on the near side of the marked, uncontrolled crosswalk created a dangerous condition of public property, as the stopped bus blocked the view of both crossing pedestrians and westbound drivers. Counsel contended that the subject bus stop was known in the industry as a "near side bus stop" and that near side bus stops were discouraged because they created a visual obstruction for pedestrians entering a crosswalk and for drivers approaching the crosswalk. Counsel asserted that for that reason, the industry and government agencies prefer far side bus stops so that pedestrians can cross behind a bus and avoid visual obstructions.

Plaintiff's counsel contended that Contra Costa County had planned to remove the crosswalk and bus stop for "pedestrian crossing safety" six years before the incident. Contra Costa County traffic engineers testified that the reason the bus stop and crosswalk were not removed was due to an oversight and that they had more pressing roadway safety issues elsewhere. Plaintiff's counsel contended that Contra Costa County's engineering plans required a pedestrian-crossing warning sign and "PED XING" markings 270 feet before the crosswalk and another pedestrian crossing sign 1,000 feet before the crosswalk to warn drivers of upcoming crosswalks and pedestrians. However, counsel noted that the signs and markings were inexplicably missing on the date of the accident and that the deposed engineers did not know the warnings were missing until their depositions.

Plaintiff's counsel asserted that despite the visibility issues at the crosswalk/bus stop, Glover should have seen Beach crossing in front of her vehicle and been able to stop in time, but that Glover was speeding, traveling at 37 mph in a 25 mph zone.

The county's counsel asserted that there was no history of prior accidents at the subject location and that millions of cars and thousands of pedestrians had safely traveled through the area without incident. Counsel also denied the county had any notice of any alleged dangerous condition at the subject location, and asserted that the main causes of the accident were the speed and inattention of the driver, Glover, and the inattention of the pedestrian, Beach, making Beach comparatively negligent.

Glover claimed that she did not recall seeing Beach before the accident and that she only knew the collision occurred by the impact.

In response, plaintiff's counsel disputed Glover's version of events, and noted that Glover's vehicle data recorder showed that Glover had slightly depressed her car brake milliseconds before the impact.

Injury:

Beach sustained extensive non-displaced fractures that extended from her left posterior parietal bone through the skull base and that the fractures involved both temporal bones and extended through the sphenoid sinus. She also suffered multiple scattered areas of intra-axial and extra-axial hemorrhaging throughout both hemispheres, a right temporal hemorrhagic contusion and scattered subarachnoid hemorrhages. Beach was rendered unconscious at the scene, and she was bleeding from her ears, mouth and nose. She was taken to a hospital, where she regained consciousness months later, in around September 2016. Beach underwent multiple surgeries, including a craniotomy and an evacuation of the hematomas. However, a couple of months later, she developed hydrocephalus and had to have surgically implanted a permanent ventriculoperitoneal (VP) shunt, which is a medical device that relieves pressure on the brain caused by fluid accumulation.

Beach suffers from significant cognitive deficits and was rendered a quadriplegic. It was undisputed that she will require 24/7 attendant care for the rest of her life. To treat the spasticity in her limbs, she will need orthopedic surgeries that would improve the functioning of her limbs. However, it is anticipated that with the treatment provided in her life care plans, Beach would achieve significant physical improvements.

Prior to the incident, Beach worked in retail sales for many years. At the time of the crash, she had been unemployed for about a year. Plaintiff's counsel contended that Beach aspired to work in fashion and took some college courses, but Beach waived her claims of past and future wage loss.

Beach sought recovery of \$1.2 million in past medical costs and \$15 million to \$19 million in future medical costs. She also sought recovery of damages for her past and future pain and suffering.

Defense counsel for Glover and the county disputed Beach's life expectancy and the cost of Beach's future medical care.

Result:

After three mediations, the parties agreed to settle at a mandatory settlement conference with Judge Jill Fannin two weeks before the scheduled trial. Of the total settlement, the county agreeing to pay \$10.9 million and Glover's insurer agreeing to pay \$200,000. With the inclusion of Eastern Contra Costa Transit Agency's prior \$2 million settlement, Beach's recovery totaled \$13.1 million.

Trial Information:

Judge: Jill Fannin

Trial Length: 0

Trial 0
Deliberations:

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

Writer Priya Idiculla