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**DORIS CHENG**
Plaintiff's Counsel

**HON. PAUL BEEMAN**
Mediator

**JAHMAL DAVIS**
Defense Counsel

 Date
13 September 2023

 Time
12:00 pm - 1:00 pm

COMPLIMENTARY MCLE WEBINAR

Handout Materials

1. Fact Pattern & Case Description
2. Plaintiff's Mediation Brief
3. Defendant's Mediation Brief

Case Description:

This motor vehicle collision arises out of shared fault between a motorist and a motorcyclist. Plaintiff Sean Foss was speeding on his motorcycle and Defendant Thomas Park turned left in front of oncoming traffic to enter a parking garage. On April 11, 2019 at 4:11 p.m., Defendant Thomas Park made a mid-block left turn toward the Civic Center parking garage in San Francisco. Mr. Foss's motorcycle collided with Mr. Park's vehicle with significant force, causing Mr. Foss to be thrown several feet and sustaining substantial injuries.



Counsel to Plaintiff: Doris Cheng, Esq., Walkup, Melodia,

Kelly & Schoenberger

Widely recognized for her legal work and as Past President of the San Francisco Bar Association, Ms. Cheng has been ranked as one of the top 50 women lawyers in Northern California. She is listed among the Best Lawyers of America®, SuperLawyers®, and San Francisco Best Lawyers. Specializing in complex injuries caused by third-party negligence, Ms. Cheng has obtained multi-million dollar settlements and verdicts on behalf of disabled citizens throughout California.



Counsel to Defendant: Jahmal Davis, Esq., Hanson Bridgett

Jahmal is a trial lawyer who specializes in employment law, representing public and private employers in state and federal employment litigation. His litigation and trial work encompasses all aspects of employment-related claims, including discrimination, harassment, whistleblower, retaliation and wrongful termination. He also has significant experience assisting clients with respect to state and federal wage-and-hour laws and represents numerous employers in cases involving alleged wage-and-hour violations under both the FLSA and California law.



Mediator: Hon. Paul Beeman, ADR Services, Inc.

With nearly 18 years of judicial service, Judge Beeman has presided over a wide variety of civil matters and brings that wealth of experience to his dispute resolution services with ADR Services, Inc. Judge Beeman served as Presiding Judge and Supervising Civil Judge of the Solano County Superior Court, and was the Chairman of the Court's Alternative Dispute Resolution Committee for 12 years. He specializes in settling cases involving personal injury, product liability, employment, real estate, construction defect, insurance, professional malpractice, CEQA, as well as complex asbestos litigation and toxic tort claims. Prior to his years on the bench, Judge Beeman spent over 26 years as a trial lawyer in private practice, where he tried more than 30 civil and criminal jury trials, and arbitrated and mediated more than 150 cases.

PLAINTIFF'S SETTLEMENT POSITION

I. INTRODUCTION

This motor vehicle collision arises out of shared fault between a 32-year-old attorney and a 28-year-old motorcyclist. Plaintiff Sean Foss was speeding on his motorcycle and Defendant Thomas Park turned left in front of oncoming without slowing down or looking ahead. Mr. Foss suffered multiple orthopedic fractures to his pelvis, both hips, thoracic spine, right humerus, and nose, as well as degloving of his testicle, internal bleeding, collapsed lung, and deep vein thrombosis. He continues to have physical, sexual and cognitive disabilities.

II. FACTUAL BACKGROUND

A. The Collision on April 11, 2019

Mr. Park was traveling westbound on McAllister Street. He was in front of the Court of Appeal building and intended to turn left mid-block into the Civic Center garage. He moved into the left-turn pocket, traveling around 15-20 mph. He does not remember looking ahead to the intersection, which he estimated to be 100 feet away. He never braked. Instead, he zipped toward the garage without hesitation.

A security camera at the east entrance to City Hall captured the impact of the vehicles and the moments leading to the collision as the two vehicles approach. When Mr. Park entered the video frame (the time stamp is shown as 04:11:45), his SUV was in the left turn lane westbound on McAllister Street. He had not yet reached the end of the turning lane.

At that moment, Mr. Foss was already in the middle of the intersection, proceeding through a green light. Mr. Park testified that there was nothing obstructing his view of the intersection of Polk and McAllister Streets. There is no dispute that Mr. Foss was driving in range of 57 to 60 mph, and he was within Mr. Park's range of visibility if he had looked up. By 4:11:46, Mr. Foss had cleared the intersection and was continuing eastbound on McAllister. At that point, Mr. Park still had not yet initiated his left turn across Mr. Foss's lane.

Mr. Park started his turn at approximately 04:11:47. At that moment, Mr. Foss was within 25 feet of Mr. Park's car. The impact was immediate. Mr. Foss ejected from the motorcycle and flew over the hood of Mr. Park's car.

III. LIABILITY

A jury will be asked to apportion fault between two motorists. The defendant driver, Mr. Park, violated Section 21801 of Vehicle Code, which imposes an affirmative duty upon a left-turning driver to ascertain, before proceeding across each successive lane of oncoming traffic, whether any approaching vehicle constitutes a hazard. See *Gilmer v. Ellington* (2008) 159 Cal.App.4th 190, 196. A driver who makes a collision inevitable by driving into the path of another commits gross negligence. See *Carr v. Holtslander* (1952) 112 Cal.App.2d 589, 591.

At that time (before the pandemic), the Civic Center area was heavily traversed by cars, motorcycles, motorized skateboarders, bicyclists and pedestrians, particularly at 4 p.m. when people were coming and going from the courthouses and City Hall. Even before the pandemic, there was a dense population of unhoused individuals who milled around the front of the driveway

where Mr. Park intended to enter. If Mr. Park had been making his left turn without slowing down or looking ahead on a rural highway during off-peak hours, his conduct would be negligent. But here, in the heart of one of the most heavily populated cities in the country, it was reckless to cross over to opposing traffic without slowing down or looking ahead.

The jury will weigh that conduct against Mr. Foss, who was going straight through a green light without warning that a vehicle would cross over into his lane, but who was traveling well in excess of the speed limit of 25 mph. Unlike Mr. Park, Mr. Foss was looking straight ahead and saw that his pathway was clear. The intersection that he sped through was clear of hazards – there were no people or cars. As he passed through the intersection, the pathway was still clear and Mr. Park's car was safely in his own lane. There was no time for Mr. Foss to evade or avoid the sudden and unexpected turn into his lane of travel. Mr. Park, on the other hand, had the time to stop in the turn lane before crossing into oncoming traffic; to look ahead and see Mr. Foss; and to choose not to move forward until Mr. Foss passed him.

A jury will likely find shared fault. A reasonable apportionment of fault is between 40% to 60% against Defendant Park.

IV. DAMAGES EVALUATION

A. Sean Foss's Injuries and Treatment

An ambulance transported Mr. Foss from the scene of the collision to the Emergency Department in hypovolemic / hemorrhagic shock. His blood pressure was in the 90s-100s. He was tachycardic with a heart rate of 120 and in severe pain distress.

Mr. Foss had an obvious deformity to the right arm with an open fracture to the right humerus. He was unable to move his legs. The left lower extremity was shortened and externally rotated. He had an open book pelvis, underwent pelvic packing.

Radiology films showed the following injuries:

- type 2 open right humerus fracture;
- right femoral shaft fracture;
- left femoral head fraction with dislocation;
- left acetabular fracture;
- deformity of the left inferior pubic ramus;
- displaced fracture of the right inferior pubic ramus and right acetabulum;
- open book type pelvis injury with symphyseal widening;
- eleventh rib fracture;
- fracture of the posterior inferior T10 vertebral body with retropulsion fracture fragment into spinal canal resulting in severe spinal stenosis at T10-11.

He also had degloving of his right testicle.

Mr. Foss was taken emergently to the operating room for the following procedures: (1) left hip closed reduction with traction for femoral head fracture/dislocation; (2) closed reduction with external fixation of the right femoral shaft fracture; (3) open reduction with external fixation of right humeral shaft; (4) washout and debridement around the right humeral shaft fracture. He

also underwent extraperitoneal pelvic packing, exploratory laparotomy with temporary VAC closure of the abdomen, and right testicular washout and packing.

After a 3-week hospitalization, Mr. Foss was transferred to an inpatient rehabilitation center. At the time of admission, he was unable to stand or walk. He had also developed right radial nerve palsy that limited the mobility of his right wrist and fingers.

Two weeks later, he was admitted to an acute transdisciplinary rehabilitation center for physical, occupational and speech-language therapy, as well as neuropsychology, nursing and pain management. Here, Mr. Foss performed range of motion and grip strength exercises for his arm and tried to relearn how to write. He also went through cognitive rehabilitation.

After 45 days of hospitalization, Mr. Foss moved into his parents' house to receive assistance with functions of daily living. His in-home rehab was just as vigorous as his inpatient care. He worked hard to regain physical strength and functionality. For the first two months he was wheelchair bound. His brother strung climbing ropes and pulleys above his bed so that Mr. Foss could build his strength while in bed. Gradually, Mr. Foss was able to stand, and then walk with the assistance of a cane or walker. He worked aggressively at home to regain greater mobility by walking up the stairs with weight on his back. He gradually increased the exercises as he was able to tolerate them. After about six months, he could walk mostly unassisted on flat terrain and has since moved out of his parents' home.

B. Present Condition and Limitations

Today, Mr. Foss has difficulty walking on uneven the terrain. He has difficulty negotiating stairs and hills. His range of motion in his back (twisting from left to right) is limited. For instance, when he turns to the side to talk to someone, he has pain and is thrown off balance from the twisting motion. He has back pain if he is carrying a backpack while walking. He can only lay on his back for half an hour at a time. This causes problems with sleeping through the night.

He has hip pain every day. He has difficulty with his gait and with climbing stairs. The pain is worse when walking up a curb or up the stairs while carrying things, such as groceries. When he lifts up his foot and stepped down, he feels pain in his knee, quads, hips, and then his back. He also has tremendous difficulty with squatting. He cannot put on his shoes or socks unless he sits down. He cannot stoop over to tie his shoes. He needs to hold on to objects before lowering himself down to a sitting position. This is true whether he is sitting down on the toilet, a bench or a chair. He also has difficulty getting up from a low position. He cannot sit on hard surfaces.

Mr. Foss has weakness and limited range of motion on the right side. He cannot lift anything weighing more than 15 pounds on his right side. He has no feeling in his right forearm, elbow and over the area of the scar tissue. He has lost the fine level of motor skill his dominant hand formerly possessed.

Mr. Foss's body is disfigured not only by the crippling injuries he sustained, but by the scars that remain from multiple surgeries. His sexual function has been affected by these injuries.

C. Mr. Foss's Future Care Needs

Before the collision, Mr. Foss was a gainfully employed 24-year-old property manager. He

graduated from Cal Poly San Luis Obispo with a degree in mechanical engineering. He was an avid outdoorsman. Not unlike Alex Honnold of the famed Free Solo movie, Mr. Foss has climbed a number of big rock faces in Yosemite (El Capitan, Manure Pile Buttress, Arches, Royal Arches and the Rostrum) and Mount Whitney. He used to carry 85 pounds of gear on these climbs. His other regular hobbies had previously included skiing, cross-country running and surfing. Since the collision, he has not been able to engage in these activities.

Mr. Foss's treating orthopedic surgeon anticipates that Mr. Foss will need surgery to remove or replace the screw in his sacroiliac joint as well as a left hip replacement within 10 years. Mr. Foss has a life expectancy of 49.7 years. He will likely require two additional hip replacement procedures over his lifetime.

Mr. Foss will likely need future spine surgery. It is well understood that spinal fusion causes stiffening of the spinal segments and stress on adjacent vertebrae over time. This accelerates the process of disc degeneration of adjacent discs, and additional surgery may be needed to the surrounding discs due to pain from degeneration, instability, or nerve compression in the future.

D. Economic Damages

Not surprisingly, more than five weeks in various hospitals and several months of further therapy have significant economic costs. His past medical bills are on the order of \$1,500,000.

His future medical care costs are estimated to be \$850,000 (present cash value). This includes, future surgeries for his hip and spine, as well as future therapies.

V. SETTLEMENT EVALUATION AND DEMAND

Mr. Foss is only 28-years-old. The nature of his injuries are not of the type that will improve over the next 50 years of living on this earth. Verdicts and settlements for this type of case are in between \$3.75 million and \$7.5 million.

The plaintiff and defendant are both very likeable and will make good appearances as witnesses. The nature and extent of Mr. Foss's injuries are so profound that even if a jury finds 50-50 comparative fault, the verdict value far exceeds the policy limits of \$1,250,000.

Plaintiff previously served a 998 offer for \$2,000,000. The offer expires at the end of the mediation.

DEFENDANT'S MEDIATION BRIEF

I. INTRODUCTION

Plaintiff is an admitted thrill-seeker and adventurer who is stimulated by risk-taking encounters and events such as scaling the face of Yosemite's famous Half Dome, El Capitan, and separately, Mount Whitney. In keeping with these hobbies, Plaintiff drives a racing motorcycle to work, and when visiting different sites during his workday. On April 11, 2019, Plaintiff was headed back to his office after visiting one of the commercial buildings owned by his employer. Plaintiff sped through the city streets on his race bike, travelling over two times the posted speed limit and disregarding the many other cars and pedestrians attempting to negotiate street traffic. He ultimately crashed into the front passenger side of attorney Thomas Park's vehicle as Mr. Park attempted to safely navigate a left turn into a parking garage. Now, in this lawsuit, Plaintiff does not deny his reckless behavior or that he sped through traffic on his bike. He brings this lawsuit hoping to secure some contribution to the medical bills and physical injuries that he alone caused. In particular, Plaintiff hopes to have Defendant's insurer to assist him in his financial recovery. Defendant, however, bears no fault here.

II. FACTS

This two-vehicle accident occurred on April 11, 2019 at about 4:00 p.m., at Civic Center in San Francisco. Plaintiff sped down McAllister travelling eastbound in traffic on his racing motorcycle. Meanwhile, attorney Thomas Park ("Defendant") was travelling westbound on McAllister, as he headed to a bar association meeting. Security video cameras from government buildings then captured the movements of both vehicles. (There were apparently a total of three such cameras, but both parties have only been able to locate two of the films. The parties have stipulated that the films will come into evidence at trial.) The defense engineer has determined from these films that Plaintiff was racing down McAllister at approximately 60 mph as he approached the site of the impact, proceeding from Van Ness through the intersection at Polk and to the point of impact. The posted speed limit was 25 mph. Plaintiff presents no evidence that he had a headlight on, or any other lights or signals that would alert drivers or pedestrians in his path.

In the meantime, Defendant was intending to park in the underground garage at Civic Center. He was not late or otherwise in a hurry. He approached the entry way to the underground garage by proceeding up Larkin and then turning left onto McAllister. He proceeded westbound on McAllister, initially behind another vehicle. Defendant then drove into the left turn pocket. He saw no traffic approaching from the eastbound direction; at least none close enough to warrant concern. The defense accident reconstruction expert will testify that at this point that Plaintiff's motorcycle was approaching in the Polk/McAllister intersection, proceeding at approximately 60 mph. Defendant does not specifically recall if he was able to see into the intersection at the point he determined there was no traffic approaching close enough to constitute a hazard. However, the entry to the garage is in the center of the block, so even seeing an absence of approaching vehicles just up to the Polk intersection means that there was no traffic for half a city block - in a 25 mph zone.

After seeing no approaching traffic, Defendant continued into his left turn. He was looking in the direction he was proceeding at the time of his left turn, as one must be careful of vehicles emerging from the garage, as well as of pedestrians and bicyclists in the immediate area. While into his turn, Defendant was struck by Plaintiff's motorcycle. (The motorcycle struck Defendant's front passenger-side corner.) Plaintiff was wearing a helmet, but no other protective gear such as a padded jacket, padded pants or boots.

III. DISCUSSION

A. Liability

Operators of motor vehicles are not required to assume that other operators of vehicles will conduct themselves in a dangerous or reckless manner. To the contrary, drivers making a left turn are only required to yield to approaching vehicles "which are close enough to constitute a hazard" (*Vehicle Code* section 21801(a).) "This language does not mean the driver of a vehicle may not turn his machine at an intersection of streets unless there is absolutely no possibility of an accident." (*Spear v. Leuenberger* (1941), 44 Cal. App. 2d 236, 247.)

Here, Defendant had every indication that the roadway was clear for him to make the left turn. There was nothing that reasonably indicated to him that the motorcycle was travelling at such a speed that it could contact him during his turn. As the Court of Appeal in *Spear* noted, "We do not understand it to be the rule that a person is required to know that the turning movement can be made with safety. All that is required is that he take the precautions which a reasonably prudent person would take under the circumstances reasonably appearing to him at the time." (*Id.*)

Indeed, there is nothing to indicate that the motorcycle constituted any sort of "hazard" other than the fact that Plaintiff chose to drive at more than twice the posted speed limit. Plaintiff thus violated the basic speed law of *Vehicle Code* section 22350. Plaintiff cannot claim shared fault by both parties based on a failure by Defendant to assume that the Plaintiff would violate the basic speed law. (*Chapman v. Mason* (1948), 83 Cal. App. 2d 685, 687.) Plaintiff's speed was the sole cause of the accident. (See enclosed Jury Verdicts/Settlements below).

B. Damages

1. Physical Injuries

Plaintiff's primary injuries involved fractures to both hips, to his left femur, and to his right humerus. He also required a fusion from T9-T12. Fortunately, Plaintiff has made an amazing recovery by his own account. By May 2016- only one month and 10 days after the accident – the treating physiatrist charted that Plaintiff had "improved satisfactorily with acute rehabilitation." Plaintiff is now able to walk without assistance. He testified that he believes his conditions are continuing to improve, both cognitively and physically. In fact, he plans to resume his education in mechanical or aerospace engineering.

2. Income Loss

Also, as a testament to his recovery, Plaintiff has returned to his prior work position in property management; in fact, he has received a promotion at the same company. The promotion came with a salary increase of \$6,000 a year. He believes he is able to handle all requirements of that position, which include a number of tasks requiring mental acuity, including the inspection of plumbing and other utilities. He works full time. At the time of the incident, his base salary

at was \$45,000 a year. Defendant estimates Plaintiff's wage loss as \$11,250 ($\$45,000 / 12 \times 3$ months).

IV. CONCLUSION

The defense is willing to listen to Plaintiff's arguments regarding liability, but Plaintiff will have a very difficult case establishing any fault against Defendant. Defendant understands that all of Plaintiff's medical bills were (and continue to be) covered through workers' compensation. The total amount of these medical bills is not presently known. If settlement is to be reached, Plaintiff must present proof of any bills not covered by workers' compensation.

Cullen vs. Magnuson

TOPIC:

Synopsis: Motorcyclist seriously injured in collision with left-turning van

Case Type: Vehicle Negligence; Motor Vehicle v. Motorcycle; Miscellaneous; Vehicle Negligence; Motor Vehicle v. Motorcycle; Left Turn

DOCKET NUMBER: SC062013

STATE: California

COUNTY: Los Angeles County

Verdict/Judgment Date: October 9, 2001

JUDGE: James A. Albracht

ATTORNEYS:

Plaintiff: John M. Inferrera, Baker, Jacobs & Oring, Marina del Rey.

Defendant: James T. Biesty, Biesty, Garretty & Wagner, Los Angeles.; Douglas H. Drake, Law Offices of Douglas H. Drake, Sacramento.; Steven E. Miller, Law Office of Christopher P. Regan, Irvine.; Thomas D. Wilson, Law Offices of Thomas D. Wilson, Irvine.

SUMMARY:

Verdict/Judgment: Defendant

Verdict/Judgment Amount: \$0

Range: \$0

Defense verdict for Defendant Magnuson; nonsuit for Defendant Murnane.

Trial Type: Jury

Trial Length: 7 days.

Deliberations: 35 minutes.

Jury Poll: Not reported.

EXPERTS:

Plaintiff: Richard Brownell, accident reconstructionist, Los Angeles.; Michael Genova, family practitioner, Los Angeles.; Michael Orecklin, neurologist, Los Angeles.; Eric D. Schmitter, orthopedic surgeon, Santa Monica, (310) 395-5889.

Defendant: Vaughn P. Adams Ph.D., mechanical engineer/human factors consultant, BTI, Tempe, AZ, (602) 967-1000.; Steven Anderson, mechanical engineer/accident reconstructionist, MacInnis Engineering Associates Inc, Los Angeles.; Fred S. Kuyt, urologist, Century City.

TEXT:

CASE INFORMATION

FACTS/CONTENTIONS

According to Defendant: Plaintiff motorcyclist was seriously injured when he slammed into a van that was making a left turn. The Plaintiffs were Brian Cullen, a 33-year-old drug counselor; and Michelle Cullen. The Defendants were James Magnuson and John Murnane, both northern California firefighters. Defendants were visiting Los Angeles on a pleasure trip to see a Dodgers-Giants baseball game. The day following the game, September 22, 1999, Defendant Murnane, who had rented a 1999 Chevy Venture, asked Defendant Magnuson to drive because he was suffering from a sinus headache. On their way to the airport, Defendants were driving north on Lincoln, preparing to turn left at Pine. Traffic on south Lincoln was heavy and backed up from Ocean Park to the south. Drivers in south lanes 1 and 2 were stopped at Pine to allow a gap so

that the Defendants could complete their left turn. A vehicle in lane 1 southbound stopped north of the intersection (which was not controlled by a signal light or sign) and waved the Defendants through the intersection. Another vehicle in lane 2 southbound also stopped and waved the Defendants through the intersection. Lane 2 was 20 feet long and contained a parking lane. When the Defendants turned left, they cleared both lanes 1 and 2. Defendant Magnuson admitted that he did not look down the parking lane other than glancing past the car in lane 2. As the Defendants proceeded left, Plaintiff, traveling between 25 to 35 mph (lower speed asserted by the Plaintiff and a higher speed contended by the Defendant) on his 1996 Harley-Davidson motorcycle, slammed into the side of Defendants' vehicle. Plaintiff was severely injured and filed suit against Defendant Magnuson for negligence and Defendant Murnane on a theory of joint enterprise. Plaintiffs alleged that Defendant Magnuson violated the right-of-way and caused the accident. Plaintiffs alleged that commuters frequently used the parking lane during the late afternoon as a third travel lane. Plaintiffs further alleged that he was traveling within the posted speed limit of 35 mph.

Defendants contended that they were not negligent and there was no showing of a mutual right to control the vehicle necessary to establish joint negligence.

CLAIMED INJURIES

According to Defendant: Brian Cullen: Pelvic fractures in two places, with reconstruction and appliance placement; rectal tear with repair; colostomy for six months; fractured back; cuts and contusions with scarring; Viagra-dependent at age 39. Michelle Cullen: Loss of consortium.

CLAIMED DAMAGES

According to Defendant: Brian Cullen: \$147,000 approximate medical specials (stipulated for trial to be approximately \$93,500); \$7,000 approximate wage loss. Michelle Cullen: Loss of consortium damages.

SETTLEMENT DISCUSSIONS

According to Defendant: Demand: \$250,000 increased to \$1,350,000 during trial from Magnuson; \$65,000 reduced to \$50,000 during trial from Murnane. Offer: \$5,000.

COMMENTS

According to Defendant: Steven E. Miller represented Defendant John Murnane and provided the information for this report. James T. Biesty and Douglas H. Drake represented Defendant James Magnuson.

The insurance carriers were Allstate for Defendant Magnuson and USAA for Defendant Murnane.

Trials Digest, A Thomson/West business

Los Angeles County Superior Court/Santa Monica

Cullen vs. Magnuson, 4 Trials Digest 5th 15

2007 WL 912153 (C.D.Cal.) (Verdict and Settlement Summary)
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United States District Court, C.D. California, Western Division
John Beck v. United States of America USA v. Tanisha Emory
No. CV-05-1643 DSF (JTLx)

DATE OF VERDICT/SETTLEMENT: January 17, 2007

TOPIC: MOTOR VEHICLE - MOTORCYCLE - MOTOR VEHICLE - INTERSECTION -
MOTOR VEHICLE - STOP SIGN - GOVERNMENT - MUNICIPALITIES

Motorcycle and Postal Van Collided at High-speed

SUMMARY:

RESULT: Decision-Defendant

The court ruled in favor of the defense, finding that Beck caused the accident. In the third-party complaint, the Court found USA did not establish negligent entrustment against Emory.

EXPERT WITNESSES:

Plaintiff: Mark Prior; Accident Reconstruction; Torrance, CA

Defendant: Eric Deyerl; Accident Investigation and Reconstruction/Failure Analysis/Product Liability; Long Beach, CA

ATTORNEYS:

Plaintiff: Terry A. Rowland; Demler, Armstrong & Rowland; Long Beach, CA (John Beck);

Robert W. Armstrong; Demler, Armstrong & Rowland; Long Beach, CA (John Beck, John

Beck); Andres C. Hurwitz; Demler, Armstrong & Rowland; Long Beach, CA (John Beck)

Defendant: James M. Baratta; Grant, Genovese & Baratta; Irvine, CA (Tanisha Emory);

Gwendolyn M. Gamble; Assistant United States Attorney; Los Angeles, CA (United States of

America); Carol A. Chen; Assistant United States Attorney; Los Angeles, CA (United States of

America); Jeffrey P. Magwood; Grant, Genovese & Baratta; Irvine, CA (Tanisha Emory)

JUDGE: dale S. Fischer

RANGE AMOUNT: 0

STATE: California

COUNTY: Not Applicable

INJURIES: Beck sustained catastrophic injuries, including frontal and temporal lobe contusions, traumatic brain injury, multiple internal injuries and a massive open wound in his abdomen, the loss of three feet of intestines, a heart contusion, multiple fractured and lost teeth, multi-level lumbar vertebral fractures, left arm fracture, scars, depression and sexual dysfunction.

Facts:

On March 16, 2004, at approximately 1 p.m., at the La Brea and Ellis Avenues intersection in Inglewood, Plaintiff John Beck, 29, an auto body shop estimator, was driving a Harley Davidson motorcycle, with the bike owner's permission, northbound on La Brea Avenue, between 42 and 50 mph in a 35 mph zone, when he collided head-on into the rear door of a U.S. Postal minivan driven by USPS employee Juanita Bell. Beck suffered serious, life threatening injuries.

Beck sued the United States of America for motor vehicle negligence. USA filed a cross complaint against the bike's owner, Tanisha Emory, for negligent entrustment and indemnity.

Beck alleged that Bell caused the accident by failing to yield to Beck, who was in her line of vision when she drove through the intersection.

Bell contended she was stopped at the stop sign, looked both directions and saw no oncoming north or southbound La Brea traffic. Bell entered the intersection and drove east on Ellis,

crossing La Brea and nearly crossed the intersection when the collision occurred. Further, it was

alleged Beck caused the accident by driving the motorcycle at an unsafe speed and was not aware of the postal minivan immediately in front of him.

USA, in its complaint against Emory, charged that she should have been aware of Beck's driving record.

Beck claimed \$2,860,818 in medical expenses, future life care damages of \$689,542 and past and future lost income from \$882,276 to \$2,088,912.

Insurer:

State Farm Mutual Automobile Insurance Co. Tanisha Emory

ALM Properties, Inc.

United States District Court, C.D. california, at Los Angeles

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John Beck v. United States of America USA v. Tanisha Emory, 2007 WL 912153

38 Trials Digest (TD) 12644, 1991 WL 11254243 (Cal.Superior) (Verdict and Settlement Summary)

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Superior Court of California.

Linda Silverglide v. Carmel Barbano

TOPIC:

Case Type: Auto/Motorcycle/Vision Obstruction/ Speeding/Intersection/Wrongful Death

DOCKET NUMBER: 697650

STATE: California

COUNTY: Santa Clara

TRIAL: 10-22-91 to 10-28-1991

JUDGE: Hon. Thomas P. Hansen

ATTORNEYS:

Plaintiff: HARRETT W. MANNINA, JR. (Mannina, Tambling & Mannina), P-San Jose

Defendant: SE F. RUIZ, (Robinson & Wood), D-San Jose

SUMMARY:

Demand: \$100,000 (policy limits); Suggested Verdict: \$200,000-\$1,000,000

Offer: -0-; Suggested Verdict: Defense

Verdict: Defendant

Vote: 12-0

Jury Out: 2 hrs.

Range: \$1,000,000-1,999,999

SYNOPSIS: This accident occurred November 28, 1989, at 2: 15 pm, in San Jose. The Plaintiff contended her son, Keith Lang, was southbound on Meridian Avenue when the Defendant pulled onto Meridian from a stop sign at Campbell Avenue and immediately entered the left turn lane for eastbound Drycreek, colliding with Keith's motorcycle, killing him.

The Defendant, a retired widow, alleged the motorcyclist was at least 350 feet away when she proceeded into the intersection. She claimed the motorcycle was speeding in excess of 65 mph, and decedent could have brought his motorcycle to a stop and avoided the accident if he had not been speeding.

INJURIES/DAMAGES: Death caused by massive head trauma.

EXPERTS:

NON-MEDICAL EXPERT WITNESS TESTIMONY:

(Plaintiff):

Norman Bard Johnson, (Accident Reconstruction-Risk Technical Services-San Jose), testified the Defendant's vision of oncoming traffic was obstructed by a row of trees. Plaintiff's decedent was in clear view of the Defendant at all times, and the accident would have occurred even if the deceased had been traveling at the posted speed limit of 35 mph.

(Defendant):

J. Michael Stephenson, (Accident Reconstruction-Livermore), stated the decedent could have brought his motorcycle to a stop and avoided the accident had he been traveling at a speed of 50 mph or less.

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SANTA CLARA COUNTY

Linda Silverglide v. Carmel Barbano, 38 Trials Digest (TD) 12644