

Louisiana Advocates

January 2015 Vol. XXX, No. 1

Louisiana Association for Justice



Verdicts and Settlements

Athlete; heat stroke, DIC, death; judgment exceeds \$2 million

Decedent, a twenty-one-year old basketball player on the Grambling State University team, had just returned to his dormitory after a one-hour weight-lifting session in which the players were required to “max out” on each lift when an assistant coach informed him and certain other players that they had to perform additional conditioning because they arrived at campus late. Decedent arrived at campus two days behind schedule because of a missed flight from his hometown of Milwaukee, Wisconsin.

The extra conditioning was a timed 4.5-mile outdoor run around the Grambling campus. The run began at about 3 p.m. and the heat index was more than 100 degrees. Staff did not tell the involved players of the run beforehand, and the only Grambling staff personnel present during the run was a graduate assistant coach in a golf cart.

Decedent, who was one of the first players to complete the run, collapsed after crossing the finish line. When he collapsed, the assistant coach was ten minutes behind in the golf cart. Two players carried decedent inside. Nearly 45 minutes later, when he arrived at the hospital, his core temperature was 104.2 degrees.

The Caddo Parish coroner testified that the body goes into heat stroke at 102 degrees and that when decedent collapsed his core temperature was likely between 108 degrees and 109 degrees.

Decedent suffered disseminated intravascular coagulation (DIC) due to heat stroke. DIC is a condition in which the body suffers uncontrollable internal bleeding while simultaneously exhausting its clotting factors. Clots form throughout the body, the excess clotting prevents oxygen from reaching organs, and the uncontrolled bleeding continues.

Decedent died thirteen days later after multiple surgeries to remove eighteen feet of a necrotic, gangrenous small intestine. At the time of his death, decedent’s son was two years old.

Judgment for plaintiff’s son exceeded \$2 million, including interest. The Second Circuit affirmed the jury verdict, and the Supreme Court denied defendants’ writs. The Second Circuit ruled that a jury instruction on the general damages cap of

\$500,000 was appropriate. With that instruction, the jury awarded \$500,000 in general damages and \$780,000 in future lost wages, plus medicals. The Legislature approved the payment in its 2014 session.

Williams v. Board of Supervisors of the University of Louisiana System and Grambling State University, No. 539,174 B, 1st JDC, 2/4/13; writs denied, 5/2/14

Plaintiff’s counsel: Scott J. Chafin, Jr. and Sam N. Gregorio of Gregorio, Chafin & Johnson, LLC, Shreveport
Plaintiff’s experts: Douglas Casa, Ph.D., heat stroke, kinesiology, Storrs, Connecticut; Leigh Steinberg, sports agent, Los Angeles, California; Kyle Pearce, strength and conditioning, Shreveport; Joe Haynes, meteorology, Shreveport; Dr. Todd Thoma, coroner, Caddo Parish

Rear-end wreck; back injuries, loss of job; \$925,00 settlement

Defendant driver crashed her pickup truck into the rear of the pickup truck in which plaintiff was a guest passenger. Plaintiff, who was an estimator earning approximately \$90,000 annually, suffered two herniated cervical spine discs in the wreck and underwent physical therapy, steroid injections, and rhizotomy while continuing to work.

Plaintiff finally underwent a two-level cervical spine fusion. Plaintiff’s surgeon had not released plaintiff by the time plaintiff exhausted his medical leave, and plaintiff’s employer terminated plaintiff.

Parties settled the case for \$925,000.

Efferson v. State Farm Mutual Automobile Insurance Co., et al., No. 106,693, 23rd JDC, Ascension Parish, 11/25/14

Plaintiff’s counsel: S. Bradley Rhorer of Rhorer Law Firm, Baton Rouge, and Randall E. Estes of Estes Davis Law, LLC, Baton Rouge

Plaintiff’s experts: Dr. Chabliss Harrod, orthopedic surgery, Baton Rouge; Bob Gisclair, vocational rehabilitation, Baton Rouge; G. Randolph Rice, Ph.D., economics, Baton Rouge

Boating accident; death; retrial; \$23.1 million jury verdict

Decedent, a twenty-year-old college student, and his friends were traveling in a twenty-one-foot center-console bay boat to Contraband Days, a Lake Charles festival. During the trip, the boat suddenly and violently turned to the left, ejecting decedent and three other passengers.

The boat ran over the decedent, and he sustained fatal injuries in the accident.

Plaintiff filed suit against the vessel’s steering-system manufacturer under general maritime law, which provides for punitive damages upon a showing that the defendant acted with wanton and reckless disregard for the rights and safety of others. The product liability claim asserted that the manufacturer failed to warn that the loss of a small percentage of



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steering fluid could result in total loss of steering control, ejection from the watercraft, and death.

The case was first tried in September 2014 by previous counsel to a defense verdict; however, the court granted plaintiff's motion for a new trial on the grounds of an improperly admitted 2006 owner's manual for the 1998 vessel.

On re-trial, the jury found in favor of plaintiff and awarded \$125,000 in compensatory damages and \$23 million in punitive damages.

Warren v. Teleflex, Inc., No. 2006-385, 14th JDC, 12/4/14

Plaintiff's counsel: Randall E. Hart and Aaron J. Broussard of Broussard & Hart, LLC, Lake Charles; Bart W. Bernard of Bart Bernard Personal Injury Law Firm, Lafayette

Plaintiff's experts: Stephen Killingsworth, warnings, Lafayette; Denis Boudreaux, Ph.D., economics, Lafayette

Vehicle wreck; First Circuit reverses its own opinion, trial court judgment; \$3.2 million award

Plaintiff was an AutoCAD drafter working on contract in Baton Rouge. In June 2008, defendant driver who was driving a company-owned box van while in the course and scope of his employment failed to stop at a stop sign and the truck hit plaintiff's vehicle on the passenger's side.

Because of the injuries he sustained in the wreck, plaintiff required three surgeries and implanted hardware, including an L4-5 fusion, a C5-C7 fusion, and a C6-T1 fusion. After surgery, plaintiff received treatment for pain management.

Defendant argued that the plaintiff needed the surgeries due to spinal injuries the plaintiff suffered years before the subject wreck. After a bench trial, defendants filed a motion for a new trial and remittur, which was denied. Defendants then filed a suspensive appeal with the First Circuit Court of Appeal.

Plaintiff appealed the award for future medical expenses, which was reduced due to the possibility that the plaintiff might obtain future employment with health insurance benefits. After the First Circuit affirmed all of the trial court's awards, plaintiff sought rehearing.

The First Circuit granted hearing and found that after it

considered the collateral source rule it concluded that "the judgment of the trial court and our original opinion were legally erroneous in implicitly applying future payments from an independent source to reduce the amount of the award to Alexander for his future medical expenses." Accordingly, the appellate court increased the amount of the award from \$492,523.34 to \$979,009.34.

After a 7-0 denial by the Louisiana Supreme Court, defendants paid the \$3,845,089.12 judgment, which included more than \$690,000 in judicial interest. The general damages award was \$1 million.

Alexander v. Washington, Economical Janitorial Supplies and Zurich Ins. Co., et al., No. 578945, Div. 22, 19th JDC, 3/15/12; La. App. 1 Cir, No. 2012-CA-1296, 9/18/13, *appeal for rehearing*, 12/19/13, *rehearing denied*, 3/24/14; Louisiana Supreme Court, No. 2014-C-0856, *writ denied*, 6/20/14

Plaintiff's counsel: Jay A. Parker and Steve M. Marks of Marks & Lear, APLC, Baton Rouge

Plaintiff's experts: Dr. Kelly Scrantz, neurosurgery, Baton Rouge; Dr. John Nyboer, pain management and rehabilitation, Baton Rouge; G. Randolph Rice, Ph.D., economics, Baton Rouge; and Robert Gisclair, vocational rehabilitation, Baton Rouge

Rear-end wreck; back injury; settlement exceeds \$500,000

A small commercial vehicle struck plaintiff's vehicle from behind. Plaintiff suffered a back injury in the wreck and underwent a one-level cervical spine fusion.

Defense argued minor impact after defendant driver testified that he merely released the brake before rolling into plaintiff's vehicle. Both sides retained experts.

Case settled for more than \$500,000.

Jane Doe v. XYZ Insurance, et al., 19th JDC, East Baton Rouge Parish, 11/14

Plaintiff's counsel: Chet G. Boudreaux and Gordon J. McKernan of Gordon McKernan Injury Attorneys, Baton Rouge

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