

Louisiana Advocates

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Verdicts and Settlements

Wreck; back injuries; \$2.1 million settlement

Plaintiff, a forty-three-year-old laborer in the course of employment, sustained back injuries in a motor vehicle wreck. He underwent a three-level posterior lumbar spine fusion and a two-level cervical spine fusion. Plaintiff also incurred more than \$250,000 in medical expenses and missed thirty months of work because of his injuries.

Although defendants lost a motion for summary judgment as to liability, they strenuously contested causation for injuries.

Eight days before the start of a scheduled week-long jury trial in Avoyelles Parish, defendants agreed to a \$2.1 million settlement.

Dauzat, et al. v. Fuqua, et al., No. 2012-8128 "A," 12 JDC, Avoyelles Parish, 7/14

Plaintiffs' counsel: Brian M. Caubarreaux, Robert M. Marionneaux, Jr., and Emily G. Meche of Brian Caubarreaux & Associates, Marksville

Plaintiffs' experts: Dr. Daniel L. Hodges, physical medicine and rehabilitation, Lafayette; Dr. Louis C. Blanda, Jr., orthopedic surgery, Lafayette; Ted Deshotels, vocational rehabilitation, Lafayette; G. Randolph Rice, Jr., economics, Baton Rouge

Truck negligence; back injuries; directed verdict on liability, \$465,933.90 jury verdict

Defendant driver, who was operating an eighteen-wheeler in the West Bank of Jefferson Parish, ran a stop sign and struck plaintiff's vehicle.

After the wreck, plaintiff received conservative treatment for neck and back pain before receiving a diagnosis of cervical spine herniations at C3-4 and C5-6 and a lumbar herniation at L5-S1. Plaintiff then underwent three rounds of spine injections. Plaintiff's treating physician also recommended cervical and lumbar spine radiofrequency ablation, which plaintiff declined.

A life-long manual laborer and fifty-seven at the time of the wreck, plaintiff was unable to return to work.

At trial, defendants attempted to skirt responsibility in numerous ways, including, but not limited to, asserting defenses on liability, medical causation, lack of future medical

needs, and that plaintiff could return to work in some capacity. Defendants also claimed plaintiff's injuries were pre-existing and resulted from a 2001 on-the-job accident in which a crane struck plaintiff in the head.

Defendants' IME testified that while he believed that the plaintiff did sustain injuries in the wreck, plaintiff's current problems were due to arthritis. Defense rehabilitation counselor opined that plaintiff could return to work as a laborer and his future medical needs were limited, at best.

After two days of trial, the judge granted plaintiff's motion for a directed verdict on liability. Jury returned a \$465,933.90 verdict for plaintiff that included \$265,000 in general damages, \$30,933.90 in past medical expenses, \$95,000 for future medical expenses, \$30,000 for past lost wages, and \$45,000 for future lost wages. The court reduced plaintiff's recovery by \$15,000 pursuant to La. R.S. 32:866, the no pay, no play statute.

Joseph v. Progressive Casualty Insurance Company, et al., No. 719400, 24th JDC, Jefferson Parish, 3/27/14

Plaintiff's counsel: Stephen M. Huber of Huber, Slack, Thomas & Marcelle, LLP, New Orleans; and Anthony J. Milazzo III and Lindsey M. Valenti of Edward J. Womac, Jr. & Associates, LLC, New Orleans

Police fail to follow law, proper procedures; mother stabbed to death; \$501,500 settlement

The former boyfriend of the decedent stabbed her to death in her home. In the ten days preceding her murder, decedent, a thirty-three-year-old mother of two minor daughters, called her local police four times to request assistance with the harassment she was getting from her ex-boyfriend. Police did not assist her, nor did they arrest the harasser.

Plaintiffs filed suit against the accused murderer and local police agencies that alleged failure to assist; failure to follow proper procedures; failure to comply with and enforce Louisiana law; and failure to properly hire, train, and supervise officers.

The case settled after the deposition of the involved officers for \$501,500 for survival damages, conscious pain and suffering of decedent, and wrongful death damages.

Harris v. Day, Cottonport City Police Department, and Avoyelles Parish Sheriff's Department, No. 2011-6218A, 12th JDC, Avoyelles Parish, 3/14

Plaintiff's counsel: Aaron J. Broussard and J. Steven Broussard of Broussard & Hart, L.L.C., Lake Charles; and Derrick G. "Digger" Earles. Earles was an attorney with Brian Caubarreaux & Associates in Marksville at the time of the case. He is now with The Laborde Law Firm LLC in Marksville.

Wreck; failure to yield at a stop sign; \$4.9 million settlement

A young driver in an SUV failed to yield at a stop sign and T-boned the vehicle of plaintiff, who is a Lafayette doctor. The plaintiff sustained a back injury in the collision that required discectomy and fusion surgery.

He continued to suffer from chronic neck and back pain, as well as weakness in the upper extremity. The chronic pain affected the doctor's ability to work five days a week

and handle the pre-wreck workload.

After settling with the underlying insurer, plaintiff maintained a claim against the UM insurer for general damages, significant lost earning capacity, and bad faith. Within two weeks of trial, the UM insurer raised its offer by more than seven figures.

(Although the case was not confidential, the doctor's name is redacted.)

Doe v. State Farm Mutual Insurance Company, et al., 15th JDC, Lafayette Parish, 2014

Plaintiff's counsel: Blake R. David of Broussard & David, LLC, Lafayette

Plaintiff's experts: Dr. Cornelius Gorman, life-care planning and vocational rehabilitation, New Iberia; and John Theriot, economics, Metairie

Homemaker; malignant pleural mesothelioma; \$2.45 million settlement

Decedent died from diffuse malignant pleural mesothelioma. She was a seventy-five-year-old woman who was a homemaker for fifty years and raised seven children. Her husband was a career insulator.

Plaintiffs alleged decedent was exposed to respirable asbestos in her home from her husband's clothing, which she shook out and laundered; from asbestos rags that her husband brought home to use as cleaning rags; from contact with her husband when he returned home from work; and from asbestos fibers in the carpet and furniture in the home.

Decedent's husband was deposed over three days and identified employers, work sites, asbestos products, and means of exposure.

Case settled for \$2,448,750.

In the matter of Donald Jaeson Newton and Family on behalf of Theresa Newton, CDC, Orleans Parish, 5/1/14-8/1/14

Plaintiffs' counsel: Louis L. Gertler and Helen H.

Babin of Gertler Law Firm, New Orleans

Plaintiffs' expert: Frank Parker III, CIH, SCP, PE, DEE, LAC, industrial hygiene, Magnolia, Texas



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