

LCBA VERDICTS & ORDER REPORT

Type of Action: Automobile Accident
Name of Case: George Tedeschi, Cody Wilbourn, Ashley Tedeschi and Kippy Burditt v. Garnet Fross
Type of Injuries: See Case Information
Date of Jury Trial: April 3, 5-7, 2006
Court/Case No.: 45D10-0407-CT-00142
Name of Judge: John R. Pera
Damages Awarded: George Tedeschi: \$23,000.00; Cody Wilbourn: \$15,000.00; Ashley Tedeschi: \$1,500.00; and Kippy Burditt: \$8,510.64

Specify Compensatory, Punitive or Defendant's Verdict: Compensatory
Attorney for Plaintiff: Lloyd Mullen
Attorney for Defendant: Jeffrey Clymer

Case Information: Plaintiffs claimed that on April 9, 2004, while at the Speedway gas station at Kennedy Avenue and 173rd in Hammond, Indiana, they were injured when a vehicle being operated by the Defendant who had lost consciousness, left Kennedy Avenue, headed into the Speedway station and struck their vehicle as it was being filled with gas. George Tedeschi claimed he was struck by his vehicle as it was spun around from the impact by Defendant's vehicle and sustained injury to his liver, causing stomach pain. He also claimed injuries to his shoulder, neck and back causing pain and numbness on his left side. Ashley Tedeschi and Kippy Burditt also claimed they were struck by the Plaintiffs' car as it spun around. Ashley claimed she sustained a burn on her arm from a fall to the ground. Kippy claimed the impact with the car knocked him to the ground causing a back injury and unresolved pain in his back. Cody Wilbourn claimed he was in the Plaintiffs' vehicle at the time of its impact with the Defendant's car and was partially ejected. Cody claimed the impact of the collision aggravated a previously undiagnosed, a-symptomatic congenital condition resulting in him suffering from severe headaches requiring constant medication.

The Defendant, who was seventies at the time of the collision, claimed to have suffered the sudden and unexpected onset of a heart ailment causing him to lose consciousness. He therefore claimed he was not negligent in the operation of his vehicle. The Plaintiffs claimed the Defendant knew or should have known that

issues regarding his health prohibited him from operating a motor vehicle.

George Tedeschi claimed damages for medical expenses in the amount of \$21,903.26, pain and suffering and permanent injury. Cody Wilbourn claimed damages for medical expenses in the amount of \$11,669.26, pain and suffering and permanent injury. Ashley Tedeschi claimed damages for medical expenses in the amount of \$1,032.00, lost wages of \$120.00 and pain and suffering. Kippy Burditt claimed damages for medical expenses in the amount of \$7,510.64, pain and suffering and permanent injury.

Medical evidence was presented on behalf of the Plaintiffs through the video taped deposition of Dr. Kenneth Reed, a family practice physician from St. John, Indiana; Dr. Michael Kohrman, a Pediatric Neurologist from the University of Chicago; the deposition testimony of Dr. C.J. Yoon, Physiologist from Merrillville, Indiana; Dr. Helene Rubiez, a Neurologist from the University of Chicago; and Dr. Ewa Chelmicka-Schorr, a Pediatric Neurologist from the University of Chicago. Medical evidence regarding the Defendant's health condition was presented through the video taped deposition of Dr. Arshad P. Malik, a Cardiologist from Merrillville, Indiana; and Dr. Sami Ahmadzai, the Defendant's family physician from Hammond, Indiana.

The Jury returned its verdicts in favor of the Plaintiffs and against the defendant as follows: in favor of George Tedeschi in the amount of \$23,000.00; in favor of Cody Wilbourn in the amount of \$15,000.00; in favor of Ashley Tedeschi in the amount of \$1,500.00; and in favor of Kippy Burditt in the amount of \$8,510.64.

Type of Action: Automobile Accident
Name of Case: Marissa Maxberry v. Nathan Westich
Type of Injuries: Low back pain
Date of Jury Trial: April 3 and 4, 2006
Court/Case No.: 45D10-0412-CT-00247
Name of Judge: John R Pera
Damages Awarded: None
Specify Compensatory, Punitive or Defendant's Verdict: Defendant's Verdict
Attorney for Plaintiff: Kevin Werner
Attorney for Defendant: Matthew LaTulip
Case Information: The Plaintiff was a passenger in a vehicle driven by Timothy Monik on August 6, 2004. The vehicle ran out of gas on U.S. Hwy. 30 about 500 feet west of its intersection with Cline Avenue. Mr. Monik

pulled the car off the road onto the shoulder median. Plaintiff claimed that while Mr. Monik left to find a gas station, the Plaintiff and her five-month old son remained in the car which subsequently struck on the rear passenger side by a vehicle being operated by the Defendant.

Plaintiff claimed that as a result of the collision, she sustained injury to her low back. Plaintiff claimed damages for medical expenses in the amount of \$10,402.75, pain and suffering and mental anguish.

Defendant denied that he was at fault for the collision. The Defendant further alleged fault on the part of the Plaintiff and a non-party. Timothy Monik, who as the driver of the vehicle in which Plaintiff was a passenger, claiming that the car was not stopped completely off the roadway. The Defendant also disputed the nature and extent of Plaintiff's claimed injuries and damages.

Medical evidence was presented on behalf of the Plaintiff through the video taped deposition of Dr. Charles Gross, a Chiropractor from Calumet City, Illinois; and on behalf of the Defendant through the testimony of David F. Cox, a Chiropractor from Lansing, Illinois.

The Jury returned its verdict in favor of the Defendant, Nathan Westich, and against the Plaintiff, Marissa Maxberry.

Type of Action: Negligent Supervision

Name of Case: William Marshall and Valerie Gooch Green, individually and as parents and natural guardians of Montevius Gooch Marshall v. Gary Community School Corporation and Banneker Elementary School

Type of Injuries: fractures of teeth nos. 7 and 8; teeth nos. 9 and 10 loosened; maxillary alveolar plate fracture

Date of Jury Trial: April 3, 5 and 6, 2006

Court/Case No.: 45D11-0309-CT-00201

Name of Judge: Jeffery J. Dywan

Damages Awarded: \$95,000.00

Specify Compensatory, Punitive or

Defendant's Verdict: Compensatory

Attorney for Plaintiff: Karl E. Hand

Attorney for Defendant: Inga D. Lewis-Shannon, Karen Freeman-Wilson, JoAnn Price

Defendant's Insurance Carrier: Self-insured

Plaintiff's Demand: \$35,000.00

Defendant's Offer: \$6,500.00

Case Information: On April 1, 2003, Plaintiff Montevius Gooch Marshall was seven years old and was a first grade student at Banneker Elementary School in Gary. Montevius testified that after he finished his lunch, he proceeded to

the gymnasium with approximately 50 other first, second and third grade students to attend a sock-hop. He further testified he was participating in a "dance off" with a girl, when a boy from his class came up from behind him and pushed him into the wall. Plaintiff testified that there was only one adult in the gymnasium who was sitting at the desk by the door.

That evening, D. Tyree performed emergency surgery on Montevius at Community Hospital. Montevius suffered a maxillary alveolar plate fracture and fractures to teeth nos. 7 and 8, and will require crowns and replacements during his lifetime.

Plaintiff's losses claimed were medical expenses of \$7,044.25 and the expense of future crown replacements.

The Defendants claimed they had provided proper supervision in the gymnasium that day. The Defendants claimed that the student who pushed Montevius was the one responsible for his damages and loss.

Plaintiff's expert who testified was C. Joseph Tyree, D.D.S.

Type of Action: Automobile Accident

Name of Case: Barbara Tazbir v. Bobby Dean Baine

Type of Injuries: abrasions and contusions; broken leg; broken ankle; hip dislocation; knee pain; head, neck, shoulder and back pain; herniated and bulging discs; facial pain and numbness; tooth loss

Date of Jury Trial: April 3, 4 and 7, 2006

Court/Case No.: 45D11-0012-CT-00048

Name of Judge: Jeffery J. Dywan

Damages Awarded: \$0.00

Specify Compensatory, Punitive or

Defendant's Verdict: Defendant's Verdict

Attorney for Plaintiff: Susan Kozlowski, Peggy Jo Stamper

Attorney for Defendant: Harold G. Hagbery

Defendant's Insurance Carrier: Allstate Insurance Company

Plaintiff's Demand: \$53,000.00

Defendant's Offer: \$0.00

Case Information: Plaintiff testified that on October 15, 2000, at approximately 11:00 p.m., she was traveling eastbound on U.S. Highway 30 near its intersection with Harvest Drive in Schererville, when Miroslav Orlovic collided head-on with the Plaintiff. Miroslav Orlovic, who was intoxicated, was traveling westbound in the eastbound lanes of U.S. Highway 30. Plaintiff testified that she saw the headlights of the Orlovic vehicle just prior to the collision.

After Plaintiff was hit head-on, she was then rear-ended by Bobby Dean Baine, who had been traveling behind her. Plaintiff testified that she was traveling between 45 and 50 miles per hour at the time of the initial collision.

Defendant testified that he was on a family vacation with his wife and two daughters, and they were on their way to the hotel at I-65 and Route 30. He further testified he was traveling behind the Plaintiff eastbound on U.S. 30 between 40 and 50 miles per hour when suddenly he saw a cloud of smoke and debris flying in front of his vehicle. Defendant testified that he applied his brakes but was unable to stop and collided into the rear of the Plaintiff's vehicle. He further testified he immediately was rear-ended by Shave Cunningham, who was traveling behind his vehicle.

Miroslav Orlovic, who was 19 at the time of the collision, testified that he and his father had been drinking all afternoon and evening. He further testified the last thing he remembers is turning westbound onto Route 30 from southbound Broadway. He testified that he does not remember traveling on route 30 nor does he remember the collision. His blood alcohol content was .21, and his father's blood alcohol content was .34. His father died as a result of the collision.

An eyewitness testified that he had been traveling eastbound on Route 30 when he noticed the Orlovic vehicle traveling westbound in the left-hand eastbound lane. He further testified that the Orlovic vehicle came within inches of striking him. He further testified he then turned his car around and was then traveling westbound in the westbound lanes, honking his horn, waving his arm out the window and flashing his lights in an attempt to alert oncoming traffic to the Orlovic vehicle. Both Plaintiff and Defendant testified they saw him flashing his lights just seconds before the collision but did not know what he was trying to alert them to.

Plaintiff had previously settled with Miroslav Orlovic for \$100,000.00 and Shave Cunningham for \$5,000.00. Defendant had named Miroslav Orlovic as a non-party.

Plaintiff's losses claimed were medical expenses of approximately \$31,000.00 and lost wages of approximately \$12,000.00. The Jury assessed fault as zero percent to Plaintiff, zero percent to Defendant and 100 percent to the non-party.

Plaintiff's expert who testified was Dr. Theodore Economou, her chiropractor.

Type of Action: Automobile/Motorcycle Accident

Name of Case: Carrie Mayo v. Kevin D. Williams

Type of Injuries: Cervical sprain/strain, aggravation of low back pain, headaches

Date of Jury Trial: April 24-24, 2006

Court/Case No.: 45D10-0402-CT-000023

Name of Judge: John R. Pera

Damages Awarded: \$102,052.00

Specify Compensatory, Punitive or

Defendant's Verdict: Compensatory

Attorney for Plaintiff: Karen Tallian & Clark W. Holesinger

Attorney for Defendant: Christopher W. Johnson

Case Information: The Plaintiff claimed that on June 1, 2002 she was a passenger on the back of a motorcycle being operated by her husband, Richard Mayo. Plaintiff claimed they were stopped at a red light on Ripley Street in Lake Station, Indiana, when they were struck in the rear by a motor vehicle being driven by the Defendant. Plaintiff claimed the motorcycle was pushed forward into the vehicle stopped in front of them and that she sustained injury to her head, neck and aggravation of her previously existing low back pain.

Plaintiff claimed damages for medical expenses in the amount of \$31,578.00, lost wages and other economic damages in the amount of \$21,470.00, and pain and suffering.

The Defendant admitted he caused the collision, but disputed the nature and extent of Plaintiff's claimed injuries and damages. Defendant further alleged Plaintiff failed to mitigate her damages.

Plaintiff's final demand: \$90,000.00.
Defendant's final offer: \$45,000.00.

Medical evidence was presented on behalf of the Plaintiff through the videotaped depositions of Dr. Charles T. Janovsky, Plaintiff's family physician from Michigan City, Indiana and Dr. Steven I. Posar, and Internist and pain management physician from South Bend, Indiana. Medical evidence was presented on behalf of the Defendant through the videotaped deposition of Dr. Barbara Parke, a physical medicine and rehabilitation physician from Valparaiso, Indiana, who conducted a review of Plaintiff's medical records.

Additional expert testimony was presented on behalf of the Plaintiff through the testimony of Dr. James Bernard, an economist from Valparaiso, Indiana.

The Jury returned its verdict in favor of the Plaintiff and against the Defendant and awarded damages in the amount of \$102,052.00.

Type of Action: Automobile Accident

Name of Case: Paul J. Dahm v. Karen Kirmani

Type of Injuries: neck and low-back pain

Date of Jury Trial: April 24 and 25, 2006

Court/Case No.: 45D11-0207-CT-00172

Name of Judge: Jeffery J. Dywan

Damages Awarded: \$78,500.00

Specify Compensatory, Punitive or

Defendant's Verdict: Compensatory

Attorney for Plaintiff: Michael E. Polen, Jr.

Attorney for Defendant: Galen A. Bradley

Defendant's Insurance Carrier: State Farm Mutual Automobile Insurance Company

Plaintiff's Demand: \$100,000.00

Plaintiff's Offer: \$6,500.00

Case Information: Both Plaintiff and Defendant testified that on February 16, 2002, Defendant was making a left turn off of Schrage onto 119th Street in the City of Whiting and struck the Plaintiff's car on the driver's side. Plaintiff's car was totaled in the collision; property damage to Defendant's car totaled \$4,900.00.

Plaintiff's losses claimed were medical expenses of \$27,457.00 and lost wages of \$60,000.00. Defendant had admitted liability.

Plaintiff's expert who testified was Robert S. Martino, M.D. David's expert who testified was David Shenker, K.D. who did a records review of the Plaintiff's medical records.