

Legal Report

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Jury Returns Verdict In Speedway Case

A jury returned a verdict last month in a case that arose out of a race track accident. A 33-year old motorcyclist in the novice class, was training for an event known as "track day" when he was killed

The Estate's theories included negligence and wantonness. The Estate offered into evidence racing guidelines that stated that corner marshals should "never enter a hot track without permission from race control." The Estate claimed this caused his death.

The jury awarded the estate a verdict of \$10,000,000 against that defendant.



Elevator Fall Results in \$13 Million Jury Award

A jury has awarded \$13 million to a woman, who was left bruised, depressed and with psychological and physical injuries as the result of a very rough and tumble elevator ride. Janice Beasley was injured in a May 1999 incident. According to testimony during the trial, Mrs. Beasley, 54, experienced a series of falls in an elevator in the building between the 23rd floor and the basement. A mechanic with the Schindler Elevator Corp., the building's on site elevator maintenance firm, handled the malfunctioning elevator. But rather than taking Mrs. Beasley off the elevator, he sent her on to the basement. That caused another series of falls in the elevator.

It was proved that Schindler grossly mishandled the response to the malfunction and failed to consider Mrs. Beasley's safety as a priority. She suffered post traumatic stress disorder, chronic depression, partial paralysis of her left leg, pseudo seizures and was wheelchair-bound for several years. The jury award was returned against Schindler and Highwoods Properties, the building's owner. Mrs. Beasley filed suit in 2002, but the case was delayed over legal complications and finally came to trial this year.

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Fraternity Can Be Sued In Fatal Crash

The Court has ruled that a fraternity can be sued for negligence in connection with a 2003 crash that killed four university students. The students were returning from a Delta Kappa Epsilon fraternity event when their SUV, travelling at a high speed, struck a tractor-trailer. It was alleged in a lawsuit filed by the family of one of the victims that fraternity leaders failed to provide safe transportation home from the event. They said the driver, who was a student and fraternity member, was sleep-deprived during the fraternity's so-called "Hell Week," when its pledges are hazed.

The National Transportation Safety Board investigated the accident and found plenty of blame, including poor highway conditions, speeding, fatigue and lack of seat

belt use. The agency concluded that the tractor-trailer driver probably was driving too fast on ice and snow when he lost control of his vehicle. Part of the tractor-trailer, which was traveling north, went over the median barrier and collided with two other vehicles in the southbound lanes. According to the NTSB, the student driver was probably suffering from a combination of fatigue, lack of highway lighting and distraction from the collisions in the southbound lanes, and likely did not see that part of the tractor-trailer that was in the northbound left lane. Relatives of all the crash victims also have a pending federal lawsuit against the tractor-trailer manufacturer for not putting enough lights on the truck's trailer.



Court Upholds \$10 Million Punitive Damages in DWI Death

The Court of Appeals has upheld \$10 million in punitive damages for the family and estate of a man killed by a drunken driver in 2003. The Court ruled last month that there was enough evidence to support the full amount of damages awarded against the parent company of a convenience store. The case arose out of a crash involving a store employee. A vehicle driven by Dean Durand, a store maintenance worker, crashed into Daniel Gutierrez, who was stopped on his motorcycle at an intersection. Gutierrez later died from his injuries.

The Appeals Court said Meteor knew the employee drank on the job and had actually bought alcohol at the store on the day of the accident. The Court, in its opinion, said the store's actions "demonstrated a reckless disregard for the health and safety of others." There was no claim that the compensatory damages of \$4.5 million were excessive. Therefore, those damages were not an issue in the ruling. But the full amount of punitive damages, which was at issue, was upheld.

Source: Insurance Journal

Couple Awarded \$10 Million In Motor Vehicle Crash Case

A jury awarded a couple more than \$10 million in damages in a case involving a multi-vehicle crash. A dump truck that had steering and brake problems was involved in the crash. Williams was driving



a 1979 Mack dump truck loaded with stone in May 2010, when he lost control of the truck and collided with a line of vehicles on a city street. The collision knocked another car into the back of the Kuchwaras' vehicle. Their Toyota Four Runner SUV was thrown into a utility pole.

Valvano Construction and Williams were charged by police with 12 violations each, saying the truck

had brake and steering deficiencies and that Williams was operating the vehicle with an expired medical examination certificate. The crash left Holly Ann M. Nieman Kuchwara with a fractured vertebrae, shattered ankle, head trauma and other injuries, her lawyers said in the complaint. It was clear the truck should never have been on the road.

J&J Settles First DePuy Hip Suits for \$600,000

Johnson & Johnson has agreed to pay \$600,000 to settle the first three of approximately 8,000 lawsuits over hip implants recalled by the company's DePuy Orthopaedics unit in 2010. The company agreed to pay three residents approximately \$200,000 each to settle claims over the ASR hip implant. As we have previously reported, the hip implants were recalled after the Food and Drug Administration received about 300 complaints about the devices, most of them from patients who said they had to have their hip implant replaced.

After the recall, litigation over ASR hip implants escalated, with Plaintiff's alleging that the metal-on-metal hip replacement device was defectively designed. Moreover, Plaintiffs claimed that Indiana-based DePuy knew its hip replacements were failing at a higher than expected rate, but didn't alert consumers or orthopedic surgeons. Federal cases over hip implant were consolidated in multidistrict litigation in Ohio. The three settling Plaintiffs are elderly women who



had ASR hip replacements done by the same surgeon during the past six years. The women needed to have their artificial hips removed after experiencing pain and other side effects. The women's cases had been consolidated and scheduled to go to trial in December. As

we previously reported, Johnson & Johnson had set aside \$922 million to cover litigation and settlement costs relating to the ASR hip implants.

Source: Bloomberg News

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