

THARPE & HOWELL

TRANSPORTATION LAW NEWSLETTER

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JURY AWARDS \$1.85 MILLION IN MOTORCYCLIST VERSUS DISTRIBUTION COMPANY CASE

In *David Allen v. Bottomley Distributing Company*, a Santa Clara County jury recently awarded \$1.85 million to a motorcyclist who was seriously injured when he was struck head-on by a vehicle passing a beer distribution truck from the opposite direction of travel. In this case, the driver of the truck was attempting to make a u-turn when he motioned the driver of a vehicle to go around his truck. In response to this gesture, the vehicle's driver attempted to go around the truck only to drive head-on into the plaintiff motorcyclist who had the right-of-way. The jury determined that the accident was caused by the carelessness and negligence of defendant Bottomley Distributing Company - which was attributed 100% fault.

FORD WINS DEFENSE VERDICT IN ROOF DEFECT CASE

In *Gessling v. Ford*, a jury recently returned a defense verdict in favor of Ford in a case alleging an inadequately designed roof. In this action, plaintiff Alan Gessling was driving his 1999 F-250 pickup truck with his wife Heather seated in the front passenger seat. Shortly before reaching their designation, the couple were struck from behind by a pickup truck traveling at more than 80 miles per hour. Upon impact, plaintiffs' Ford truck accelerated and slide sideways into a median, where it rolled several times. The force of the collision caused the roof of the truck to crush.

As a result of the accident, Alan Gessling was killed and his wife Heather suffered injuries to the right side of her head. The Gessling family subsequently sued Ford, alleging that the weakness of the roof on the 1999 Ford caused Mrs. Gessling's non-fatal injuries and her husband Alan's untimely death.

Although plaintiffs had been seatbelted at the time their truck was struck, Ford argued Mr. Gessling was killed when his head got *outside* the driver's window and struck the pavement *before* significant roof deformation. It also argued Mrs. Gessling's head injuries were caused when her head got *outside* her window and struck the ground. Plaintiffs disagreed, claiming the roof was unreasonably weak and that the injuries were suffered *inside* the truck when the roof of the truck was crushed. Ford countered that their truck had one of the strongest roofs of any truck in its class.

Ford also argued that during rollover accidents, forces can cause the occupants' heads to go outside of the windows - regardless of the strength of the roof. Therefore, the strength of the roof would not have made a difference to the truck's occupants in this case. The jury apparently agreed with Ford in this case, and rendered a verdict in favor of the defense.

QUADRIPLÉGIC AWARDED \$45 MILLION IN “FAILURE TO STOP AT RED LIGHT” CASE

In *Tricia Lynn Roth, et al. v. Division 1 All Service, Inc.*, a vehicle driven by plaintiff Tricia Lynn Roth was struck by a truck driven by defendant Roman Pantoja after he ran a red light and crashed into plaintiff’s car. According to plaintiff Roth, the truck defendant Pantoja was driving at the time of the incident was owned by co-defendant Division 1 All Service - a corporation defendant Pantoja had an ownership interest in. Plaintiff further alleged defendant Pantoja was within the course and scope of his employment with co-defendant Division 1 All service at the time - which both defendants denied.

Regardless of the arguments back and forth, plaintiff Roth’s neck *was* broken at C6-C7 as a result of the incident which rendered her a quadriplegic and unable to work or care for herself for life. Past medical specials totaled more than \$1 million dollars with future care estimates in excess of \$10 million. In addition, the injured plaintiff’s husband, plaintiff Kay Huh, had necessarily become a near full-time care giver while still trying to maintain his on-going career.

The Court found that defendant Pantoja *was* working in the course and scope of his employment with co-defendant Division 1 at the time of the accident; and was likely using the truck to pick up company supplies. Plaintiff Kay Huh was awarded \$5,000,000 for loss of consortium and \$30,000 in past lost earnings; while injured plaintiff Tricia Lynn Roth received \$15 million for pain and suffering, plus significant amounts for her medical and wage damages claims - for a total damages award of \$45 million.

CHARITY ORDERED TO PAY \$10.5 MILLION FOR EMPLOYEE’S DRUNK DRIVING ACCIDENT

In *Maria Lopez v. Disabled American Veterans Charities of Central California*, a Jury recently awarded elderly plaintiff Lopez and her family \$10.5 million dollars in damages stemming from a semi-tractor trailer, drunk driving accident.

In this case, defendant Ramirez, an employee of the Disabled American Veterans Charities of Central California (the “charity”), was driving a semi-tractor trailer on behalf of the charity when he ran a stop sign and broadsided plaintiff Lopez. After the accident, Mr. Ramirez was found to have a blood alcohol level of .08 making him legally drunk in the State of California. He subsequently pled guilty to the drunk driving charge and was ordered to serve time in jail. Plaintiff Lopez suffered serious, life changes injuries as a result of the crash.

During litigation, evidence revealed that Mr. Ramirez had *arrived* at work that morning already in a drunken state - thereby further attaching liability to his charity employer. The jury found the charity responsible for \$4 million in medical expenses for past and future care; and awarded her family an additional \$6.5 million for the pain and suffering the elderly plaintiff Lopez will have to live with for the rest of her life.

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