VerdictSearch TEXAS LAWYER

TEXAS VERDICTS

HALL OF FAME

SCHERR LEGATE

PLLC ATTORNEYS AT LAW

Scherr Legate congratulates attorney

Joseph Isaac

Texas Verdicts Hall of Fame Inductee

$124,546,737.89

2010 Motor Vehicle Verdict

Pacheco v. Chavira

Two killed, six injured in van rollover on trip to Colorado

1 Texas Tower 109 N. Oregon St. 12th Floor El Paso, TX 79901

Phone: 915-544-0100 Fax: 915-532-1759

www.scherrlegate.com

PUBLISHER Cathy Collins

ART DIRECTOR Thomas Phillips

DISPLAY ADVERTISING MANAGERS
Deni Ackerman, Tina DeRobertis

LAW FIRM ADVERTISING MANAGER Annette L. Planey

ADVERTISING COORDINATOR Angela McDaniel

PROJECTS MANAGER Anna Liza Burciaga

Note: These charts are based on cases reported by VerdictSearch, an affiliate of Texas Lawyer. These verdicts are reported as issued after trial. The summaries and listings do not include whether post-trial motions or appeals have been decided or are pending. The list includes awards involving injuries only to one party in each case and claims that derive from those injuries.

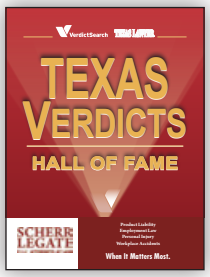
ALM
An Integrated Media Company

ALM SENIOR MANAGEMENT
PRESIDENT & CEO Bill Carter
SVP/CHIEF OPERATING OFFICER Kevin H. Michielsen
SVP/CHIEF FINANCIAL OFFICER Eric F. Lundberg
SVP/CHIEF MARKETING OFFICER Lenny Izzo
SVP/DIGITAL Jeff Litvack
SVP/SALES Kevin J. Vermeulen
VP/EDITOR IN CHIEF Aric Press
VP/REAL ESTATE MEDIA Michael Desiato
GENERAL COUNSEL Elisa Miller

PUBLISHER'S NOTE

Welcome to *Texas Lawyer*'s and VerdictSearch's inaugural Texas Verdicts Hall of Fame Supplement.

In this publication we have included summaries for the Top Cases in Contracts, Intellectual Property, Intentional Torts, Motor Vehicle and Products Liability from 2010 to 2012 (as reported to VerdictSearch). It was no small feat to determine which categories to showcase as all the categories were impressive. We have also included a chart of the Top 100 Verdicts from 2010-2012 as our inaugural class of Hall of Fame. Attorneys are listed in no particular order.



On November 12th we held the Texas Verdicts Hall of Fame reception where we honored Frank Branson with a Lifetime Achievement Award. You'll find his story in this publication.

These verdicts are reported as issued after trial. They do not include whether post-trial motions or appeals have been decided or are pending.

Please submit future verdicts and settlements to www.verdictsearch.com.

Cathy Collins
Publisher

TABLE OF CONTENTS

Frank L. Branson

2013 Lifetime Achievement Award

You can glean a lot about Frank L. Branson and the approach he takes to his work by looking at the Dallas trial lawyer's response to receiving this year's Texas Lawyer VerdictSearch Lifetime Achievement Honor. Appreciative and gracious as always, Branson says the first Texas Lawyer VerdictSearch Lifetime Achievement award is very humbling in light of all the great trial lawyers produced by the state of Texas.

The founder of The Law Offices of Frank L. Branson has certainly hit big licks, not only in Texas, but several surrounding states in multiple decades as one of Texas' larger-than-life trial lawyer archetypes. When Branson was asked to stop and reflect on past successes during a recent October afternoon, he was a little short of time. He was preparing for a mediation with Ford Motor Company on behalf of a man who'd been rendered a quadriplegic by a roof that caved when his Ford F-250 pickup rolled. At the same time, he was preparing for a jury trial involving the wrongful death of the Co-Chairman of the Burn Unit at Parkland Hospital.

Indeed, Branson's career arc continues to be on the incline, and his reputation is only growing more than a decade after Texas tort reform forced many of his trial lawyer peers into new lines of work.

"I'm fortunate to be doing something that I'm passionate about, to have cases that are meaningful to me and my clients, and to surround myself with excellent lawyers," says Branson.

Frank L. Branson

Pivoting in response to the post-tort reform landscape has been crucial to Branson's success. The Law Offices of Frank L. Branson is in many ways a 21st century model for trial-focused firms in Texas: discerning, flexible, and responsive. Added to that mix is a world-class staff including a computer generated-graphics professional, a Johns Hopkins trained medical illustrator, audio-visual professionals, and a master-degreed nurse, who is immediate past-president of American Association of Legal Nurse Consultants.

He was among the first to use video recreations and animations in court in the 1980s and remains on the cutting edge in this area today. He also pioneered the use of settlement brochures, creating a medium that allows the firm to lay out the strong points of a case and give the opposing side an idea of what they'll be up against if they decide to go before a jury. The firm has always been choosy about the cases it takes, but even more so today – the legal and economic landscape requires that these days.

Circa 2013, Branson may well be working on a death or paralysis arising out of a truck wreck or a burn victim from an oilfield operation gone awry one week, and a bet-the-company dispute involving business conflicts the next.

Case in point: the firm was highlighted by *VerdictSearch* for having two very different No. 1 outcomes in 2012, one involving a catastrophic injury and one involving complex business litigation.

In Cruz v. Ghani, Branson and the trial team earned a $10.6 million verdict from a Dallas County jury stemming from a contract and fiduciary breach dispute over revenue from the ownership of medical imaging facilities. The jury found that partners in the facility had misappropriated funds and intentionally deceived Dr. Erwin Cruz, a north Dallas neurologist, about the business's finances. Clearly persuaded by the case presented by Branson and his team, the jury awarded $2.9 million in actual damages and $7.7 million in punitives, although the award was later

reduced by a trial judge. In addition to Branson, the trial team included Eric Stahl, Debbie Dudley Branson, Thomas Farmer and John Burkhead.

That was the No. 1 verdict involving business law in Texas in 2012.

"This firm's evolution has been a conscious, long-term effort," he says. "We've tried to demonstrate our value to the business community the same way we have done for individual tort victims. We've seen the business community come to understand the value of hiring a firm like ours that has a long tradition of actually trying their cases successfully to judges and juries."

The *VerdictSearch/Texas Lawyer* list also singled out Branson for the No. 1 product liability settlement in Texas, stemming from a $34 million settlement on behalf of two members of the Dallas Cowboys coaching staff who were seriously injured when the team's practice facility collapsed during a thunderstorm in 2009. Following an exhaustive investigation by the firm's engineering experts that revealed flawed design and construction of the facility by the defendants, the firm reached the record settlement for the two men. That was the No. 1 settlement in the products liability field for 2012.

> "I'm fortunate to be doing something that I'm passionate about, to have cases that are meaningful to me and my clients, and to surround myself with excellent lawyers."

The firm's offices in the top three floors of Highland Park Place are a long way from blue-collar White Settlement where Branson grew up, the son of the high school football coach and school principal who instilled in him a fierce will to win and an equal respect for the rules of fair play. Working as an insurance adjuster while putting himself through law school, Branson saw firsthand how unfairly injured parties were treated by insurance companies and the legal system, and committed himself to leveling the playing field for his clients.

With passion for his clients and a strong will to prevail, combined with what's been described as fearsome cross-examination, Branson has distinguished himself with a consistent string of seven- and eight-figure verdicts and settlements. There was the catastrophic failure of a thrill ride at the State Fair of Texas and the crash of American Airlines Flight 1420 in Little Rock. Branson led the way in litigation involving Ford SUVs that began rolling over with detreaded Firestone tires. In a lawsuit involving serious injuries involving a collegiate soccer standout, a federal jury ruled for the first time that the Mitsubishi Montero Sport SUV was unsafe.

When asked what produces large figure jury verdicts, Branson says, "Terribly injured and very deserving clients combined with reckless or greedy defendants who underestimate the value of the cases, and the difference a good lawyer makes." He should know, in his last 3 jury trials, the combined pre-trial offers of the defendants were $1,300,000. The combined jury awards were a little under $40 million dollars.

"Earning recognition from *Texas Lawyer/VerdictSearch* for two No. 1 outcomes in two vastly different practice areas earlier this year is a significant milestone for our team," Mr. Branson says. "We've worked very hard to build the kind of firm that is recognized on a broad level for its trial skills, whether our clients are individuals or businesses."

Rank	Award Total	Year	Primary Case Type	Case Name	Headlines	Law Firm
1	$150,370,000,000.00	2011	Intentional Torts	*Middleton v. Collins*	Boy died 13 years after being doused in gasoline, set on fire	Ken Bigham Law Firm; Sico, White, Hoelscher & Braugh LLP
2	$625,500,000.00	2010	Intellectual Property	*Mirror Worlds LLC v. Apple Inc.*	Apple infringed patents for display, organization	Ireland, Carroll & Kelley; Stroock & Stroock & Lavan, LLP
3	$482,000,000.00	2011	Intellectual Property	*Bruce N. Saffran, M.D., Ph.D. v. Johnson & Johnson and Cordis Corp.*	Doctor said company's heart stent infringed his patent	Albritton Law Firm; Dickstein Shapiro LLP; Williams Morgan & Amerson
4	$368,160,000.00	2012	Intellectual Property	*VirnetX Inc. v. Cisco Systems Inc.*	Suit involved patents on securing private networks	Parker, Bunt & Ainsworth, P.C.; McKool Smith
5	$345,000,000.00	2011	Intellectual Property	*Versata Software Inc. v. SAP America Inc.*	Plaintiff claimed infringement of patent for pricing technology	Ahmad, Zavitsanos & Anaipakos, P.C.; McKool Smith, P.C.
6	$238,038,001.00	2010	Contracts	*Dillard's Inc. v. i2 Technology Inc.*	Plaintiff department store licensed supply-chain software	Friday, Eldredge & Clark; Susman Godfrey
7	$195,350,818.00	2012	Consumer Protection	*State of Texas v. Taxmasters Inc.*	Taxmasters misled its customers, state alleged	Attorney General's Office
8	$170,306,418.60	2011	Fraud	*State of Texas v. Actavis Mid Atlantic LLC*	Defendant provided false price info to Medicaid, state claimed	Anderson LLC; Celeste B Kemper; Gary M. Grossenbacher; Goode, Casseb & Jones; Law Offices of Larry Black; Attorney General's Office; The Breen Law Firm
9	$162,000,000.00	2012	Contracts	*Longview Energy Co. v. Huff Energy Fund, L.P.*	Energy co. hijacked investment opportunity	Gardere Wynne Sewell; Joe Luna Law Office; Knickerbocker, Heredia, Jasso & Stewart P.C.; Law Office of Francisco Ponce; Watts Guerra Craft LLP
10	$124,546,737.89	2010	Motor Vehicle	*Pacheco v. Chavira*	Two killed, six injured in van rollover on trip to Colorado	Wigington Rumley Dunn, L.L.P.; Sico, White, Hoelscher & Braugh, LLP; Scherr & Legate; Pastrana Law Firm
11	$118,000,000.00	2012	Contracts	*JJJJ Walker LLC v. First National Bank*	Plaintiffs defrauded out of ownership, they claimed	Provost Umphrey Law Firm; McWhorter, Cobb & Johnson; Yetter Coleman; Law Office of Patrick Zummo
12	$116,390,628.00	2011	Fraud	*Noel v. Devon Energy*	Plaintiff said majority owner of business undervalued it	Gibbs & Bruns, L.L.P.
13	$105,900,000.00	2012	Intellectual Property	*WesternGeco LLC v. Ion Geophysical Corp.*	Seismic streamer system infringed patents	Kirkland & Ellis; Smyser, Kaplan & Veselko
14	$105,750,003.00	2010	Intellectual Property	*VirnetX Inc. v. Microsoft Corp.*	Microsoft accused of willfully infringing VPN patents	Parker, Bunt & Ainsworth, P.C.; McKool Smith
15	$95,224,863.00	2010	Intellectual Property	*SynQor Inc. v. Artesyn Technologies Inc.*	Plaintiff said suppliers of power converters infringed patents	Gillam & Smith LLP; Sidley Austin LLP
16	$94,379,725.00	2011	Intellectual Property	*Wellogix Inc. v. Accenture LLP*	Software developer claimed theft of trade secrets	Laminack, Pirtle & Martines
17	$82,500,000.00	2010	Workplace Safety	*Petrie v. Hanover Compression L.P.*	Explosion of hot oil heater at gas processing plant	The Ammons Law Firm, LLP
18	$80,800,000.00	2010	Contracts	*HMC Hotel Properties II Ltd. Partnership v. Keystone-Texas Property Holding Corp.*	Defendant counterclaimed for slander of title, interference	Crouch & Ramey

VERDICTS *like these put* HMG *in the* TEXAS VERDICTS HALL *of* FAME.

A TEXAS LAW FIRM *with a* NATIONAL REPUTATION *for* WINNING BIG VERDICTS *and* FAST SETTLEMENTS.

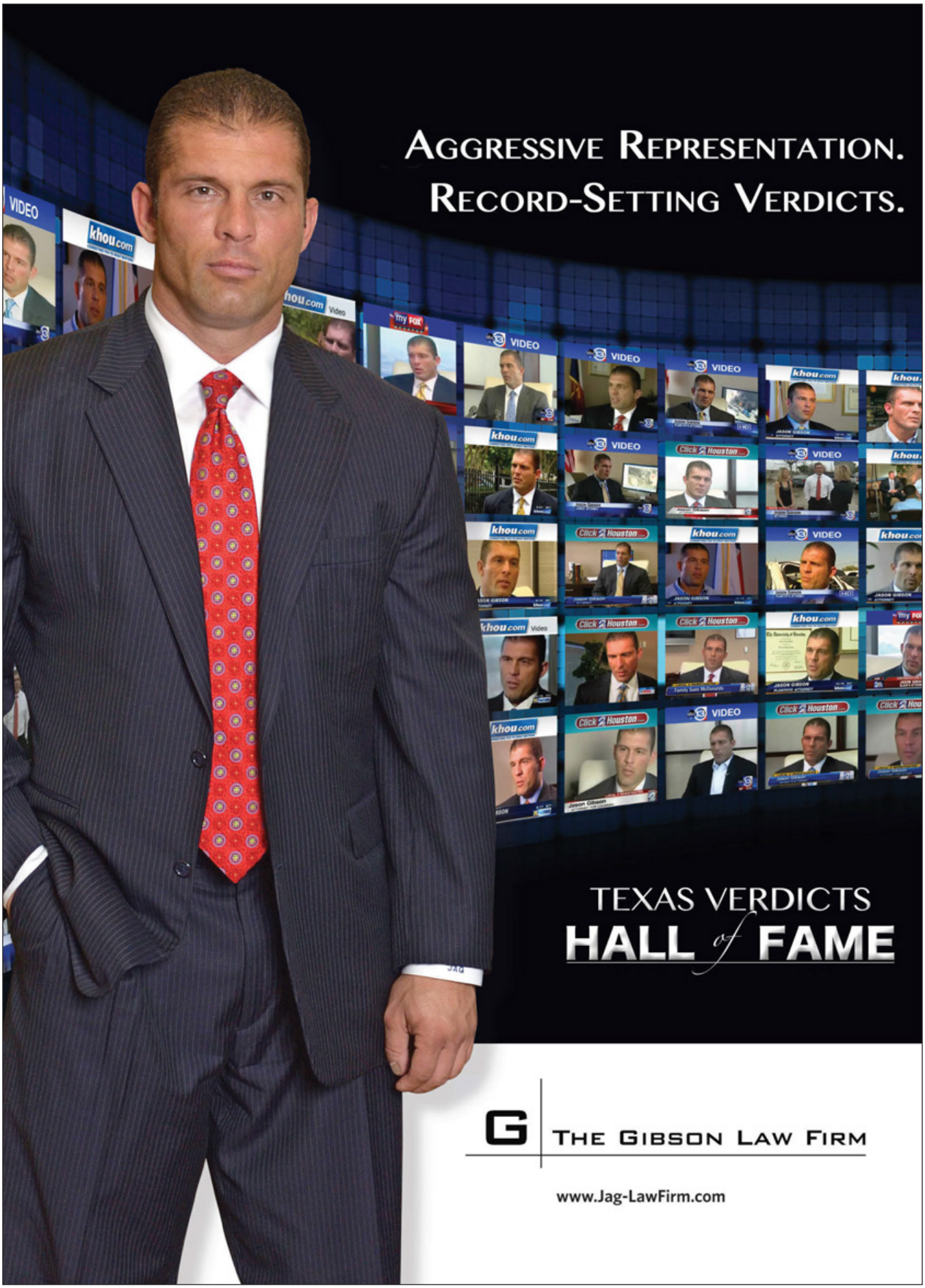
Call today for information about our association fees.

HMG

HMGLawFirm.com | 1(800) 334-3298
719 S Shoreline Blvd #500, Corpus Christi, TX 78401

HILLIARD MUÑOZ GONZALES LLP
TRIAL ATTORNEYS

Rank	Award Total	Year	Primary Case Type	Case Name	Headlines	Law Firm
19	$63,791,153.00	2011	Intellectual Property	*Commil USA LLC v. Cisco Systems Inc.*	Cisco equipment had plaintiff's patented methods	Sayles Werbner
20	$61,750,000.00	2012	Contracts	*Lowry v. Jankovic*	Contractors broke deal with Iraqi consultants	Prichard, Hawkins, McFarland & Young LLP; David W. Marshall, PLLC
21	$58,000,000.00	2010	Consumer Protection	*Cull v. Perry Homes*	Residential foundation design problems claimed by plaintiffs	Fitzpatrick Hagood Smith & Uhl, LLP; Law Offices of Van Shaw
22	$57,525,537.00	2010	Consumer Protection	*State of Texas v. Petroleum Wholesale L.P.*	State said defendants' gas pumps were miscalibrated	Attorney General's Office
23	$56,360,368.00	2010	Products Liability	*Alfonzo Lopez and Maria Elena Lopez v. Caterpillar Inc. and Holt Texas Ltd.*	Plaintiffs said earth scraper had faulty transmission system	The Herrera Law Firm; The Lanier Law Firm, P.C.
24	$53,606,000.00	2010	Intellectual Property	*Datatreasury Corp. v. Wells Fargo & Co.*	Banks infringed patents for check imaging, plaintiff alleged	Nix, Patterson & Roach, L.L.P.
25	$43,408,871.45	2010	Corporations	*Minnis v. Citrin Holdings LLC*	Defendants never intended to honor agreement, plaintiffs alleged	Reynolds, Frizzell, Black, Doyle, Allen & Oldham, L.L.P.
26	$41,816,001.31	2010	Products Liability	*Rocha v. Michelin North America Inc.*	Tire tread separated before rollover that paralyzed teen	Knickerbocker, Heredia, Jasso & Stewart, P.C.; Sico, White, Hoelscher & Braugh, L.L.P.
27	$37,377,700.00	2011	Contracts	*Bluff Power Partners L.P. v. ES Energy Soutions LP*	Taking partnerships into bankruptcy violated agreement	Baron & Blue, P.C.; Kaeske Law Firm; Law Office of Brad Jackson; Law Office of Harriet O'Neill; Simpson Martin LLP; Standly and Hamilton, LLP; Underwood Perkins P.C.
28	$35,091,655.00	2012	Intellectual Property	*Halliburton Energy Services Inc. v. Weatherford International Inc.*	Plaintiff's patent on drilling tool apparatus was infringed	Baker Botts
29	$34,800,737.16	2012	Contracts	*VFS Financing Inc. v. Disiere Partners*	Jet loaded with gold was confiscated in Congo	Rochelle McCullough
30	$33,313,573.96	2012	Motor Vehicle	*Roberts v. Bick's Construction Inc.*	Warning signs for construction zone not in place, plaintiff said	Guerra Mask LLP
31	$32,500,000.00	2010	Insurance	*Doctors Hospital 1997 L.P. v. Beazley Insurance Co. Inc.*	Hospital sought insurance money after hurricane forced it to close	Strasburger & Price LLP; Yetter, Warden & Coleman, L.L.P.
32	$28,000,000.00	2010	Employment	*Garriott v. NCSoft Corp.*	Video game exec said company broke stock option agreement	Fish & Richardson P.C.
33	$27,531,493.64	2010	Contracts	*Paramount Insurance Repair Service Inc. v. TFT Galveston Portfolio Ltd.*	Plaintiff was owed for restoration work after hurricane	The Kelley Law Firm
34	$27,505,937.69	2010	Products Liability	*Johnston v. Afton Pumps Inc.*	Exposure to asbestos resulted in mesothelioma, family claimed	Simon, Eddins & Greenstone, LLP
35	$27,500,000.00	2012	Motor Vehicle	*Flores v. Wal-Mart Stores Inc.*	Wal-Mart failed to inspect tire tread properly, family claimed	The Guajardo Law Firm; Gowan & Elizondo LLP; Sico, White, Hoelscher & Braugh L.L.P.; Charles L. Barrera; Carrillo Law Office
36	$27,034,892.75	2011	Contracts	*Case Art Midwest Inc. v. Clapper*	Real estate partner breached duties, plaintiffs claimed	SMVF Law Offices
37	$26,034,380.00	2010	Contracts	*LHC Nashua Partnerships Ltd. v. PDNED Sagamore Nashua LLC*	Plaintiff alleged corporation reneged on land sale	Edward J. Westmoreland; Kelly, Sutter & Kendrick


AGGRESSIVE REPRESENTATION.
RECORD-SETTING VERDICTS.
TEXAS VERDICTS
HALL of FAME
THE GIBSON LAW FIRM
www.Jag-LawFirm.com

Rank	Award Total	Year	Primary Case Type	Case Name	Headlines	Law Firm
38	$25,450,592.03	2010	Intentional Torts	*Texas Disposal Systems Landfill Inc. v. Waste Management of Texas Inc.*	Landfill company claimed that competitor defamed it	Graves, Dougherty, Hearon & Moody
39	$25,290,744.00	2010	Intellectual Property	*Baker Hughes Inc. v. Varel Holdings Inc.*	Company accused of using trade secrets to 'clone' drill bit	Locke Lord Bissell & Liddell LLP
40	$25,155,645.00	2010	Intellectual Property	*Input/Output Inc. v. Sercel Inc.*	Geophysical company claimed infringement of sensor patent	Gillam & Smith, L.L.P.; Locke Lord Bissell & Liddell LLP
41	$23,423,271.23	2010	Motor Vehicle	*Murphree v. Site Concrete Inc.*	Drunken driver went through closed work zone, hit plaintiff's car	Kelly Hart & Hallman LLP; Simpson, Boyd & Powers
42	$23,129,321.00	2011	Intellectual Property	*Fractus S.A. v. Samsung Electronics Co. Ltd.*	Samsung infringed patent on smart-phone antennas	Heim Payne & Chorush; Susman Godfrey; Ward & Smith Law Firm
43	$21,825,000.00	2010	Motor Vehicle	*Small v. Vestal*	Texting while driving blamed for fatal head-on crash	Watts Guerra Craft LLP
44	$21,544,872.79	2012	Motor Vehicle	*Chatman-Wilson v. Cabral*	Coca-Cola allowed its drivers to use phones while driving	Hilliard Munoz Gonzales; Law Offices of Thomas J. Henry
45	$21,288,915.00	2010	Contracts	*National Health Administrators Inc. v. Life Investors Insurance Company of America*	Contract term 'loss ratio' was ambiguous, plaintiff argued	Kelly Hart & Hallman LLP; Meadows, Owens, Collier, Reed, Cousin & Blau
46	$21,000,000.00	2012	Contracts	*Transverse LLC v. Iowa Wireless Services LLC*	Wireless provider hired and later fired software developer	McGinnis, Lochridge & Kilgore

Rank	Award Total	Year	Primary Case Type	Case Name	Headlines	Law Firm
47	$20,799,410.40	2010	Contracts	*Umma Resources LLC v. Key Energy Services Inc.*	Well operator said defendant ruined wellbore	Flood & Flood; Schneider & McWilliams P.C.; Sico, White, Hoelscher & Braugh LLP
48	$20,000,000.00	2012	Premises Liability	*Doe v. PCM Barker Cypress LLC*	Woman blindfolded, raped over 12 hours in her apartment	Williams Kherkher Hart Boundas LLP
49	$19,890,991.69	2010	Workplace Safety	*Lerma v. Hilcorp Energy Co.*	Flash fire at gas plant kills one worker, injures two others	Guerra Mask LLP; The Gillaspie Law Firm; Killion Law Firm; Watts Guerra Craft LLP
50	$19,440,000.00	2012	Fraud	*Purser v. Steele*	Defendants took advantage of man with dementia	Baird, Crews, Schiller & Whitaker P.C.; Ray, Valdez, McChristian & Jeans
51	$18,795,800.00	2011	Motor Vehicle	*Reedy v. Greyhound Lines International*	Bus went out of control on icy road and tipped onto its side	Fitts Zehl LLP; Ted B. Lyon & Assoc.
52	$18,780,047.00	2012	Premises Liability	*Dawson v. Fluor Intercontinental Inc.*	Man was burned severely in shower at Iraq work compound	Klein Frank P.C.; Ted B. Lyon & Assoc.
53	$18,602,697.00	2010	Contracts	*Zachry Construction Corp. v. Port of Houston Authority of Harris County, Texas*	Corp. said Port Authority rejected dock excavation method	Gibbs & Bruns, L.L.P.; Reynolds, Frizzell, Black, Doyle, Allen & Oldham LLP
54	$16,900,000.00	2012	Intentional Torts	*Grimaldo v. Mwancha*	Facility tried to cover up rape of retarded woman, family claimed	The Kelly Law Firm, P.C.
55	$16,579,179.00	2010	Employment	*Miller v. Raytheon Co.*	Raytheon engineer claimed age played role in termination	Gillespie, Rozen & Watsky PC

Rank	Award Total	Year	Primary Case Type	Case Name	Headlines	Law Firm
56	$16,500,000.00	2012	Fraud	*SCC Opportunity Partners LLC v. Halberdier*	Defendants misrepresented terms of agreement	Hughes Ellzey LLP; Fibich, Hampton, Leebron, Briggs & Josephson LLP; Kilpatrick Law Firm
57	$16,050,770.00	2011	Civil Rights	*Roberts v. Cole*	Plaintiff claimed assaults by deputies were unprovoked	Simon & Luke LLP
58	$16,028,324.26	2010	Motor Vehicle	*Mulder v. Venture Transp. Logistics*	Collision With Truck Trailer Results in $16M Verdict for Plaintiffs	The Crosley Law Firm P.C.
59	$15,399,900.00	2012	Intellectual Property	*Pact XPP Technologies AG v. Xilinx Inc.*	Plaintiff claimed infringement of computer-related patents	Heim, Payne & Chorush LLP; Susman Godfrey
60	$15,394,621.00	2012	Intellectual Property	*Cardsoft Inc. v. Verifone Inc.*	Plaintiff claimed infringement on point-of-sale software	The Davis Law Firm, P.C.; Duane Morris; Cozen O'Connor
61	$15,000,000.00	2011	Intellectual Property	*Transocean Offshore Deepwater Drilling Inc. v. Maersk Contractors USA Inc.*	Plaintiff claimed infringement on drilling rig design elements	Fulbright & Jaworski L.L.P.
62	$14,101,700.00	2011	Premises Liability	*Wagner v. Four J's Community Living Center Inc.*	Two residents of special care facility were trapped during fire	Shelton Sparks & Associates L.L.P.; Terry & Thweatt, P.C.
63	$13,800,000.00	2011	Consumer Protection	*State of Texas v. Jubilee Financial Solutions, L.P.*	Defendants marketed illegal 'debt invalidation' programs, state claimed	Attorney General's Office
64	$13,707,384.00	2010	Workplace Safety	*Cotright v. G&C Hotshot Service LLC*	Worker burned in chemical flashfire on tanker truck	The Gibson Law Firm; The Klinger Law Firm

heimpayne+chorushLLP

HPC represents PACT in its patent infringement lawsuit against Xilinx, the world's largest manufacturer of Field Programmable Gate Arrays ("FPGAs"), and Avnet, the primary distributor of Xilinx's FPGAs. PACT is a German company that pioneered the "coarse grained" technology used in modern FPGAs, including revolutionary bus interface systems and dynamically reconfigurable processing cells. PACT's patent portfolio covers that technology, amongst others.

In **May 2012**, a team of lawyers tried PACT's case before a jury in the Eastern District of Texas. **HPC** took the lead in preparing and arguing the key patent liability issues. After only a few hours of deliberation, the jury returned a verdict that Xilinx willfully infringed two of PACT's patents and awarded damages of $15.4 million. In September 2013, the Court entered a judgment that enhanced damages by $23.1 million and awarded PACT attorneys' fees, interest and costs. The **HPC** team representing PACT included **Russ Chorush, Eric Enger, Mike Heim, Les Payne, and Nate Davis.** The HPC team worked with attorneys from Susman Godfrey (including Joe Grinstein, Lindsey Godfrey, and John Lahad.)

On **May 26, 2011,** a jury in Tyler returned a verdict in favor of Fractus, S.A, an antenna company based in Barcelona, Spain, on all trial claims asserted against Samsung.

The claims were spread across four related patents in Fractus' Multilevel Patent family, generally covering multiband antennas used in portable communication devices, such as cell phones. The jury found that Samsung infringed the claims literally and under the doctrine of equivalents, as well as finding Samsung's infringement willful. After finding that Samsung had not proven the patent claims invalid, the jury entered a verdict in excess of $23M, which amounts approximately to 35 cents per antenna. In June 2012, the Court entered a judgment that enhanced damages by $15 million and awarded Fractus, S.A. pre-judgment and post-judgment interest and costs. The **HPC** team representing Fractus included Michael Heim, Les Payne, and Micah Howe. The **HPC** team worked seamlessly with attorneys from Susman Godfrey (including Max Tribble, Justin Nelson, and Victoria Cook) and Ward & Smith (Johnny Ward) to produce this result.

heim, payne & chorush, l.l.p. | 600 travis, suite 6710 | houston, texas 77002

Rank	Award Total	Year	Primary Case Type	Case Name	Headlines	Law Firm
65	$12,450,000.00	2010	Motor Vehicle	*Strange v. Penhall Co.*	Man killed when he lost control of machinery in work zone	Watts Guerra Craft LLP
66	$12,393,542.00	2011	Premises Liability	*VanDusen v. Aspen Square Management*	Man, 23, dove into shallow pool at apartment and broke his neck	Howry Breen & Herman
67	$12,134,008.00	2010	Workplace Safety	*English v. Berry Contracting LP*	Worker broke his spine when electrical cabinets fell on him	Watts Guerra Craft LLP; William Bass
68	$12,046,000.00	2012	Intentional Torts	*Lesher v. Doescher*	Anonymous comments on Internet attacked pltfs' character	Demond & Hassan; Lesher and Associates
69	$11,965,000.00	2012	Workplace Safety	*Roye v. Laughlin*	Chemical plant operator fell in scalding water from steam trap	Barton Law Firm
70	$11,445,000.00	2010	Intentional Torts	*Tovah Energy LLC v. Grimes*	Petroleum engineer said trade secrets were misappropriated	Chandler, Mathis & Zivley; Isgitt, Dees & Turcotte; Law Office of Don Wheeler; McLemore, Reddell, Ardoin & Story; The Gallagher Law Firm
71	$11,314,180.72	2012	Products Liability	*Trevino v. M & M Elevator Co., LTD*	Pipe unexpectedly dropped out of elevator, hit rig worker	Fadduol, Cluff & Hardy, P.C.
72	$11,120,000.00	2010	Workplace Safety	*Flores v. Gulf Island Fabrication Inc.*	1,200 ton load shifted, killing crane operator	Alonzo Torres Rodriguez; John H. Miller; Law Offices of William J. Tinning P.C.
73	$11,032,975.00	2010	Intellectual Property	*Vaquillas Energy Ltd. v. Lamont*	Plaintiffs claimed misappropriation of trade secrets	Andres Reyes; Armando X. Lopez; Beirne, Maynard & Parsons, L.L.P.

Rank	Award Total	Year	Primary Case Type	Case Name	Headlines	Law Firm
74	$10,702,449.53	2011	Workplace Safety	*Foret v. Stewart & Stevenson LLC*	Derrick worker suffered brain injury in fall when mast collapsed	Stevenson & Murray
75	$10,700,000.00	2011	Medical Malpractice	*Estate of Skorpenske v. Conte*	Dr. prescribed fatal dose, combo of painkillers, family claimed	Hastings Law Firm; Stephens Law Firm
76	$10,665,796.50	2012	Business Law	*Cruz v. Plano AMI L.P.*	Partner in medical imaging facilities claimed conversion	The Law Offices of Frank L. Branson, P.C.
77	$10,260,000.00	2011	Workplace Safety	*Bice v. Teco-Westinghouse Motor Co.*	Worker killed during test of drive train that came apart	Fisher, Boyd, Brown & Huguenard, LLP
78	$10,070,809.06	2012	Contracts	*Tennessee Gas Pipeline Co. v. Delta Gulf Corp.*	Parties claimed breach of pipeline construction contract	Cokinos, Bosien & Young
79	$10,000,000.00	2011	Business Law	*Resort Development Latin America Inc. v. Barton*	Plaintiffs claimed tortious interference	Thompson & Knight LLP
79	$10,000,000.00	2010	Contracts	*Alcoa Inc. v. Luminant Generation Co. LLC*	Defendant breached power supply agreement: plaintiff	Kelly Hart & Hallman LLP; Susman Godfrey
81	$9,421,898.44	2010	Motor Vehicle	*Davila v. Haas-Anderson Construction Ltd.*	Road construction worker was hit by pickup and paralyzed	Brunkenhoefer, Almaraz & Turman, P.L.L.C.; The Edwards Law Firm
82	$9,361,000.00	2011	Negligence	*Doe v. Episcopal School of Dallas Inc.*	Family blamed school for teacher's sex assault on teen	Aldous Law Firm; Cooper & Scully
83	$9,262,623.03	2011	Contracts	*Marshall v. Murchison Oil & Gas Inc.*	Former CFO claimed company breached multiple agreements	K&L Gates

Rank	Award Total	Year	Primary Case Type	Case Name	Headlines	Law Firm
84	$9,235,000.00	2010	Motor Vehicle	*Barnett v. Highway Techs.*	Plaintiffs Awarded $9.2M for Collision in Neuces County	Sico, White, Hoelscher & Braugh, LLP
85	$9,065,476.00	2011	Intellectual Property	*Alexsam Inc. v. IDT Corp.*	Parties battled over validity of patents for phone, gift cards	Fitch Even Tabin & Flannery; Gillam & Smith, L.L.P.
86	$9,000,000.00	2011	Products Liability	*Henderson v. Dow Chemical Co.*	Family blamed exposure from 50 years ago for mesothelioma	Baron & Budd, P.C.
87	$8,998,877.05	2010	Workplace Safety	*Rincon v. Shell Exploration and Production Co.*	Oilfield worker fatally injured in forklift accident	Magdalena Hinojosa; Watts Guerra Craft LLP
88	$8,981,500.00	2011	Contracts	*Cravens v. Myers*	Defendant didn't raise money to build hospital, plaintiff claimed	Jackson Walker, L.L.P.; Law Offices of Carter L. Hampton
89	$8,775,141.00	2010	Negligent Misrepresentation	*Cruciani v. Budd*	Attorney said he left lucrative job based on misleading info	The Hartnett Law Firm
90	$8,672,567.85	2010	Motor Vehicle	*Gaines v. Woodworth*	Woman severely injured when brake-less trailer hit her vehicle	Brad Rock Reagan; Clearman Law Firm; Law Office of Dick Swift
91	$8,659,400.00	2012	Intentional Torts	*Johnson v. Blackburn*	Hotel guest was beaten to death in robbery	Ty Clevenger
92	$8,590,000.00	2012	Workplace Safety	*Montoya v. Ben E. Keith Co.*	Brakes disengaged while truck driver was repairing them	The Gibson Law Firm
93	$8,575,174.20	2010	Contracts	*Drummond American LLC v. Share Corp.*	Former agents accused of sharing trade secrets with new employer	Littler Mendelson

SUCCESS COMES WITH GREAT RESPONSIBILITY

Ted B. Lyon & Associates would like to applaud its trial teams in obtaining two of the Top 100 Verdicts in Texas, which are being inducted into the Hall of Fame. "Success comes with great responsibility" says Lyon, founding partner, former Texas state senator, state representative, who possesses more than 37 years of complex litigation experience. Our attorneys work relentlessly to understand the personal hardships and legal challenges their clients and families face. Marked by record-setting recoveries throughout the United States, the lawyers at Ted B. Lyon & Associates are known for the outstanding results they achieve for their clients.

TEXAS VERDICTS HALL OF FAME AWARD HONOREE

Reedy/Reeves v. Greyhound

Ted Lyon and Ron McCallum achieved a $18,795,800 verdict in a December 2011 jury trial in Dallas County against Greyhound Lines Inc., for their client's injuries resulting from the bus going out of control on an icy road and tipping onto its side.*

Dawson v. Fluor

Marquette Wolf achieved a $18,780,000 verdict in a June 2012 jury trial in Dallas County against Fluor Intercontinental Inc., one of the world's largest military industrial corporations.†

C&H Powerline v. Enterprise Texas Pipeline

Ted Lyon and Marquette Wolf achieved a $27 million dollar verdict against the country's largest onshore pipeline company, which was the largest verdict in the history of Washington County, Oklahoma and the 22nd largest nationally in 2013.°

*In the Greyhound case we worked with Fitts Zehl, LLP of Houston, TX. †In the Fluor case we worked with Klein Frank, P.C. of Boulder, CO.
°In the C&H Powerline case we worked with Riggs Abney of Tulsa, OK.

Referrals and co-counsel arrangements are always welcome and are the highest compliment.

TED B. LYON & ASSOCIATES, P.C.

ATTORNEYS AT LAW

18601 LBJ Freeway, Suite 525
Mesquite, Texas 75150

www.TedLyon.com
1-877-TED-LYON

Rank	Award Total	Year	Primary Case Type	Case Name	Headlines	Law Firm
94	$8,500,000.00	2011	Intellectual Property	*LaserDynamics Inc. v. Quanta Computer Inc.*	Defendant infringed patent re disc drive-related technology	Duane Morris LLP
95	$8,400,000.00	2011	Products Liability	*Gensler v. Hercules Inc.*	Former pipefitter blamed pipe manufacturer for mesothelioma	Baron & Budd P.C.
96	$8,370,000.00	2010	Products Liability	*Control Solutions Inc. v. Gharda USA Inc.*	Plaintiffs said contaminated chemicals caused warehouse fire	Westmoreland, Hall, Maines & Lugrin
97	$8,203,908.57	2011	Motor Vehicle	*Calvert v. Johnson*	Boy sustained severe brain injury in crash with bus	Byrd Davis Furman
98	$8,200,003.02	2010	Intentional Torts	*Gipson v. Wal-Mart Stores Inc.*	Plaintiff arrested at Wal-Mart when cashing in money orders	The Kelley Law Firm
99	$8,100,000.00	2010	Intentional Torts	*Bohnsack v. Varco LP*	Defendant released confidential information, plaintiff alleged	Andrew D. Huppert; Carey Law Firm
100	$8,022,324.00	2011	Premises Liability	*Goodwin v. QuikTrip Corp.*	Store blamed for encounter between murderer and victim	Law Office of Matthew Bobo PLLC; The Broome Law Firm PLLC

PROVOST ★ UMPHREY

LAW FIRM, L.L.P.

Hard-Working Lawyers for Hard-Working People

www.provostumphrey.com

Provost★Umphrey Law Firm congratulates **Zona Jones** for being inducted into Texas Lawyer's inaugural Texas Verdicts Hall of Fame for the $118 million jury verdict in *JJJJ Walker LLC vs. First National Bank*.

A Harris County State District Court jury awarded $118,121,454 to six investors that were defrauded by First National Bank of Edinburg, Conroe attorney Eric Yollick and a healthcare management group in July 2012. The verdict has since been named number 24 in the Top 100 Verdicts of 2012 by *The National Law Journal*.

Zona Jones practices personal injury, commercial litigation and consumer class action at **Provost ★Umphrey Law Firm** in Beaumont, Texas. He is certified in Personal Injury Trial Law by the Texas Board of Legal Specialization.

For more than forty years, **Provost ★ Umphrey**'s mission has remained to seek justice for those most in need - those who have suffered a personal injury or death due to the wrongful conduct of others. Our attorneys fight for our clients nationwide with offices in Beaumont and Houston, Texas, Little Rock, Arkansas and Nashville, Tennessee. Led by Walter Umphrey, **Provost★Umphrey** continues to be one of the most successful trial law firms in the nation by remaining *Hard-Working Lawyers for Hard-Working People.*

490 Park Street
Beaumont, Texas 77704
Toll Free: 1-855-829-3855
www.provostumphrey.com

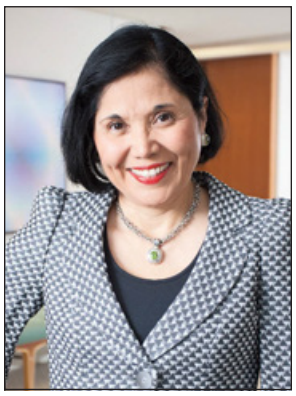
Plaintiff department store licensed supply-chain software

Verdict: (P) $238,038,001.00
Case: *Dillard's Inc. v. i2 Technology Inc.*, No. DC-10924

PLAINTIFF(S) Attorney:
- Ophelia F. Camina, Terrell W. Oxford; Susman Godfrey; Dallas, TX, for Dillard's Inc.
- David D. Wilson; Friday, Eldredge & Clark; Little Rock, AR, for Dillard's Inc.

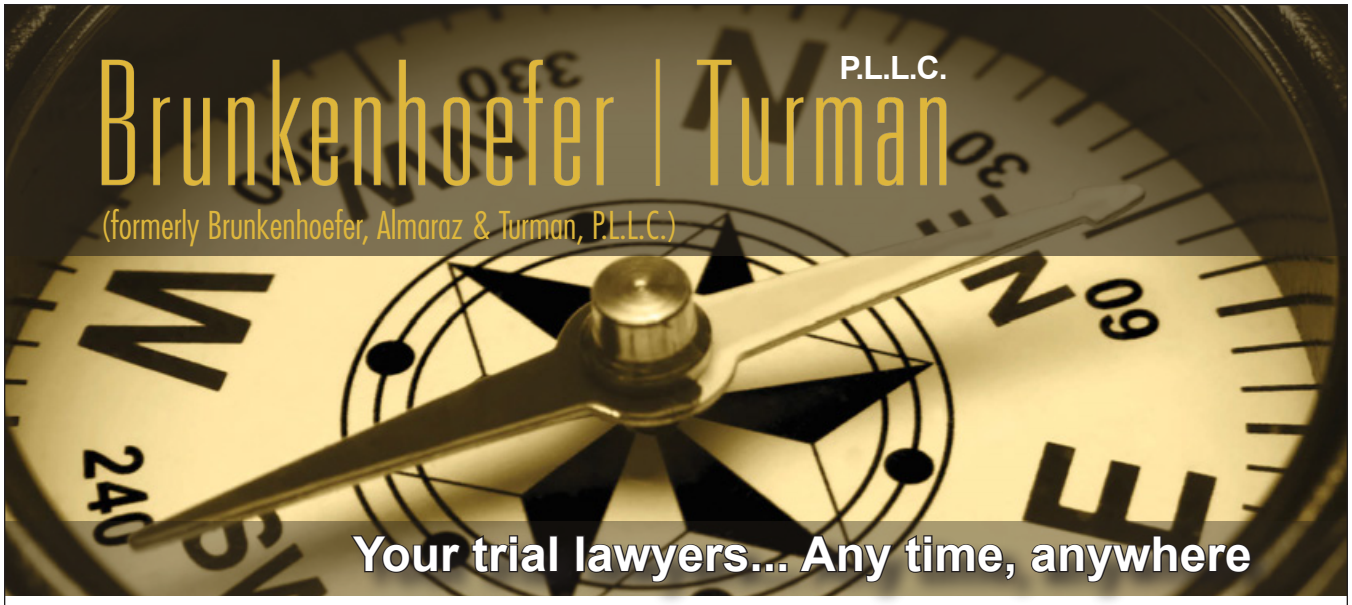
Facts: In 2000, plaintiff Dillard's Inc., a national department store chain, licensed two enterprise supply-chain software products from and entered into a software services contract with software developer i2 Technologies Inc. Dillard's said it needed the software to determine how much of the plaintiff's basic merchandise needed to be ordered to replenish each of the plaintiff's 350 stores (a total of 18 million SKU-store combinations), and the software had to make this determination during a 24-hour window each week. Dillard's said i2 falsely represented that its software could handle this job. Dillard's sued i2 for fraudulent inducement, fraud, breach of contract and breach of warranty. According to Dillard's, the software could handle no more than 5,200 SKU-store combinations and took 70 to 90 hours to do so and was therefore useless to Dillard's. The plaintiff claimed that the software lacked essential functionality and that i2 exaggerated the products' capabilities. i2 denied representing that the software could process 18 million SKU-store combinations or representing that it could do so in 24 hours. It also argued that Dillard's was still using one of the i2 software products at the time of trial. Also, defense counsel reported that one of the software products could handle 9.2 million SKU-store combinations and the other could handle about 4 million, "together taking approximately 50-70 hours." i2 also argued that Dillard's reasonably should have discovered any fraud or breach in 2001. In addition, i2 counterclaimed for breach of contract and misappropriation of trade secrets, based on the plaintiff reverse-engineering the software. Dillard's denied breach of contract or misappropriation. As to limitations, Dillard's said it reasonably discovered i2's fraud and breach in late 2003. Dillard's said the software was not implemented until late 2001 and that, initially, it was implemented with just a few SKUs and in just a few stores and worked all right. The parties disputed whether other large i2 customers were able to use the software successfully.

Verdict: The jury found that i2 fraudulently induced Dillard's to enter into the license agreement and services agreement and that i2 committed fraud. The jury also found by clear and convincing evidence that the harm to Dillard's resulted from fraud. The jury found breach of warranty by i2. The jury found for Dillard's on the limitations issues and found no misappropriation or breach by Dillard's. The jury found no breach of contract by i2. Dillard's elected to recover under fraud. The award total is $238,038,001.


Ophelia F. Camina


Terrell W. Oxford


David D. Wilson



Motor Vehicle/Trucking • Workplace Defective Products • Medical Malpractice Maritime Negligence and Vessel Unseaworthiness

With the #7 Motor Vehicle Jury Verdict in 2010

R. Blake Brunkenhoefer and **Greg W. Turman**

have been inducted into the

TEXAS VERDICTS HALL OF FAME

$9.4 MILLION

Davila v. Haas-Anderson Construction Ltd.

(Highway Construction Worker Injury)

TOLL-FREE (877) 788-6688

500 N. Shoreline Blvd., Suite 1100 | Corpus Christi, Texas 78401-0354 | (361) 888-6655

www.gulfattorneys.com

Energy company hijacked investment opportunity, plaintiff claimed

Amount: (P) $162,000,000

Case Name: *Longview Energy Company v. The Huff Energy Fund, L.P., Riley-Huff Energy Group, LLC, William R. "Bill" Huff, and Rick D'Angelo*

PLAINTIFF(S) Attorney:

- Claudio Heredia, Rolando M. Jasso; Knickerbocker, Heredia, Jasso & Stewart P.C.; Eagle Pass, TX, for Longview Energy Company
- Joe L. Luna; Joe Luna Law Office; Crystal City, TX, for Longview Energy Company
- Edward W. Allred, P. Brian Berryman, Francisco Guerra I.V., Mikal C. Watts; Watts Guerra Craft LLP; San Antonio, TX, for Longview Energy Company
- Craig B. Florence, Randy D. Gordon, Andrew Howard, Rachel Kingrey, Lucas C. Wohlford; Gardere Wynne Sewell LLP; Dallas, TX, for Longview Energy Company
- Francisco Ponce, Francisco Ricardo Ponce; Law Office of Francisco Ponce; Carrizo Springs, TX, for Longview Energy Company

Facts: In 2009, plaintiff Longview Energy Co., a Texas-based oil and gas exploration company, began exploring land purchase opportunities in the Eagle Ford, a large shale oil and gas formation in southern Texas. In 2010, Riley-Huff Energy Group LLC, which is managed by Riley Exploration Co. and Rick D'Angelo, and owned by William R. "Bill" Huff, who also owns and operates The Huff Energy Fund L.P., purchased properties allegedly identified by Longview. Longview alleged that Huff and D'Angelo used information it gathered, and hijacked its investment opportunity in Eagle Ford. Longview sued Huff, D'Angelo, Riley-Huff Energy Group and The Huff Energy Fund, alleging breach of constructive trust, breach of fiduciary duty and fraud. In 2006, Huff Energy Fund invested in Longview was the largest shareholder in the company. The company was granted two seats on Longview's board of directors. Huff and D'Angelo were appointed to the positions in 2006. In September 2009, Huff Energy Fund asked Longview to look into Eagle Ford, along with two other locations. Shortly thereafter D'Angelo allegedly told Longview to look further into Eagle Ford, and Huff offered to fund any attractive investment in Eagle Ford that Longview could identify. In November 2009, Longview hired a consultant to look into Eagle Ford. The consultant met with a broker, who he eventually introduced to Longview. On Dec. 4, Longview allegedly gave D'Angelo the consultant's proprietary and confidential reports, and D'Angelo allegedly requested additional proprietary information. Longview then performed an economic analysis of the area. On Dec. 17, D'Angelo met with the consultant and Longview personnel to address the Eagle Ford matter, which included discussing allegedly proprietary information like petroleum extraction sites and the name of the broker. D'Angelo allegedly indicated that he wanted to move quickly on the project and that he planned to pitch the idea to Huff. The plaintiff also alleged that D'Angelo requested additional data, such as well logs and seismic information. On Jan. 12, 2010, D'Angelo listened to the consultant's presentation on Eagle Ford, and allegedly indicated that Longview and Riley-Huff Energy Group should work collaboratively on the Eagle Ford opportunity. Longview allegedly was subsequently unable to meet with Huff to pitch the investment prior to their board meeting. Longview issued pre-reading materials sent to board members on Jan. 25 that discussed the possibility of a $40 million investment on land in the Eagle Ford, as well as other investments in additional areas. The same day, Riley-Huff signed with the broker to purchase two Eagle Ford leases. When the board meeting commenced on Jan. 28, D'Angelo rejected the proposal and indicated that he felt the opportunity had not been properly vetted. In late January, a Huff Energy representative sent a letter to Longview stating the shareholder was displeased with the company's management, especially asset acquisitions, and that the effort to look into Eagle Ford did not count as an example of good management as Huff representatives had directed the company to act on the opportunity. By April 2011, Riley-Huff had invested $40 million into Eagle Ford, and Riley-Huff bought leases covering more than 50,000 acres of Eagle Ford, including thousands of acres through a broker that Longview initially introduced to Longview, as well as thousands of acres from other sources. Longview contended that the defendants

continued on Page 24


Rolando M. Jasso


Claudio Heredia


Joe L. Luna


Mikal C. Watts


P. Brian Berryman


Edward W. Allred


Craig B. Florence

LEFT TO RIGHT: Kristy Pesnell Campbell, Allen L. Williamson, Michael A. Simpson*, Derrick S. Boyd*, Ross M. Simpson, Alan Powers
*CHOSEN TO 2013 SUPER LAWYERS

SIMPSON, BOYD & POWERS

DECATUR / BRIDGEPORT

SOMETIMES BUSINESS OWNERS AND COMPANIES CAN WORK OUT THEIR DIFFERENCES. WHEN THEY CAN'T, MIKE SIMPSON AND DERRICK BOYD STAND READY.

Whether in the boardroom or the courtroom, founding partners Simpson and Boyd represent enterprising companies in protecting their trade secrets, innovative ideas and identities. Simpson, Boyd & Powers attorneys take pride in analyzing complex business, commercial or contractual disputes and presenting the issue in a straightforward manner—resulting in significant courtroom victories and recoveries. Simpson and Boyd's jury verdicts have been featured in *The Wall Street Journal*, *The Dallas Morning News* and the *Los Angeles Times*, and have been frequently included on top lists in Texas and nationwide since 1995.

Simpson has been trying cases to juries for more than 30 years. A graduate of Baylor University (J.D. 1977), he is board-certified as a civil trial specialist by the National Board of Trial Advocacy. Simpson has been consistently named to Texas Super Lawyers since 2003. Simpson is also board-certified in personal injury trial law by the Texas Board of Legal Specialization.

Boyd is a graduate of The University of Texas at Austin (B.A. 1991, J.D. 1994), and has been trying cases to juries for more than 15 years. Boyd is board-certified in civil trial law by the Texas Board of Legal Specialization. Named to Texas Rising Stars in 2006, Boyd has now been named to Super Lawyers for the fifth year in a row.

Simpson and Boyd pride themselves on the firm's ability to handle diverse, complex business disputes and catastrophic injury or wrongful death cases. That team stands ready for the next fight.

SIMPSON, BOYD & POWERS
sbplaw.com

DECATUR
105 N. State St., Suite B
P.O. Box 957
Decatur, TX 76234

Toll Free: (866) 627-8308
PH: (940) 627-8308
FX: (940) 627-8092

BRIDGEPORT
1119 Halsell St.
P.O. Box 685
Bridgeport, TX 76426

Toll Free: (866) 683-4098
PH: (940) 683-4098
FX: (940) 683-3122

continued from Page 22

were aware of their fiduciary duty and trust, as, in 2007, Longview's corporate counsel sent out a letter indicating that stockholders and directors must make decisions in the best interest of the company, regardless of any conflict of interest. Longview further contended that the defendants never disclosed that D'Angelo was the manager of Riley-Huff Energy Group LLC, allegedly a direct competitor. Longview also contended that the defendants failed to fulfill its fiduciary duties by failing to present to Longview or its board the additional opportunities in the area that it ultimately purchased. Longview also contended that the Huff Energy-appointed directors chose to use the confidential information for Riley-Huff and compromised their duty of trust and strict loyalty to the plaintiff, because they could get nearly 100 percent of the value from the investment, as opposed to sharing the profits with Longview. The plaintiff also alleged that Huff showed disregard for Longview's individual interests, since many of Huff's portfolio companies were involved in the transaction. The plaintiff further contended the defendants breached their constructive trust by stealing and misusing confidential and proprietary information. The plaintiff also argued that the January 2010 letter was designed as a pretext to obscure the company's intentions to hijack Longview's Eagle Ford opportunity, as it failed to make any mention of the Riley-Huff purchase in Eagle Ford. The defendants denied the plaintiff's allegations and contended that Longview never presented specific acreage to lease land in Eagle Ford, but only provided a hypothetical economic analysis; therefore, the development prospects were merely conceptual and could not be stolen. The defendants further contended that, as the board did not invest in the Eagle Ford, Riley-Huff Energy Group was not a direct competitor. The defense argued that because Huff Energy only had two seats on the eight-member board, Longview's board could have undertaken the investment if it believed it was in the company's best interest, but, as the meeting minutes show, the board unanimously rejected the investment and the company chose not to purchase leases in the Eagle Ford. The defense further argued that Longview did not have experience developing unconventional operations like Eagle Ford, which would have involved significant geological, mechanical and market risks. Longview lacked the resources to undertake any significant investment in the Eagle Ford and could never afford the investment ultimately undertaken by Riley-Huff, the defense argued. The defense also contended that Longview was aware that the Huff Energy Fund had additional oil and gas investments including additional investments in the Eagle Ford, and that Longview was aware of Riley-Huff's investment in the Eagle Ford. Longview dropped its claims regarding misappropriation of trade secrets, fraud and tortious interference.

Verdict: The jury found that the market value of the Eagle Ford that Riley-Huff acquired as a result of the defendants' failure to comply with their fiduciary duty to be $42 million; that Riley-Huff paid $24.5 million for the Eagle Ford land; that the amount of past production revenues the defendants derived from the assets in Eagle Ford as a result of the defendants' failure to comply with their fiduciary duty to be $120 million and that Riley-Huff paid $127 million to develop the assets. Final judgment awarded the plaintiffs $95.5 million, which is based on the jury's finding regarding the value of past-production revenues minus the payment the defendants made to acquire the land. The defendants were also ordered to transfer title to Longview of more than 45,000 acres of Eagle Ford properties, and to pay over the value of all production revenues derived from the property from the date of judgment until the date the properties are transferred to the plaintiff. The court also awarded a 5 percent interest rate on the judgment. $120,000,000 Commercial: Lost Profits $42,000,000 Commercial: failure to comply with fiduciary duty

Francisco Guerra I.V.

Randy D. Gordon

Rachel Kingrey

Francisco Ponce

Francisco Ponce

Plaintiffs defrauded out of ownership, they claimed

Amount: (P) $118,000,000
Case Name: *JJJJ Walker LLC, Dynafab USA LLC, Renaissance Properties of Texas LLC, Priya Properties LLC, BD Texas LLC, and KW Hospital Acquisition LLC v. First National Bank, Merensky Reef Hospital Corp., Louisiana Texas Healthcare Management LLC, Yollick Law Firm P.C., and Eric Yollick v. Kailee Wong, Greg M. Walker, Riley Hagan III, Randal A. Gomez, Robert A. Maurin, and Raja Talluri, M.D.*

Plaintiff Attorney(s):

- Zona Jones; Provost Umphrey Law Firm; Beaumont, TX
- Mike McCauley, Tim Pridmore, Andrew Seger; McWhorter, Cobb & Johnson; Lubbock, TX
- Patrick Zummo; Law Offices of Patrick Zummo; Houston, TX
- Dori K. Goldman (Houston, TX), Marc S. Tabolsky (Austin, TX); Yetter Coleman

For BD Texas LLC, Dynafab USA LLC, JJJJ Walker LLC, Priya Properties LLC, KW Hospital Acquisition LLC, Kailee Wong (third-party defendant), Renaissance Properties of Texas LLC, Greg M. Walker (third-party defendant), Randal A. Gomez (third-party defendant), Riley Hagan III (third-party defendant), Robert A. Maurin (third-party defendant), Raja Talluri (third-party defendant), M.D.

Facts: Plaintiffs JJJJ Walker LLC, Dynafab USA LLC, Renaissance Properties of Texas LLC, Priya Properties LLC, BD Texas LLC, and KW Hospital Acquisition LLC claimed that, in 2009, First National Bank, Merensky Reef Hospital Corp. and attorney Eric Yollick defrauded the plaintiffs out of their ownership interest in Louisiana Texas Healthcare Management LLC (LTHM) and three Texas hospitals that LTHM owned and operated. On or about March 16, 2009, the plaintiffs purchased three hospitals out of bankruptcy and formed LTHM to own and operate them. The purchase was financed by FNB, and Yollick was FNB's attorney in the transaction. Over the following months, the plaintiffs sought additional funds for operating capital. On May 14, FNB agreed to loan $3.5 million to Merensky Reef Hospital Corp., a new company, and Merensky agreed to put that money toward the hospitals' operating expenses. In exchange, the plaintiffs agreed to place their LTHM voting shares in trust with Merensky for 30 days. On May 15, in a transaction financed by FNB, Merensky purchased LTHM. The plaintiffs said they did not learn of this transaction until more than a month later. That fall, Merensky sold the hospitals to a third party. The plaintiffs sued FNB, Merensky, and Yollick for fraud, breach of fiduciary duty, breach of contract, and conversion. LTHM and Yollick's law firm were also defendants, but those claims did not go to the jury. The plaintiffs' attorneys said the basic claim was that FNB, Yollick, and Merensky breached the May 14 agreement and entered into the agreement with the intent to breach it. According to the plaintiffs, the defendants deprived the plaintiffs of their ownership interest in LTHM in order to avoid simply foreclosing on that interest, which would have looked worse on the bank's books. The plaintiffs also said that, in reliance on representations by the defendants, the plaintiffs spent months looking for funding sources to try to keep the hospitals in operation and increase the number of patients. The defendants denied the allegations. Yollick also contended that, although he signed the May 14 agreement on behalf of the bank, he was not a party to any agreement with the plaintiffs. The defendants filed third-party claims against the individuals who operated the plaintiff entities (Kailee Wong, Greg M. Walker, Riley Hagan III, Randal A. Gomez, Robert A. Maurin, and Raja Talluri, M.D.), but those claims were nonsuited before trial.

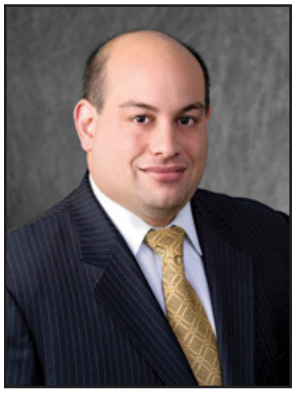
Verdict: The jury found fraud by the defendants, malicious and intentional breach of fiduciary duty by Merensky and FNB, breach of contract by FNB and Merensky, and conversion by Merensky, FNB, and Yollick. For each cause of action, the jury awarded JJJJ Walker $4,585,512, Dynafab $382,126, Renaissance Properties $1,719,567, Priya Properties $4,776, 575, BD Texas $3,439,134, and KW Hospital Acquisition $4,203,386, as the value of their interests. For breach of fiduciary duty, the jury also awarded Merensky's profits of $18,358,602 and FNB's profits of $23,656,552. The jury also awarded the plaintiffs $1.9 million in attorney fees through trial. In the second phase of the trial,

continued on Page 26


Zona Jones


Tim Pridmore


Patrick Zummo


Marc S. Tabolsky

continued from Page 25

the jury awarded punitive damages for fraud, breach of fiduciary duty, and conversion. For fraud punitives against FNB, the jury awarded JJJJ Walker $10,944,000, Dynafab $912,000, Renaissance $4,104,000, Priya $11,400,000, BD $8,208,000, and KW $10,032,000. For fraud punitives against Yollick, the jury awarded JJJJ Walker $1,368,000, Dynafab $114,000, Renaissance $513,000, Priya $1,425,000, BD $1,026,000, and KW $1,254,000. For fiduciary duty punitives against Merensky, the jury awarded JJJJ Walker $1,368,000, Dynafab $114,000, Renaissance $513,000, Priya $1,425,000, BD $1,026,000, and KW $1,254,000. For fiduciary duty punitives against FNB, the jury awarded JJJJ Walker $10,944,000, Dynafab $912,000, Renaissance $4,104,000, Priya $11,400,000, BD $8,208,000, and KW $10,032,000. For conversion punitives against FNB, the jury awarded JJJJ Walker $10,944,000, Dynafab $912,000, Renaissance $4,104,000, Priya $11,400,000, BD $8,208,000, and KW $10,032,000. For conversion punitives against Merensky, the jury awarded JJJJ Walker $1,368,000, Dynafab $114,000, Renaissance $513,000, Priya $1,425,000, BD $1,026,000, and KW $1,254,000. For conversion punitives against Yollick, the jury awarded JJJJ Walker $1,368,000, Dynafab $114,000, Renaissance $513,000, Priya $1,425,000, BD $1,026,000, and KW $1,254,000. On Nov. 26, 2012, the court entered judgment as follows: JJJJ Walker shall recover $4,585,512 in actual damages, with FNB jointly and severally liable for 100 percent and Merensky liable for 10 percent; $9,171,024 in punitives from FNB; $1,368,000 in punitives from Merensky; and $687,826.80 in prejudgment interest. Dynafab shall recover $382,126 in actual damages, with FNB jointly and severally liable for 100 percent and Merensky liable for 10 percent; $764,252 in punitives from FNB; $114,000 in punitives from Merensky; and $57,318.90 in prejudgment interest. Renaissance shall recover $1,719,567 in actual damages, with FNB jointly and severally liable for 100 percent and Merensky liable for 10 percent; $3,439,134 in punitives from FNB; $513,000 in punitives from Merensky; and $257,935.05 in prejudgment interest. Priya shall recover $4,776,575 in actual damages, with FNB jointly and severally liable for 100 percent and Merensky liable for 10 percent; $9,553,150 in punitives from FNB; $1,425,000 in punitives from Merensky; and $716,486.25 in prejudgment interest. BD Texas shall recover $3,439,132 in actual damages, with FNB jointly and severally liable for 100 percent and Merensky liable for 10 percent; $6,878,264 in punitives from FNB; $1,026,000 in punitives from Merensky; and $515,869.80 in prejudgment interest. KW Hospital shall recover $4,203,386 in actual damages, with FNB jointly and severally liable for 100 percent and Merensky liable for 10 percent; $8,406,772 in punitives from FNB; $1,254,000 in punitives from Merensky; and $630,507.90 in prejudgment interest.

Mike McCauley

Dori K. Goldman

Andrew Seger

Defendant counterclaimed for slander of title, interference

Verdict: (D) $80,800,000.00

Case: *HMC Hotel Properties II Ltd. Partnership v. Keystone-Texas Property Holding Corp. v. Host Hotels & Resorts Inc., f/k/a Host Marriott Corp., and Host Hotels & Resorts L.P., f/k/a Host Marriott L.P.*, No. 2005-CI-14229

DEFENDANT(S) Attorney:

• Cole B. Ramey, J. Michael Ellis, Patrick J. Carew; Crouch & Ramey; Dallas, TX, for Keystone-Texas Property Holding Corp.

Facts: The plaintiff is HMC Hotel Properties II Limited Partnership. In 2005, Keystone-Texas Property Holding Corp. entered into negotiations to sell San Antonio Rivercenter Mall and the attached Rivercenter Marriott, two properties that were leased by HMC from Keystone. Sale of the mall closed that March, and closing on the sale of the hotel was scheduled for the following month. The mall and hotel are anchors of historic downtown San Antonio and the San Antonio Riverwalk. HMC sued Keystone for breach of the lease agreement, alleging that Keystone was required to negotiate separately with HMC for the sale of the hotel at a "fair market value" price acceptable to HMC, Host Hotels & Resorts Inc. and Host Hotels & Resorts L.P. The lease stated that Keystone must notify HMC sufficiently prior to selling the property to permit a proper notice period for HMC to negotiate. HMC sought an injunction barring Keystone from selling the hotel. The injunction was denied, but the sale still did not go through. Keystone counterclaimed against HMC and the Host Hotels entities for slander of title, intentional interference with the contract of sale and negligent mis-representation, alleging that HMC's and Host's April 18, 2005, demand letter, sent 10 days before the scheduled closing of the hotel, resulted in Keystone being unable to close. Keystone also argued that Host Hotels & Resorts L.P. promised to waive its rights under the lease. The trial centered on the interpretation of the lease language and on Keystone's claimed damages. No claims against Host Hotels & Resorts Inc. went to the jury.

Verdict: The jury found that there was no breach by Keystone and that Host Hotels & Resorts L.P. interfered with Keystone's contract to sell the hotel. Keystone's damages from interference were $34.3 million. The jury also found slander of title by Host Hotels & Resorts L.P. and that it did not have a good faith belief that it had a right to send the April 18, 2005, demand letter. Keystone's damages from slander of title were $39 million, the jury found. The jury also found that Host Hotels & Resorts L.P. was acting as HMC's agent in interfering and slandering title and that the harm to Keystone resulted from malice that was ratified or authorized by HMC. The jury found negligent misrepresentation by Host Hotels & Resorts L.P., but no damages. The jury did not find reliance by Keystone on a promise, if any, by Host to waive its rights under the lease. In phase II, the jury gave Keystone punitive damages of $5 million against Host Hotels & Resorts L.P. and $2.5 million against HMC.

Apple infringed patents for display, organization

Verdict: (P) $625,500,000.00
Case: *Mirror Worlds LLC v. Apple Inc.*

PLAINTIFF(S) Attorney:
• Otis W. Carroll, Patrick Kelley, Deborah J. Race; Ireland, Carroll & Kelley; Tyler, TX, for Mirror Worlds LLC
• Joseph Diamante; Stroock & Stroock & Lavan, LLP; New York, NY, for Mirror Worlds LLC

Facts: On October 1, 2010, a federal jury in Tyler, Texas, found that Apple violated three Mirror Worlds patents, awarding $625.5 million in damages ($208.5 million for each patent violation) in a software patent infringement action. The damages amount is based on willful infringement of three Mirror Worlds patents that cover interface designs Apple uses in its iPhone, iPod, iPad and Mac OS X. Specifically, Mirror Worlds LLC, the legal entity that filed the complaint in 2008, made claims of both direct infringement and induced infringement, involving Apple's Cover Flow, Time Machine, and Spotlight features. Cover Flow, a central feature of Apple's computers and mobile devices, allows users to scroll through album covers, photos and other files. The other two features, Spotlight, allows users to search their hard drive, and Time Machine, performs automatic backups. Mirror Worlds also contended it was entitled to damages (not less than a reasonable royalty), interest and costs, enhanced damages, attorneys' fees, and injunctive relief. In support of its argument, Mirror Worlds relied on the testimony of its expert, Dr. Levy, who described the capabilities of the accused features and concluded they infringed. Throughout trial, Mirror Worlds repeatedly referenced and played clips of Steve Jobs demonstrating the Spotlight and Cover Flow features. Both during and after trial, Mirror Worlds asserted the video was evidence of infringement. Mirror Worlds was founded by Yale University computer-science Professor David Gelernter, who named the company after his book, "Mirror Worlds: or the Day Software Puts the Universe in a Shoebox." Gelernter also wrote "Drawing Life: Surviving the Unabomber" about his recovery from a bomb sent by Theodore Kaczynski in 1993 that damaged his right hand and eye.

Verdict: The jury found willful infringement of all three patents; that they were valid; and that the damages were $208.5 million for each patent for a total of $625,500,000.


Otis W. Carroll


Joseph Diamante


Patrick Kelley


Deborah J. Race

Doctor said company's heart stent infringed his patent

Verdict: (P) $482,000,000.00
Case: *Bruce N. Saffran, M.D., Ph.D. v. Johnson & Johnson and Cordis Corp., No. 2:07-CV-451-TJW*

PLAINTIFF(S) Attorney:
• Eric M. Albritton; Albritton Law Firm; Longview, TX, for Bruce N. Saffran, M.D., Ph.D.
• James W. Brady, Kenneth W. Brothers, Paul R. Taskier; Dickstein Shapiro LLP; Washington, DC, for Bruce N. Saffran, M.D., Ph.D.
• Matthew R. Rodgers, Danny L. WIlliams; Williams Morgan & Amerson; Houston, TX, for Bruce N. Saffran, M.D., Ph.D.


Eric M. Albritton


James W. Brady


Paul R. Taskier

Facts: Plaintiff Dr. Bruce N. Saffran claimed that, starting in April 2002, Johnson & Johnson and its subsidiary, Cordis Corp., infringed on Saffran's 1997 patent covering a medical device he had invented. The product was Cordis' Cypher drug-eluting stent, which is a heart stent coated in medication that it delivers to coronary artery walls. The patent is titled "Method and Apparatus for Managing Macromolecular Distribution." In simple terms, it is a flexible, minimally porous sheet that can help stabilize fractures and block unwanted migration of tissue fragments. It can also be rolled up and deployed as a stent in a blood vessel, and when coated with medication, the device can effect directional and preferential drug delivery. Saffran sued Johnson & Johnson and Cordis for willful infringement of the patent. According to Saffran, the defendants' manufacture, sale, and distribution of Cypher stents infringed. The defendants denied infringement and argued that the patent was invalid for obviousness.

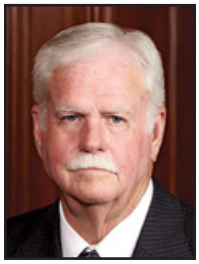
Verdict: The jury found willful infringement; that the patent was valid; and that Saffran's damages were $482 million. The jury's award is equivalent to a 5.6 percent royalty rate. The court has discretion to treble the amount. The defense plans to appeal. Three years before this verdict, Saffran obtained a judgment for about $501 million against Boston Scientific Corp. in another case involving the same patent. That case later settled.

Suit involved patents on securing private networks

Amount: (P) $368,160,000
Case Name: *VirnetX Inc. v. Cisco Systems Inc., Apple Inc., Aastra USA Inc., Aastra Technologies Ltd., NEC Corporation and NEC Corporation of America*

Plaintiff Attorney(s):
• Douglas A. Cawley, Bradley W. Caldwell, Jason D. Cassady , Austin Curry; McKool Smith; Dallas, TX, for VirnetX Inc.
• Robert C. "Chris" Bunt , Robert M. Parker; Parker, Bunt & Ainsworth, P.C.; Tyler, TX, for VirnetX Inc.


Douglas A. Cawley


Robert M. Parker


Robert C. "Chris" Bunt

Facts: Between December 2002 and August 2008, four patents related to the securing of Internet-based communications were issued by the U.S. Patent and Trademark Office, naming as inventors a group of computer scientists who had been employed by the defense company now known as SAIC when the respective patent applications were filed. In 2006, after plaintiff VirnetX, an Internet-security firm, acquired the rights to those (issued and pending) patents — Nos. 6,502,135; 6,839,759; 7,188,180; and 7,418,504 — the inventors became employees of VirnetX. In August 2010, VirnetX sued Apple Inc. and several other major corporations that sell products that either rely on or prominently feature Internet-based-communications technology. (In addition to the parties listed in the original complaint, Siemens and Avaya were subsequently added as defendants, while SAIC was included as a nominal co-plaintiff.) VirnetX alleged that the defendants — by including in their products features that enabled private-network communications between users to be automatically protected from eavesdropping and other security risks when transmitted over public networks such as the Internet — had infringed key claims of the patents at issue. For example, VirnetX contended that Apple's FaceTime application for mobile devices such as the iPhone and the iPad utilized network-security technology described in those patents. Following the May 2012 decision by the U.S. Court of Appeals for the Federal Circuit in In re EMC Corp., which effectively limited a patent-infringement plaintiff's ability to confine to a single trial its claims against multiple non-affiliated defendants accused of similar acts of infringement, the claims against Cisco, Siemens and Avaya were severed from the instant action. At roughly the same time, the claims against the Aastra and the NEC defendants were disposed when those entities agreed to take license to the patents-in-suit and to pay ongoing royalties, as warranted, to VirnetX. The litigation proceeded to trial as to VirnetX's claims against Apple. At trial, an expert in infringement retained by counsel for VirnetX testified in support of the contention that FaceTime and other prominent features of Apple products utilize technology described in the patents at issue. VirnetX did not claim willful infringement on the part of Apple, and no evidence was introduced as to Apple's knowledge of the existence of the patents in question. The defense argued that Apple had not infringed VirnetX's patents. It was further contended that the patents were invalid due to prior art consisting of an English-language article authored by a Japanese computer scientist and published in the late 1990s in an Institute of Electrical and Electronics Engineers publication. According to the defense, this article enunciated the invention subsequently described by the patents-in-suit. (VirnetX's infringement expert also addressed this validity argument, opining that the Japanese scientist's article did not, in fact, describe the technology at issue.)

Verdict: The jurors concluded that VirnetX had proved by a preponderance of the evidence that Apple had infringed the relevant claims of the four patents-in-suit. They re-jected Apple's invalidity challenges as to those claims. The jury awarded VirnetX $368.16 million in damages for past infringement. $368,160,000 Commercial: compensatory damages for past patent infringement

Plaintiff claimed infringement of patent for pricing technology

Verdict: (P) $345,000,000.00

Case: *Versata Software Inc., f/k/a Trilogy Software Inc.; Versata Development Group Inc., f/k/a Trilogy Development Group Inc.; and Versata Computer Industry Solutions Inc., f/k/a Trilogy Computer Industry Solutions Inc. v. SAP America Inc. and SAP AG, No. 2:07-CV-153-CE*

PLAINTIFF(S) Attorney:

• Joseph Y. Ahmad, Amir Alavi, Demetrios Anaipakos, Steven Mitby; Ahmad, Zavitsanos & Anaipakos, P.C.; Houston, TX, for Versata Computer Industry Solutions Inc., f/k/a Trilogy Computer Industry, Versata Development Group Inc., f/k/a Trilogy Development Group Inc., Versata Software Inc., f/k/a Trilogy Software Inc.

• Sam F. Baxter (Marshall, TX), Ada Brown (Dallas, TX), Joshua W. Budwin (Austin, TX), Leah Buratti (Austin, TX), Steven Callahan (Dallas, TX), Scott L. Cole (Austin, TX), Laurie Gallun Fitzgerald (Austin, TX), Kevin M. Kneupper (Austin, TX), Steve Pollinger (Austin, TX), LiLan Ren (Austin, TX), Rosemary Tyson Snider (Dallas, TX); McKool Smith, P.C.; for Versata Computer Industry Solutions Inc., f/k/a Trilogy Computer Industry, Versata Development Group Inc., f/k/a Trilogy Development Group Inc., Versata Software Inc., f/k/a Trilogy Software Inc.

Facts: Plaintiffs Versata Software Inc., Versata Development Group Inc. and Versata Computer Industry Solutions Inc. claimed that SAP AG and SAP America Inc., Newtown Square, Pa., infringed U.S. Patent No. 6,553,350 B2, a 2003 patent relating to pricing technology. The SAP products in question included software for enterprise resource planning and customer relationship management. The plaintiffs sued SAP America and SAP AG, alleging direct and indirect patent infringement. The defense denied infringement. In August 2009, a jury found infringement and awarded the plaintiffs $138,640,000 as a reasonable royalty. The court later ordered a new trial on damages. At the new trial, besides disputing damages, SAP argued that its products stopped infringing in May 2010, when they were redesigned.

Verdict: The jury found that direct and indirect infringement continued after the 2010 redesign. The jury also found lost profits of $260 million and a reasonable royalty of $85 million.The plaintiffs are seeking an injunction and other relief, including the awards of lost profits and reasonable royalty.


Amir Alavi


Demetrios Anaipakos


Steven Mitby


Sam F. Baxter


Scott L. Cole

Boy died 13 years after being doused in gasoline, set on fire

Verdict: (P) $150,370,000,000.00

Case: *Colleen Middleton and Bobby Ray Middleton, individually and as representatives of the Estate of Robert Middleton, for and on behalf of all those entitled to recover for his death under the Texas Wrongful Death and Survival acts v. Don Wilburn Collins, a/k/a Donald Wilburn Collins, No. 2009V-224*

PLAINTIFF(S) Attorney:

- Clif Alexander, Craig M. Sico; Sico, White, Hoelscher & Braugh LLP; Corpus Christi, TX, for Bobby Ray Middleton, Colleen Middleton, Estate of Robert Middleton
- Ken Bigham; Ken Bigham Law Firm; Schulenberg, TX, for Colleen Middleton, Bobby Ray Middleton, Estate of Robert Middleton

Ken Bigham

Craig M. Sico

Facts: On June 28, 1998, plaintiffs' decedent Robert Middleton, age 8, celebrated his birthday with family and friends at his home in Splendora. Later that day, he was walking down a trail through the woods near his house to visit a friend, when he was attacked with gasoline and set on fire. The plaintiffs claimed that Robert's attacker was Don Wilburn Collins, 13, whose family lived next door to the Middletons. On April 29, 2011, at age 20, Robert died, from squamous cell carcinoma related to the skin grafts he received as a result of his burns. Robert's parents sued Collins for negligence, negligence per se (aggravated assault, assault, and deadly conduct), gross negligence, battery, intentional infliction of emotional distress, assault and battery, and wrongful death. It was believed for years that, on June 14, 1998, two weeks before the attack, Robert had witnessed Collins raping his own 5-year-old cousin, and that Collins had threatened to hurt Robert if he told anyone. However, in a deathbed deposition, Robert testified for the first time that it was he, Robert, whom Collins had raped on June 14. Collins filed a general denial, pro se, but did not appear at trial. The court granted a summary judgment for the plaintiffs on liability.

Verdict: The jury found actual damages of $250 million for the estate, $60 million for Colleen, and $60 million for Bobby. For punitive damages, the jury found $150 billion. The verdict is the largest in U.S. history. Collins has not been charged with any crime against Robert. Although Collins was initially charged at age 13 with sexual assault of his 5-year-old cousin, that charge was dropped, and Collins went free. Three years later, Collins was convicted of aggravated sexual assault, of an 8-year-old boy, and served four years at the Texas Youth commission in Brownwood. A couple of years later, on July 13, 2007, Collins was convicted of theft and resisting arrest. On May 13, 2009, and Oct. 22, 2010, he was convicted of failing to register as a sex offender. He is currently incarcerated in the state Department of Corrections and is scheduled for release in September 2012. The plaintiffs do not expect to recover any money from the judgment. According to their attorney, the Middletons pursued the case because the Montgomery County Attorney has not charged or prosecuted Collins for rape or murder. The Middletons hope that the verdict will stir a public outcry and pressure the county to prosecute Collins. The case also amassed and preserved the evidence necessary to convict Collins, the plaintiffs' attorneys said. After receiving a subpoena from the plaintiffs' attorneys, the county opened a cold case file. The plaintiffs' attorneys said that opening a cold case file allowed the county to refuse to share evidence with the Middletons and the public. The plaintiffs' attorneys worked pro bono and financed the case themselves.
Bobby Ray Middleton $10,000,000 Wrongful Death: Past Loss Of Society Companionship $10,000,000 Wrongful Death: Future Loss Of Society Companionship $20,000,000 Wrongful Death: Past Mental Anguish $20,000,000 Wrongful Death: Future Mental Anguish Colleen Middleton $10,000,000 Wrongful Death: Past Loss Of Society Companionship $10,000,000 Wrongful Death: Future Loss Of Society Companionship $20,000,000 Wrongful Death: Past Mental Anguish $20,000,000 Wrongful Death: Future Mental Anguish Estate of Robert Middleton $250,000,000 Personal Injury: Past Pain And Suffering

Landfill company claimed that competitor defamed it

Verdict: (P) $25,450,592.03
Case: *Texas Disposal Systems Landfill Inc. v. Waste Management of Texas Inc.*, No. D-1-GN-97-012163

PLAINTIFF(S) Attorney:
• James A. Hemphill, John J. "Mike" McKetta III; Graves, Dougherty, Hearon & Moody; Austin, TX, for Texas Disposal Systems Landfill Inc.


James A. Hemphill


John J. "Mike" McKetta III

Facts: Plaintiff Texas Disposal Systems Landfill Inc. claimed that Waste Management of Texas Inc. defamed it in 1997 and 1998, when the two companies were competing with each other for a 30-year landfill disposal, transfer station and recycling contract with the city of Austin, and when Texas Disposal Systems was in the process of finalizing such a contract with the city of San Antonio. According to Texas Disposal Systems, Waste Management's statements were made in a grassroots campaign to leaders in Austin's environmental community, as well as to members of the media and Austin City Council, and the campaign did not identify the source of the statements as Waste Management. Waste Management had hired a consultant to write the statements. Among the statements or implications were that Texas Disposal Systems did not have a leachate collection system; that its Austin landfill is environmentally less protective than other area landfills, including one of Waste Management's; that the Austin Texas Disposal Systems landfill applied for and received an exception to certain environmental rules; and that there were no restrictions on the type of waste that may be disposed of in the Austin Texas Disposal Systems landfill, other than hazardous waste. The plaintiff sued Waste Management for defamation. Waste Management argued that the statements and implications were substantially true.

Verdict: The jury found that the statements in question were false and defamatory, that they were published with malice, that they were made with knowledge or reckless disregard of their falsity, that Texas Disposal Systems' expenses were $450,592.03, that its reputation damages were $5 million, and that punitive damages were $20 million. The case was filed in 1997 and originally tried in early 2003. That jury found liability but no damages. Several years later, the Third Court of Appeals remanded the case for retrial.
Texas Disposal Systems Landfill Inc. $20,000,000 Commercial: Punitive Exemplary Damages $450,592 Commercial: Economic Loss $5,000,000 Commercial: Damage to Reputation

Facility tried to cover up rape of retarded woman, family claimed

Amount: (M) $16,900,000
Case Name: *Marta Cruz, as next friend of Marta Liza Grimaldo v. Gabriel Baraka Mwancha, Virginia Onuorah, Chinwendu Judith Onuorah, Vickie Armstrong, St. Jude's Home Inc., and St. Jude's Day Services*

Plaintiff Attorney(s):
• L. Todd Kelly; The Kelly Law Firm, P.C.; Houston, TX, for Marta Cruz, Marta Liza Grimaldo


L. Todd Kelly

Facts: On the morning of Nov. 11, 2008, plaintiff Marta Liza Grimaldo, 35, was picked up by Gabriel Baraka Mwancha at her home for transport to a St. Jude's facility in League City for the day. Grimaldo has Down syndrome and is mentally retarded. Mwancha is an employee of St. Jude's Day Services, which is a home that provided day facilities for the mentally handicapped and mentally retarded. She claimed that Mwancha raped her that day before taking her to St. Jude's. St. Jude's was owned by Virginia Onuorah. Grimaldo's case manager was Vickie Armstrong. Virginia's daughter, Chinwendu Judith Onuorah, was another employee. Mwancha was eventually arrested. Virginia bailed him out of jail, and he fled to his native Kenya. Grimaldo, through her mother, sued Mwancha for assault and negligence; sued Armstrong and St. Jude's Day Services and Chinwendu Onuorah for negligence and intentional infliction of severe emotional distress; and sued Virginia Onuorah and St. Jude's Home Inc. for negligence, intentional infliction of severe emotional distress and DTPA violations. According to the plaintiffs, on the day of the incident, Grimaldo told her two caregivers about the assault, and they in turn reported it to Armstrong and Virginia Onuorah. The caregivers said that Armstrong and the owner ordered them to keep quiet about it and to let Armstrong and the owner "take care of it." The next day, they said, they learned that Armstrong and Virginia Onuorah had bribed Grimaldo with candy and other treats before dropping off Grimaldo with a babysitter and not reporting the incident. The next day, according to the plaintiffs, one of the caregivers reported the incident to Grimaldo's mother, after which Virginia Onuorah called a meeting, saying she wanted to find out who the "snitch" was and to order a "vow of silence" so that they could "sweep [the incident] under the rug." One of the two caregivers quit at that meeting, and the other was fired a few weeks later, based on a bogus accusation by the employer, the plaintiffs claimed. The plaintiffs also claimed that Chinwendu Onuorah was aware of the report of assault and took no action. Additionally, a home resident reported witnessing Mwancha watching a pornographic video and masturbating. Mwancha was able to keep his job by dropping to his knees and begging on prior occasions when he was counseled about incidents that should have cost him his job, according to plaintiffs' counsel. The defendants at trial argued that Mwancha alone was responsible for the harm to Grimaldo. They argued that Grimaldo had made up stories in the past. They introduced numerous prior incident reports based on allegations by her that they said later turned out to be false. The plaintiffs argued that these reports were forged. Both of Grimaldo's caregivers testified that the employer had requested them to forge documents in the past. The state mental health and retardation agency had also revoked the home's license in the past for forgery. The plaintiffs claimed that Armstrong had dated Mwancha but she broke up with him before the incident because of his strange sexual tendencies. Armstrong denied having made such a statement and denied having dated Mwancha at all. Grimaldo was not at trial.

Verdict: The jury found assault by Mwancha. The jury found negligence by Armstrong, Virginia Onuorah, Mwancha, and both St. Jude's defendants, but not by Chinwendu Onuorah. The jury found that one or both of the St. Jude's defendants were responsible for the acts of Armstrong, Virginia Onuorah, and Mwancha, but did not find that the St. Jude's defendants were responsible for the acts of Chinwendu Onuorah. The jury found intentional infliction of severe emotional distress by Armstrong, Virginia Onuorah, Mwancha, and both St. Jude's defendants, but not by Chinwendu Onuorah. The jury found that the conduct of Armstrong, Virginia Onuorah, Mwancha, and both St. Jude's defendants was a proximate cause of injury to Grimaldo, but that the conduct of Chinwendu Onuorah was not. The jury found comparative responsibility of 45 percent for Virginia Onuorah, 25 percent for St. Jude's Day Services, 20 percent for Armstrong, and 10 percent for St. Jude's Home Inc. The jury found DTPA violations by Virginia Onuorah and St. Jude's Home Inc. The jury found malice (unanimously and by clear and convincing evidence) on the part of Armstrong, Virginia Onuorah, and Mwancha, but not Chinwendu Onuorah. It awarded $16.9 million. $400,000 Personal Injury: punitives against Armstrong $2,000,000 Personal Injury: past mental anguish $4,000,000 Personal Injury: punitives from Onuorah $2,000,000 Personal Injury: future mental anguish $1,000,000 Personal Injury: punitives from St. Jude's Home $5,000,000 Personal Injury: past mental anguish $2,500,000 Personal Injury: punitives from St. Jude's Day Services

Anonymous comments on Internet attacked plaintiffs' character

Amount: (M) $12,046,000

Case Name: *Mark Lesher and Rhonda Lesher v. Charlie Doescher, Pat Doescher, Apache Iron Metal & Auto Salvage Inc., d/b/a Apache Truck & Van Parts, Gerald Coyel (a/k/a Jerry Coyel), individually and d/b/a Apache Truck & Van Parts, James Coyel, d/b/a Apache Truck & Van Parts, and Shannon Coyel*

Plaintiff Attorney(s):

- Kervyn B. Altaffer Jr , Meagan Hassan; Demond & Hassan; Houston, TX, for Mark Lesher, Rhonda Lesher
- Laura W. McCoy; Lesher & Associates; Mount Pleasant, TX, for Mark Lesher, Rhonda Lesher

Meagan Hassan

Kervyn B. Altaffer Jr.

Facts: Plaintiff Mark Lesher, 63, an attorney in Clarksville, and his wife, plaintiff Rhonda Lesher, 50, a day-spa owner, claimed that, from around April 2008 to July 2009, Shannon and Gerald Coyel and Charlie and Pat Doescher posted defamatory comments about the Leshers on the Internet. Mr. Lesher had represented Mr. Coyel in a medical malpractice suit. Later in April 2008, Mrs. Coyel accused the Leshers of sexual assault. Around that time, anonymous derogatory comments about the Leshers began appearing on a public Internet message board. There were more than 25,000 comments total, in about 70 threads. The comments were barely coherent and gleefully lambasted the Leshers as herpes-infected drug dealers, rapists, child molesters, zoophiles, and thieves and described the Leshers' supposed illegal activities at length. In January 2009, the Leshers were found not guilty of sexual assault. New comments stopped appearing around July 2009. At that time, the plaintiffs still did not know who was posting the comments. The Leshers sued the anonymous commenters for defamation, and the Web site in question was ordered to turn over the commenters' Internet protocol addresses. One of the IP addresses corresponded to a computer owned by Apache Iron Metal & Auto Salvage Inc., a company owned by Mr. Coyel. The plaintiffs then named the Coyels, Apache, and Apache employees, the Doeschers, in the lawsuit, alleging that they were the anonymous posters. The petition set forth all the comments and was 781 pages long. The plaintiffs also sued sibling James Coyel, but nonsuited him before trial. The defendants denied the allegations. The plaintiffs' attorneys said the defense argued that the plaintiffs failed to meet their burden to prove that the defendants posted the comments in question.

Verdict: The jury found that Mr. Doescher and Mr. and Mrs. Coyel published defamatory statements regarding the Leshers that they should have known were false and potentially defamatory. The jury did not find that Mrs. Doescher published any of the statements in question. The jury found damages for each plaintiff from the conduct of Mr. Doescher, Mr. Coyel, and Mrs. Coyel. Mr. Lesher's damages from Mr. Doescher's conduct were $200,000 for past injury to reputation, $700,000 for future damage to reputation, $300,000 for past mental anguish, and $500,000 for future mental anguish. His damages from Mr. Coyel's conduct were $600,000 for past injury to reputation, $2.1 million for future damage to reputation, $900,000 for past mental anguish, and $1.5 million for future mental anguish. His damages from Mrs. Coyel's conduct were $200,000 for past injury to reputation, $700,000 for future damage to reputation, $300,000 for past mental anguish, and $500,000 for future mental anguish. Mrs. Lesher's damages from Mr. Doescher's conduct were $60,000 for past injury to reputation, $100,000 for future damage to reputation, $550,000 for past mental anguish, $200,000 for future mental anguish, $18,000 for past lost profits, and $128,000 for future lost profits. Her damages from Mr. Coyel's conduct were $180,000 for past injury to reputation, $300,000 for future damage to reputation, $1.65 million for past mental anguish, $600,000 for future mental anguish, $54,000 for past lost profits, and $384,000 for future lost profits. Her damages from Mrs. Coyel's conduct were $60,000 for past injury to reputation, $100,000 for future damage to reputation, $550,000 for past mental anguish, $200,000 for future mental anguish, $18,000 for past lost profits, and $128,000 for future lost profits. The damages totaled $12,046,000. According to plaintiff's counsel, this amount was roughly double the amount that the plaintiffs asked for in closing. This trial was the first that Meagan Hassan had ever participated in as an attorney. Attorney William Demond was a fact witness but had been an attorney in the case. He led the investigation that eventually identified the anonymous commenters, and he composed many of the motions in the case over the years. The Leshers are pursuing a separate suit against Mrs. Coyel for malicious prosecution.

Two killed, six injured in van rollover on trip to Colorado

Verdict: (P) $124,546,732.89

Case: *Roberto Pacheco, Ariosto Manriquez, Manuel Parra, Maria Aguilar, individually and as next friend of Juan Carlos Ramirez; Albino Gaytan Pina, individually and as the personal representative of the estate of Teresa Lozano Acevedo, deceased; Luz Maria Gaytan Lozano, Jose Guadalupe Gaytan Lozano, Maria Elena Gaytan Lozano, Clara Gaytan Lozano, Gloria Gaytan Lozano, Josefa Marquez Ocana, as representative of the estate of Ascension Ramirez Caraveo, deceased and for and on behalf of the heirs of Ascension Ramirez Caraveo, deceased; and Magdaleno Borrego-Lares v. Uriel Chavira, individually and d/b/a Mexico Lindo Transportation, Heriberto Flores-Garcia, and Los Paisanos Autobuses Inc., a/k/a Autobuses LPI, J&J Enterprises, d/b/a First Class, d/b/a Los Correcaminos*, No. 2005-8265

PLAINTIFF(S) Attorney:

- David E. Harris, Craig M. Sico; Sico, White, Hoelscher & Braugh, L.L.P.; Corpus Christi, TX, for Albino Gaytan Pina, Estate of Teresa Lozano Acevedo, Luz Maria Gaytan Lozano, Jose Guadalupe Gaytan Lozano, Maria Elena Gaytan Lozano, Clara Gaytan Lozano, Gloria Gaytan Lozano
- Joseph Isaac; Scherr & Legate; El Paso, TX, for Magdaleno Borrego-Lares
- Raul Steven Pastrana; Pastrana Law Firm; Austin, TX, for Roberto Pacheco, Ariosto Manriquez, Manuel Parra, Maria Aguilar, Juan Carlos Ramirez
- Dennis L. Richard (San Antonio, TX), R. Reagan Sahadi (Corpus Christi, TX); Wigington Rumley Dunn, L.L.P. for Josefa Marquez Ocana, Estate of Ascencion Ramirez Caraveo, Manuela Yasmin Ramirez Marquez, Elisa Ramirez Marquez, Jorge Alonzo Ramirez Marquez

David E. Harris

Joseph Isaac

Raul Steven Pastrana

Facts: On Oct. 10, 2005, plaintiffs' decedents Teresa Lozano Acevedo, 67, and Ascencion Ramirez Caraveo, 63, and plaintiffs Roberto Pacheco, 50; Ariosto Manriquez, mid-30s, a roofer; Manuel Parra, 50, a roofer; Maria Aguilar, 67, and Magdaleno Borrego-Lares, 64, were passengers in a 2002 Ford E-350 van driven by Heriberto Flores-Garcia on Highway 76 in Adams County, Colo. The van went out of control, rolled over in the median, and struck an overpass support structure. The plaintiff passengers were injured. Acevedo and Caraveo were killed. The plaintiff passengers had ridden from El Paso to Denver in a bus owned by Autobuses Los Paisanos Inc. In Denver, they boarded a van, with Flores-Garcia driving. The van belonged to the owner of Los Paisanos, Uriel Chavira. The plaintiff passengers said they were told that Flores-Garcia would take them in the van to Nebraska, their final destination. Flores-Garcia lost control of the van on the road. The plaintiffs sued Flores-Garcia for driving too fast for conditions and while eating. They sued Los Paisanos and Chavira under respondeat superior, for not properly maintaining the van, and for not checking Flores-Garcia's background or qualifications before entrusting the van to him and letting him transport customers of Los Paisanos. According to the plaintiffs, the van's tires were excessively worn ("down to the steel belt," according to attorney R. Reagan Sahadi), and even though it was snowing, Flores-Garcia was going 70, eating a hamburger, steering with his knees, and weaving in and out of traffic erratically. Also, they said, seats belts were inaccessible or inoperable for all but one passenger and the driver. Those two occupants wore their seat belts, and the driver was not hurt, the plaintiffs' attorneys said. The van had been driven more than 188,000 miles in two years. The plaintiffs said that, although Los Paisanos was not authorized to operate in Nebraska, they were told that the van would take them there. The company and Chavira denied negligence. According to the defense, the plaintiff passengers were supposed to take another company's bus from Denver to Nebraska, but they arrived in Denver late, and the bus to Nebraska had already left. The defense argued that Flores-Garcia was not taking the plaintiff passengers to Nebraska but, rather, was catching up with the other company's bus in Colorado, at which time the plaintiff passengers would leave the van and ride the other company's bus into Nebraska. The defense denied any employment or agency relationship between Flores-Garcia and Chavira or Los Paisanos. Defense counsel said Flores-Garcia was one of the passengers who rode up on the bus from El Paso. The

defense also pleaded unavoidable accident. Flores-Garcia did not enter an appearance. The court ruled that Los Paisanos was a common motor carrier engaged in interstate commerce.

Verdict: The jury found that Flores-Garcia was acting in the course and scope of his agency relationship and employment with Chavira; that Los Paisanos/Chavira and Flores-Garcia were negligent; and that the responsibility was 80 percent Los Paisanos/Chavira and 20 percent Flores-Garcia. Acevedo's estate's damages were $3,019,422.60; the widower's were $16 million; Luz's, Jose's, Maria's, and Clara's were $2.25 million each, and Gloria's were $3.25 million. Caraveo's estate's damages were $2.5 million, the widow's were $20 million, and their three adult children's were $2.25 million each. The damages for the surviving passenger plaintiffs were $34,535,265 for Pacheco, $702,577 for Manriquez, $2,066,677 for Parra, $19,479,212 for Aguilar, and $5,243.575 for Borrego-Lares. The total damages were $124,546,732.89. The funds available under Los Paisanos' auto insurance policy and applicable endorsements may be limited to $5 million. Plaintiff attorney Dennis Richard stated that company assets will also be pursued. Attorney Craig Sico conducted voir dire for all the plaintiffs and cross-examined Chavira for all the plaintiffs. Attorney Dennis Richard gave the opening statement for all the plaintiffs.

R. Reagan Sahadi

Craig M. Sico

Warning signs for construction zone not in place, plaintiff said

Amount: (P) $33,313,573.96
Case Name: *James Edgar Roberts and Yolanda Ann Roberts v. Bick's Construction Inc., and Joseph Charles Drennan*

Plaintiff Attorney(s):
• Michael M. Guerra, Jody R. Mask; Guerra Mask LLP; McAllen, TX, for James Edgar Roberts, Yolanda Ann Roberts


Michael M. Guerra


Jody R. Mask

Facts: On June 1, 2011, plaintiff James Roberts, 68, was driving east on State Highway 44 approaching a section being repaved by Fort Worth general contractor Bick's Construction Inc. when a westbound car driven by Joseph Drennan crossed into his lane and struck him. Roberts sustained a spinal cord injury. Roberts and his wife, Yolanda Roberts, sued Bick's and Drennan for his negligent operation of a motor vehicle and for gross negligence. Roberts claimed that Drennan lost control and left his lane attempting to avoid a collision with a vehicle that had suddenly come to a stop ahead of him due to traffic buildup in the construction zone. He claimed that the warning signs mandated by Bick's state contract were not in place around the construction zone, and this lack of warning contributed to the collision. Defense counsel argued that the warning signs were in place. Drennan settled prior to trial for $30,000.

Verdict: The jury found the defendants negligent and grossly negligent, and found Bick's 70 percent liable and Drennan 30 percent liable. The plaintiffs were awarded $33,313,573.96. The parties settled after trial for $6 million in accordance with a $4 million-$6 million high-low agreement. $250,000 Personal Injury: Past Medical Cost $2,063,574 Personal Injury: Future Medical Cost $2,000,000 Personal Injury: Past Physical Impairment $5,000,000 Personal Injury: Future Physical Impairment $2,000,000 Personal Injury: Past Pain And Suffering $3,000,000 Personal Injury: Future Pain And Suffering $1,000,000 Personal Injury: Past Disfigurement $3,000,000 Personal Injury: Future Disfigurement $10,000,000 Personal Injury: Exemplary damages $1,000,000 Wrongful Death: Past Lost House Hold Services $1,000,000 Wrongful Death: Future Lost House Hold Services $1,000,000 Wrongful Death: Past Lost Of Consortium $2,000,000 Wrongful Death: Future Lost Of Consortium

Wal-Mart failed to inspect tire tread properly, family claimed

Amount: (P) $27,500,000

Case Name: *JoAnn Flores, individually and as representative of the estate of Justin M. Flores, deceased, and for and on behalf of all those entitled to recover for the death of Justin M. Flores under the Texas Wrongful Death and Survival Statutes v. Wal-Mart Stores Inc.; Wal-Mart Stores Texas L.P.; Wal-Mart Stores Texas LLC; Arnold Cantu Enterprises LLC, d/b/a Cantu Chevrolet; and Lorena Esparza*

Plaintiff Attorney(s):

- Gregory L. Gowan; Gowan & Elizondo LLP; Corpus Christi, TX, for JoAnn Flores, estate of Justin M. Flores
- Jaime Carrillo; Carrillo Law Office; Kingsville, TX, for JoAnn Flores, estate of Justin M. Flores
- Charles L. Barrera; Alice, TX, for JoAnn Flores, estate of Justin M. Flores
- Victor Guajardo; The Guajardo Law Firm; Corpus Christi, TX, for JoAnn Flores, estate of Justin M. Flores
- Jason P. Hoelscher , Craig M. Sico; Sico, White, Hoelscher & Braugh L.L.P.; Corpus Christi, TX, for JoAnn Flores, estate of Justin M. Flores

Facts: On April 11, 2010, plaintiffs' decedent Justin M. Flores, 18, was a passenger in a full-size 2006 Nissan Titan pickup driven by Lorena Esparza on State Hwy. 44, several miles west of San Diego, Texas. The vehicle's tires were badly worn, and the road was wet. The vehicle hydroplaned, went out of control, and crashed, killing Flores. On Dec. 10, 2009, the truck had passed a safety inspection at Cantu Chevrolet, in Freer. On Dec. 28, 2009, Esparza took the truck to a Wal-Mart in Alice for a "15-point service" that included an oil change, a tire inspection, and an overall vehicle inspection. The plaintiffs, Flores's family, claimed that Wal-Mart employees failed to properly inspect the tires or take accurate tread depth measurements. Flores's mother sued Esparza for speeding and failing to replace the tires and sued Wal-Mart Stores Inc., Wal-Mart Stores Texas L.P., Wal-Mart Stores Texas LLC, and Arthur Cantu Enterprises LLC, d/b/a Cantu Chevrolet, for failing to inspect the tires properly. Cantu Chevrolet settled the week before trial for a confidential amount. At trial, the plaintiff argued that Wal-Mart alone was at fault. She alleged that Wal-Mart employees told Esparza on Dec. 28 that the tires were in a serviceable and safe condition and that they did not need to be replaced. The plaintiff also alleged that Wal-Mart failed to create and implement adequate policies and procedures in its stores and specifically in its "Tire & Lube Express" business. The plaintiff's expert on tire forensics, Troy Cottles, opined that, at the time of the inspection by Wal-Mart, the right rear tire's tread depth was less than 2/32 inch in places, and the left rear tire's tread depth was less than 4/32 inch in places. The plaintiff's expert on tire retail standards and practices, William O. Hagerty, testified that a prudent tire retailer should recommend replacement of tires once the tread depth is 4/32 inch or less, and that the law requires replacement at 2/32 inch. The plaintiff's accident reconstruction expert opined that Esparza acted as a reasonably prudent driver. Esparza contended that Wal-Mart alone was at fault. Wal-Mart argued for negligence of 75 percent on Esparza and 25 percent on her father, who owned the vehicle and was designated as a responsible third party. There was eyewitness testimony that Esparza was going as fast as 80 to 85 mph before the accident. Wal-Mart's tire expert opined that the tread depth was 6/32 inch when Wal-Mart measured it, and that it decreased over the following months leading up to the accident.

Verdict Information: The jury found Lorena Esparza 12 percent negligent and Wal-Mart Stores Texas LLC 88 percent negligent and awarded JoAnn Flores $27.5 million for her son's wrongful death. The jury found no negligence by Cantu Chevrolet. Wal-Mart is jointly and severally liable for the entire award, and Esparza is jointly and severally liable for 12 percent.

Gregory L. Gowan

Jason P. Hoelscher

Charles L. Barrera

Craig M. Sico

Plaintiffs said earth scraper had faulty transmission system

Verdict: (P) $56,360,368.00
Case: *Alfonzo Lopez and Maria Elena Lopez v. Caterpillar Inc. and Holt Texas Ltd., d/b/a Holt Cat*, No. 2007-CI-15864

PLAINTIFF(S) Attorney:
- Eugene R. Egdorf; The Lanier Law Firm, P.C.; Houston, TX, for Alfonzo Lopez, Maria Elena Lopez
- Dara G. Hegar; The Lanier Law Firm, P.C.; Houston, TX, for Alfonzo Lopez, Maria Elena Lopez
- Frank Herrera Jr.; The Herrera Law Firm; San Antonio, TX, for Alfonzo Lopez, Maria Elena Lopez
- Mark Lanier; The Lanier Law Firm, P.C.; Houston, TX, for Alfonzo Lopez, Maria Elena Lopez
- Robert E. Leone; The Lanier Law Firm, P.C.; Houston, TX, for Alfonzo Lopez, Maria Elena Lopez
- Patrick O'Hara; The Lanier Law Firm, P.C.; Houston, TX, for Alfonzo Lopez, Maria Elena Lopez


Frank HerreraJr.


Mark Lanier

Facts: On Aug. 19, 2006, plaintiff Alfonzo Lopez, 38, an earth-scraper operator, was working at a construction site in Little Elm. He claimed that he was wearing the seat belt, which was a lap belt. The machine he was operating, a Caterpillar 623G wheel tractor-scraper weighing more than 80,000 pounds, jolted violently up and down. Lopez sustained a spinal injury resulting in permanent paralysis from the waist down. The scraper's distributor, Holt Texas Inc., had a resident, full-time mechanic at the job site to perform repairs on the 200 pieces of machinery at the site owned by Lopez's employer. This mechanic had performed repairs on the scraper in question two days before the incident and again less than three hours before the incident. Lopez sued Caterpillar Inc., of Peoria, Ill., for product liability design defect and marketing defect. He also sued Holt Texas Inc., operating as Holt Cat, of San Antonio, for negligent maintenance. Lopez argued that the scraper shifted improperly and on its own, possibly from sixth gear to second or from fifth to reverse, and that it shook and bucked violently up and down. Lopez testified there was no bump or rock on the ground in the area where he was operating the scraper, at least not one that would jolt the scraper so. According to Lopez, the transmission had faulty gear sensors and no fail-safe or confirmation mechanism to prevent faulty signals from causing improper shifting, such as from sixth gear to second or from fifth to reverse. Signals traveled on a single wire and relied on pulse waves, a technology that the plaintiffs argued was decades-old. The plaintiffs also argued that dozens of warranty claims from 2002 to 2009 showed Caterpillar scrapers moving inconsistently with operator commands or shifting on their own, or seats bottoming out, and that two incidents before Lopez's involved severe back injuries. In November 2004, Caterpillar changed the gear sensors in this model. According to the plaintiffs, Caterpillar should have changed the whole system, but opted not to because of the cost, which was estimated at between $3 million and $4 million. The operator's seat was air-cushioned and had a single shock absorber and a lap belt. Lopez argued that it should have had double shocks, more cushioning, and a three-point shoulder harness, and that such a seat was available by 2004. Regarding marketing, Lopez argued that Caterpillar had a policy of not disclosing a problem until the "fix" was ready. The scraper had an electronic control module, or "black box," which records diagnostic and event codes and the hour in which the codes are triggered. The module's data was downloaded after the incident, and it showed that the diagnostic code "700-2" had been triggered 71 times, with the 71st time occurring in the same hour as the incident. The plaintiffs argued that, according to Caterpillar's service manual, this code indicates a faulty signal from the transmission gear sensor and is not caused by the operator. In the two repairs before this incident, the Holt mechanic had not downloaded the data from the control module. The plaintiffs argued that he was supposed to do so, and that if he had, the scraper would have been taken out of service before the incident. The plaintiffs said downloading the codes takes 15 minutes. The plaintiffs argued for 80 percent fault on Caterpillar and 20 percent on Holt. The defense denied any defect in the transmission system or the seat and denied any improper shifting by the scraper. According to the defense, Lopez told paramedics at the scene and other medical providers in the days, weeks, and months after the incident that he hit a bump or encountered rough terrain. The defense also argued that Lopez was driving too

fast. The defense denied any seat failure or malfunction and argued that Lopez's employer continued to use the seat after the incident. According to the defense, although the seat's shock absorber reached its full downward stroke in the incident, the seat included rubber bumpers to prevent metal-to-metal contact. According to the defense, none of the warranty claims involved rapid downshifts, violent movement of the machine, or bodily injury. Although two incidents resulted in severe back injury, the defense argued that these incidents were not warranty claims and did not involve an electrical defect. The defense also argued that the scraper in the Lopez incident continued forward and that there was no evidence that it backed up. Holt denied negligent maintenance or notice of any transmission problem. It said no repair had been requested on this scraper that would require connecting a computer to it and downloading the codes. Downloading the codes takes about 30 minutes, according to Holt, and is done only as a diagnostic aid. The defense also denied that a faulty gear sensor caused the 700-2 code or that this code was of any importance in this incident. The defense argued that the plaintiffs also never tested the gear sensor to see if it was malfunctioning. In addition, according to Holt, the plaintiffs' argument that Holt failed to discover a dangerous condition was inconsistent with the plaintiffs' claim of gross negligence, which requires "subjective awareness of the risk involved." The parties disputed whether routine maintenance was the responsibility of Holt or Lopez's employer.

Verdict: The jury found design defect and marketing defect against Caterpillar and found negligence by Holt, but not by Lopez. Caterpillar and the defects were 90 percent responsible for the injury, and Holt was 10 percent responsible. Lopez's actual damages were $9,470,308, and his wife's were $6,390,000. The jury also found gross negligence and assessed punitive damages of $40 million against Caterpillar and $500,000 against Holt. According to the plaintiffs' counsel, the jury asked for a calculator as deliberations began.
Alfonzo Lopez $379,576 Personal Injury: Past Medical Cost $1,900,000 Personal Injury: Future Medical Cost $500,000 Personal Injury: Past Physical Impairment $1,500,000 Personal Injury: Future Physical Impairment $110,908 Personal Injury: Past Lost Earnings Capability $779,884 Personal Injury: Future Lost Earnings Capability $400,000 Personal Injury: Past Pain And Suffering $1,900,000 Personal Injury: Future Pain And Suffering $500,000 Personal Injury: Past Disfigurement $1,500,000 Personal Injury: Future Disfigurement $40,000,000 Personal Injury: punitive damages (Caterpillar) $500,000 Personal Injury: punitive damages (Holt) Maria Elena Lopez $1,500,000 Personal Injury: Past Loss Of Consortium $4,000,000 Personal Injury: Future Loss Of Consortium $110,000 Personal Injury: Past Loss Of Services $780,000 Personal Injury: Future Loss Of Services

Tire tread separated before rollover that paralyzed teen

Verdict: (P) $41,816,001.31
Case: *Adam Rocha and Marisela Rocha, each individually and as next friends of Rubi Ann Rocha and Rubi Ann Rocha, individually v. Michelin North America Inc.*, No. 09-06-11001-DCVAJA

PLAINTIFF(S) Attorney:
• Jason P. Hoelscher, Brantley W. White; Sico, White, Hoelscher & Braugh, L.L.P.; Corpus Christi, TX, for Adam Rocha, Marisela Rocha, Rubi Ann Rocha
• Rolando M. Jasso; Knickerbocker, Heredia, Jasso & Stewart, P.C.; Eagle Pass, TX, for Adam Rocha, Marisela Rocha, Rubi Ann Rocha

Facts: On April 25, 2009, plaintiff Rubi Ann Rocha, 17, was a passenger in the right rear seat of a 2001 Ford F-150 driven by her boyfriend's mother. The right rear tire's tread/belt detached suddenly and the vehicle went out of control, rolling over several times. The tire was a BF Goodrich All-Terrain T/A manufactured in the 24th week of 2004 by Michelin North America Inc. Rubi was paralyzed in the crash. Rocha's family sued Michelin on Rubi's behalf, for products liability, alleging a manufacturing defect. Former Michelin tire builders testified that the roof on the company's Tuscaloosa tire-building facility was old, in poor condition and leaked severely during heavy rainfall. Records from the National Climatic Data Center and testimony from a meteorologist indicated that heavy rain fell in and around Tuscaloosa during the 24th week of 2004. Michelin's corporate representative acknowledged that tires contaminated with water are at risk for tread/belt separation because the water vaporizes during vulcanization of the tires, causing trapped air pockets between the steel belts of the tire. Michelin denied any defect and argued that an unknown person had caused bead damage to the tire, which the defense said caused the separation. In addition, the defense argued that the driver should have kept control of the vehicle.

Verdict: The jury found Michelin alone negligent and awarded Rubi $41,816,001.31. Rubi Ann Rocha $497,907 Personal Injury: Past Medical Cost $8,318,095 Personal Injury: Future Medical Cost $5,000,000 Personal Injury: Past Physical Impairment $3,000,000 Personal Injury: Future Physical Impairment $5,000,000 Personal Injury: Past Pain And Suffering $12,000,000 Personal Injury: Future Pain And Suffering $3,000,000 Personal Injury: Past Disfigurement $5,000,000 Personal Injury: Future Disfigurement

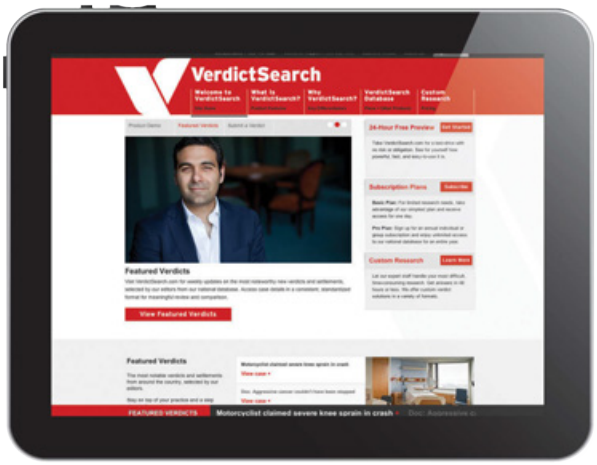

Jason P. Hoelscher


Rolando M. Jasso


Brantley W. White

VerdictSearch

Make informed strategic decisions. Win larger verdicts. Negotiate from strength.



Access a database of more than 180,000 verdicts and settlements from the nation's leading provider of verdict and settlement research.

Take VerdictSearch.com for a test-drive and see for yourself how powerful, fast and easy to use it is.

GET STARTED

verdictsearch.com

24-HOUR FREE PREVIEW

- Quick access
- 3 Full Case Views
- Advanced Search

VerdictSearch | 120 Broadway 5th Floor | New York, NY 10271 | 877-807-8076

ALM
Insights. Innovation. Connected.

Exposure to asbestos resulted in mesothelioma, family claimed

Verdict: (P) $27,505,937.69

Case: *Joan Johnston, individually and as personal representative of the Estate of Jerry Johnston, deceased, Fred Johnston and Judy Courts v. Afton Pumps, Inc., Allis Chalmers Corporation Liability Trust, BW/IP International, Inc., CBS Corporation f/k/a Viacom, Inc., Crane Co., The Dow Chemical Company, Elliott Turbomachinary Company a/k/a Elliot Company, Flowserve Corporation, FMC Corporation, Garlock Sealing Technologies, Inc., General Electric Company, Goulds Pumps Inc., Guard-Line, Inc., Ingersoll Rand Company, John Crane, Inc., Metropolitan Life Insurance Company, Occidental Petroleum Corporation, Standco Industries, Inc., Sterling Fluid Systems, Inc., Viking Pump Company, and The William Powell Company*, No. 2008-36868

Christopher J. Panatier

PLAINTIFF(S) Attorney:

• Clay B. Carroll, Christopher J. Panatier; Simon, Eddins & Greenstone, LLP; Dallas, TX, for Judy Courts, Fred Johnston, Jerry Johnston, Joan Johnston

Facts: On Feb. 29, 2008, plaintiff's decedent Jerry Johnston, 63, was diagnosed with mesothelioma. He died eight months later. Johnston was a parts handler at the Dow Chemical facility in Freeport from 1973 until 1981. He was responsible for ordering all the replacement asbestos gaskets and packing products that were being used by workers in the plant. Johnston had repeated exposure to asbestos from the John Crane gaskets that were being installed and removed by workers with whom he was interacting. The gaskets specified by Dow were made from crocidolite asbestos fiber. He also had direct hands-on exposure to John Crane asbestos gaskets years earlier at a sulfur mining operation. Johnston's widow, Joan Johnston, individually and on behalf of her husband's estate, together with their two adult children, sued all of the manufacturers and equipment suppliers that were engaged in the asbestos market to which the plaintiffs' decedent was exposed for many years. Many of those defendants were subsequently dismissed or reached confidential settlements with the family. The claims against defendant John Crane proceeded to trial. The family alleged its asbestos products were a substantial factor in causing Johnston's mesothelioma. The plaintiffs called the only certified industrial hygienist the jury heard, who testified that John Crane's asbestos gaskets released fibers in excess of applicable permissible exposure levels. The family also asserted that John Crane negligently failed to warn Johnston and others of the inherent dangers of working with its asbestos products. The defense argued that John Crane made gaskets and packing, some of which contained encapsulated chrysotile asbestos. Because the asbestos is encapsulated, it is not easily released when the gaskets and packing are abraded, cut, scraped, brushed or removed. The defense argued that chrysotile asbestos either does not cause mesothelioma, or, if it does, only in people that are exposed to very large amounts for a very long time. The defense argued that fiber-release monitoring shows that work with gaskets and packing does not release fibers in sufficient amounts to increase a person's risk of developing mesothelioma. Defense counsel argued that there are no epidemiological studies that show work with gaskets and packing increase one's risk of developing mesothelioma. It was undisputed that there were never any warnings on the product during the years Johnston was working. Although John Crane was the only defendant to go to trial, the jury was called upon to apportion liability between and among the other defendants who either contributed to the settlement pool or were otherwise determined by the court as parties against whom consideration of the allocation of liability should be considered.

Verdict Information: The jury found that John Crane's asbestos-containing products, as well as those of several of the other defendants, were a substantial factor and proximate cause of Jerry Johnston's injuries and subsequent death. The jury concluded that the company was negligent and failed to warn Johnston and others of the inherent dangers of working with its asbestos products. It attributed 15 percent of the total liability to John Crane. The jury awarded $27,525,937.69, consisting of $7,525,937.69 in compensatory damages and $20 million in exemplary damages.

Pipe unexpectedly dropped out of elevator, hit rig worker

Amount: $11,314,180.72

Case Name: *Eliazar Trevino, Jr. v. M & M Elevator Company, LTD; M & M Fishing Tool Rental, Inc.; Sidney Ingram; David Moore & Associates, Inc.; Oilfield Fishing and Rental, LLC; Pro-Petro Services, Inc.; Shane Sprinkle; and XTO Energy, Inc.*, No. C-128,532 413576

Richard L. Hardy

Plaintiff Attorney(s):

• Richard L. Hardy; Fadduol, Cluff & Hardy, P.C.; Lubbock, TX, for Eliazar Trevino, Jr.

Facts: On Sept. 29, 2009, plaintiff Eliazar Trevino Jr., 24, a well servicing employee employed by Pro-Petro Services Inc., was pulling casing on a well servicing project in an oilfield in Goldsmith. As he stood under a Web Wilson double-latch elevator, the elevator latch was caused to open and dropped an approximately 40-foot long pipe casing onto Trevino. Trevino sustained a shoulder fracture and a dislocation and dislodging of the brachial plexus nerve.

M&M Elevator Company LTD and M&M Fishing Tool Rental Inc. had refurbished and sold the elevator to Oilfield Fishing and Rental LLC, which then rented the equipment out to XTO Energy Inc., the general contractor for the project.

Trevino sued M&M Elevator; M&M Fishing Tool Rental; XTO Energy; Oilfield Fishing and Rental; David Moore & Associates Inc., the company man on site; and additional contractors Shane Sprinkle and Sidney Ingram; alleging products liability and negligence.

The defendants sued Pro-Petro Services Inc. for indemnification. Oilfield Fishing and Rental, David Moore & Associates and Sprinkle agreed to settle the case with the plaintiff prior to trial. XTO Energy was granted summary judgment and Pro-Petro was non-suited prior to trial.

Trevino contended that there was a defect in the manufacturing of the product. He argued a latch lock pin had been improperly welded in such a way as to prevent the latch from completely closing, and that there was no gap in the latch, which is the industry standard. Trevino introduced records from a repair shop, which had inspected the elevator after the incident, that noted the defects.

Trevino also argued contended that, immediately after the accident, M&M Elevator disassembled and rebuilt the elevators. He filed a motion for a spoliation charge, which was granted.

Plaintiff's engineering and oilfield expert opined that, since the elevator had been disassembled and rebuilt, it was not the same elevator as the one that allegedly malfunctioned, and therefore there was no way to determine the original elevator's efficacy. The expert further opined that Trevino and the rest of the crews and employees on the oilfield were acting within the accepted practice, and were not doing anything negligent.

M&M Elevator contended that there was no defect, and that it had refurbished the elevator according to industry standards. It also contended that Trevino and the crews on site were negligent and partially liable for not using the elevator properly and for standing and allowing Trevino to stand in an unsafe area underneath the elevator. M&M Elevator further argued that Trevino had not properly latched the elevator, and his employer did not follow its own safety protocol by allowing Trevino to stand under a suspended load.

M&M Elevator's expert engineer opined that, by comparing photographs of the elevator, the evidence had not been spoiled. The expert further opined that if the elevator was properly latched, it would have been impossible to open accidentally.

Verdict: While Pro-Petro Service, Oilfield Fishing & Rental, M&M Elevator and Trevino were all on the verdict sheet, the jury found M&M Elevator Company to be 100 percent liable for the incident. It awarded the plaintiffs $11,794,180. The plaintiffs' award will be offset by the settlement amount.

Family blamed exposure from 50 years ago for mesothelioma

Amount: $9,000,000
Case Name: *Tanya Elaine Henderson, Magdalena Adrienna Abutahoun individually and as Trustee of the Estate of Robert Henderson and Za'Qoia Zanice Henderson v. The Dow Chemical Co., No. 10-07003*

Plaintiff Attorney(s):
• John Langdoc; Baron & Budd; Dallas, TX, for Estate of Robert Henderson


John Langdoc

Facts: In April 2010, plaintiff's decedent Robert Henderson, 68, was diagnosed with mesothelioma and died later that year. For 10 months in 1967, he was a contract employee at a chemical refinery owned by Dow Chemical Co., in Freeport. He the spent 27 years working for Alcoa Inc.

Henderson's family members, individually and on behalf of his estate, sued Dow, claiming he was exposed to asbestos as a bystander while working at the Dow plant and that this exposure was the cause of his mesothelioma. The family claimed that Dow employees were stripping asbestos insulation from pipes located directly above where Henderson was working at the plant. Plaintiffs' counsel argued the cancer risks of asbestos exposure were known both within the chemical industry and to the general public in 1967, and that despite this, Dow did not provide any protective gear. Plaintiffs' counsel agued that while Henderson was exposed to asbestos while working for Alcoa, he was exposed to much higher concentrations at the Dow plant.

Dow argued that Henderson was exposed to asbestos for a much longer period of time while working for Alcoa, and that this exposure was the cause of his mesothelioma. Defense counsel argued that Dow took all necessary safety measures based on what was known of asbestos' health risks in 1967. Defense counsel argued that the plaintiffs had not proven the asbestos removal was being performed by Dow employees.

The plaintiffs originally named Alcoa, the Crane Co. and Haveg Industries Inc., two asbestos manufacturers, in the suit, but settled with all three parties before trial.

The plaintiffs originally claimed Henderson was exposed as an employee of the contractor and as a bystander, but the employee claim was dismissed in a summary judgment prior to trial.

Verdict: The jury found Dow 30 percent liable and Alcoa 70 percent liable. The plaintiffs were awarded $9 million, which was reduced to $2.7 million.

VerdictSearch TEXAS LAWYER

TEXAS VERDICTS

HALL OF FAME









On November 12, 2013, Texas Lawyer & VerdictSearch.com honored The Texas Verdicts Hall of Fame. Held at the Ritz-Carlton, Dallas, honorees, sponsors and guests mingled for an unforgettable evening of networking and celebration. Our distinguished honorees have helped to shape the legal profession through their dedication and accomplishments and they are inspirations to the next generation.

CONGRATULATIONS AGAIN TO ALL THE HONOREES:

CONTRACTS
Crouch & Ramey
Friday, Eldredge & Clark
Gardere Wynne Sewell
Knickerbocker, Heredia, Jasso & Stewart
Law Office of Francisco Ponce
Law Office of Joe Luna
Law Office of Patrick Zummo
McWhorter Cobb & Johnson
Provost Umphrey Law Firm
Susman Godfrey
Watts Guerra
Yetter Coleman

INTELLECTUAL PROPERTY
Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing (AZA)
Albritton Law Firm
Dickstein Shapiro
Ireland Carroll & Kelley
McKool Smith
Parker, Bunt & Ainsworth
Stroock & Stroock & Lavan
Williams, Morgan, & Amerson

INTENTIONAL TORTS
Demond & Hassan
Graves Dougherty Hearon & Moody
The Ken Bigham Jr. Law Firm
Lesher & Associates
Sico, White, Hoelscher, Harris & Braugh
The Kelly Law Firm

MOTOR VEHICLE
Charles L. Barrera
Carrillo Law Office
Gowan Elizondo
Guerra Mask
Scherr & Legate
Sico, White, Hoelscher, Harris & Braugh
The Pastrana Law Firm
Victor Guajardo Law Firm
Wigington Rumley Dunn & Ritch

PRODUCTS LIABILITY
Baron & Budd
Fadduol, Cluff & Hardy
Knickerbocker, Heredia, Jasso & Stewart
Sico, White, Hoelscher, Harris & Braugh
Simon Greenstone Panatier Bartlett
The Herrera Law Firm
The Lanier Law Firm

LIFETIME ACHIEVER
Frank Branson
The Law Offices of Frank L. Branson

SUPPORTED BY:

CROUCH & RAMEY · GARDERE · HC | LEGAL SEARCH · MCKOOL SMITH · SBP SIMPSON BOYD & POWERS ATTORNEYS AT LAW · SWHB SICO, WHITE, HOELSCHER, HARRIS & BRAUGH L.L.P. · USLEGAL SUPPORT The Power of Commitment

LAWYERS

SWHHB

SICO, WHITE, HOELSCHER, HARRIS & BRAUGH L.L.P.

VAN ROLLOVER

Death and Injury in Colorado Lead Jury to Deliver $124M Verdict

Jury Confirms: Michelin Tire Defective!

Awards $41 Million

FIRM DELIVERS JUSTICE

to the tune of *$150 BILLION* to child burned on his *birthday*

Los Angeles: Tire Retailer Ordered To Pay $18 Million

All's Well That Ends Well:

Defendant Accused of Well Damage

Nueces County Collision Plaintiffs' Cause Honored On Order Of $9,235,000

AWARDED $20M IN LANDMARK CONTRACTS CASE

www.swhhb.com

Display until Dec. 2015