



Crash with overloaded rig led to spinal surgery, plaintiffs claimed

Type: Decision-Plaintiff

Amount: \$27,743,747

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 58th, TX

Injury Type(s):

- *back* - stenosis; annular tear; fusion, lumbar; sprain, lumbar; strain, lumbar; nerve impingement; herniated disc, lumbar; herniated disc at L5-S1; disc protrusion, lumbar
- *head*
- *neck* - stenosis; annular tear; fusion, cervical; nerve impingement; herniated disc, cervical; herniated disc at C5-6; fusion, cervical, two-level
- *brain* - subdural hematoma
- *other* - hematoma; sacroiliac joint; epidural injections
- *neurological* - nerve impingement

Case Type:

- *Gross Negligence*
- *Transportation* - Trucking
- *Motor Vehicle* - Rear-ender; Multiple Impact; Tractor-Trailer; Multiple Vehicle
- *Worker/Workplace Negligence* - Negligent Training

Case Name: Allen Norris and Fabian Williams v. United Parcel Service, Inc., and Byron Bisor, No. A-0201842

Date: August 01, 2019

Plaintiff(s):

- Allen Norris (Male, 58 Years)
- Delores Norris
- Fabian Williams (Male, 47 Years)

**Plaintiff
Attorney(s):**

- Larry C. Hunter; The Ferguson Law Firm; Beaumont TX for Allen Norris, Fabian Williams, Delores Norris
- Paul "Chip" Ferguson Jr.; The Ferguson Law Firm; Beaumont TX for Allen Norris, Fabian Williams, Delores Norris
- Jonathan Healy; Packard & Lapray; Beaumont TX for Allen Norris, Fabian Williams, Delores Norris

**Plaintiff Expert
(s):**

- Erwin Lo M.D.; Neurosurgery; Beaumont, TX called by: Larry C. Hunter, Paul "Chip" Ferguson Jr., Jonathan Healy
- Robin Wright; Accident Reconstruction; Buna, TX called by: Larry C. Hunter, Paul "Chip" Ferguson Jr., Jonathan Healy
- Roger C. Allen; Trucking Industry; Friendswood, TX called by: Larry C. Hunter, Paul "Chip" Ferguson Jr., Jonathan Healy
- Jeffrey Peterson; Vocational Rehabilitation; Sulphur, LA called by: Larry C. Hunter, Paul "Chip" Ferguson Jr., Jonathan Healy
- Patrick Hayes M.D.; Psychiatry; Lake Charles, LA called by: Larry C. Hunter, Paul "Chip" Ferguson Jr., Jonathan Healy

Defendant(s):

- Byron Bisor
- United Parcel Service Inc.

**Defense
Attorney(s):**

- Greg Schlak; Manning, Gosda & Arredondo; Houston, TX for Byron Bisor, United Parcel Service Inc.
- Doug T. Gosda; Manning, Gosda & Arredondo; Houston, TX for Byron Bisor, United Parcel Service Inc.
- Andrew Love; Wright, Close & Barger; Houston, TX for Byron Bisor, United Parcel Service Inc.

**Defendant
Expert(s):**

- Stuart Weil M.D.; Neurosurgery; Houston, TX called by: for Greg Schlak, Doug T. Gosda, Andrew Love
- Marilyn Godoy Pacheco; Coding & Billing (Medical); Los Angeles, CA called by: for Greg Schlak, Doug T. Gosda, Andrew Love
- William Quintanilla M.Ed., LPC; Vocational Rehabilitation; Houston, TX called by: for Greg Schlak, Doug T. Gosda, Andrew Love

Facts:

On March 1, 2018, plaintiff Allen Norris, 58, a pipe fitter, and plaintiff Fabian Williams, 47, a scaffold builder, were driving on Interstate 10, in Jefferson County. Norris' pickup truck was rear-ended by tractor-trailer that was being driven by Bryan Bisor. A moment later, Bisor's rig struck Williams' sport utility vehicle. Norris and Williams claimed that they suffered injuries of the back and neck.

Norris and Williams sued Bisor and his employer, United Parcel Service Inc. The plaintiffs alleged that Bisor, who was in the course and scope of his employment, was negligent in the operation of the 18-wheeler. The plaintiffs also alleged gross negligence against UPS for operating an overloaded trailer and failing to train Bisor properly.

Plaintiffs' counsel introduced evidence that Bisor sometimes talked on his cellular telephone while driving. The plaintiffs' accident-reconstruction expert noted that Bisor did not brake before the impact, and the expert opined that Bisor was traveling 60 to 70 mph. The back of Norris' pickup truck sustained severe damage, and the back windows of Williams' SUV were blown out.

The court granted unopposed summary judgment for the plaintiffs on negligence. The case was tried to the bench.

The defense argued that, even if the trailer was overloaded and Bisor's training was inadequate, which the defense denied, neither of those elements was a factor in the accident. The defense also noted that there was no evidence that Bisor was on his cellular telephone at the time of the accident.

Injury:

Norris was retrieved by an ambulance, and he was transported to a hospital. He underwent minor treatment.

Norris ultimately claimed that he suffered a herniation of his C5-6 intervertebral disc, with canal stenosis and severe foraminal narrowing; moderate to severe narrowing of the left neural foramen at the C6-7 level; moderate foraminal stenosis at the L4-5 level, possibly contributing to contact with nerve roots; moderate to severe foraminal narrowing at the L5-S1 level, with nerve root contact; a lumbar hematoma; and a possible subdural hematoma.

Four days after the accident, Norris was referred to a neurosurgeon. On March 21, 2018, Norris underwent surgery for a traumatic lumbar hematoma. Three weeks later, he started cervical and lumbar injections, but he said they did not help. After two months, it was decided that he would undergo fusion from L4 to S1 and bilateral fusion of the sacroiliac joints, to be followed by fusion from C5 to C7.

Norris underwent the lumbar and sacroiliac surgeries on July 18, 2018, after which he developed a major infection at the surgical site. After the infection healed, he underwent cervical fusion on Jan. 16, 2019.

Norris never returned to work after the accident. His neurosurgeon and his vocational-rehabilitation expert opined that Norris was 100 percent disabled from any employment. Norris testified that he can barely walk, cannot sleep in his bed and cannot drive 1.5 hours to visit his children.

For Norris, plaintiffs' counsel sought \$1,038,147.98 for past medical expenses;

\$1,368,101.12 to \$2,625,743.61 for future medical expenses; \$80,624.66 to \$91,446.19 for past lost wages; \$721,033.43 to \$1,189,543.97 for future loss of earning capacity; \$2,000,000 to \$4,000,000 for past physical pain; \$4,000,000 to \$8,000,000 for future physical pain; \$2,000,000 to \$4,000,000 for past mental anguish; \$4,000,000 to \$8,000,000 for future mental anguish; \$2,000,000 to \$4,000,000 for past physical impairment; and \$4,000,000 to \$8,000,000 for future physical impairment. He also sought prejudgment interest.

For Norris' wife, plaintiff Delores Norris, counsel sought \$250,000 to \$500,000 for past loss of household services; \$500,000 to \$1,000,000 for future household services; \$500,000 to \$1,000,000 for past loss of consortium; and \$1,000,000 to \$3,000,000 for future loss of consortium. He also sought prejudgment interest.

Williams was retrieved by an ambulance, and he was transported to a hospital. He underwent minor treatment.

Williams ultimately claimed that he suffered a protrusion or herniation of the C3-4 disc with foraminal stenosis and indentation of the thecal sac; protrusions or herniations of the C4-5 and C6-7 discs, with canal stenosis, foraminal stenosis and indentation of the thecal sac; a protrusion or herniation of the C5-6 disc, with a superimposed annular fissure, canal stenosis, foraminal stenosis and indentation of the thecal sac; a herniation of the L5-S1 disc, with indentation of the thecal sac; and lumbar sprains and strains.

Williams was referred to a neurosurgeon three weeks after the accident, and on April 13, 2018, he underwent an electromyography. On May 9, 2018, he began nerve-block injections and the first of two series of cervical epidural steroid injections. He began the second series of epidural steroid injections on Sept. 25, 2018. On Jan. 16, 2019, the dosage of his pain medication was increased by 50 percent, and on March 20, 2019, he underwent fusion from C4 to C7.

Williams returned to work on the Monday after the accident, which was on a Friday. He worked for about 10 months but said the pain became too great. Both the treating neurosurgeon and vocational rehabilitation expert opined that Williams is severely disabled from employment.

Williams testified that he could not pick up his 2-year-old grandson or ride his motorcycle, which he said was his passion.

For Williams, plaintiffs' counsel sought \$393,907.27 for past medical expenses; \$450,013.44 to \$839,667.20 for future medical expenses; \$20,053.71 to \$21,612.69 for past lost wages; \$1,601,325.88 to \$2,118,043.62 for future loss of earning capacity; \$1,000,000 to \$3,000,000 for past physical pain; \$2,000,000 to \$6,000,000 for future physical pain; \$1,000,000 to \$3,000,000 for past mental anguish; \$2,000,000 to \$6,000,000 for future mental anguish; \$1,000,000 to \$6,000,000 for past physical impairment; and \$2,000,000 to \$6,000,000 for future physical impairment. He also sought prejudgment interest.

As to Mr. Norris, the defense argued that the award for noneconomic damages should be reasonable and that Norris would not have continued to work for as long as he claimed.

As to Williams, the defense contended that his only injuries from the accident were

sprains and strains and that the surgery was not related to the accident. The defense emphasized his rapid return to work after the accident and the fact that he was able to work for about 10 months before undergoing surgery.

Defense counsel suggested a total award of \$5 million to \$6 million.

Result:

Judge W. Kent Walston found that the defendants were liable for the accident but rejected the claim of gross negligence. He determined that the plaintiffs' damages totaled \$27,743,746.84.

Allen Norris

\$1,038,148 Personal Injury: Past Medical Cost

\$1,890,001 Personal Injury: Future Medical Cost

\$2,000,000 Personal Injury: Past Physical Impairment

\$4,000,000 Personal Injury: Future Physical Impairment

\$3,000,000 Personal Injury: future physical pain

\$80,625 Personal Injury: past loss of earning capacity

\$3,000,000 Personal Injury: past mental anguish

\$721,033 Personal Injury: future loss of earning capacity

\$1,500,000 Personal Injury: future mental anguish

\$2,000,000 Personal Injury: past physical pain

\$385,402 Personal Injury: prejudgment interest

Delores Norris

\$100,000 Personal Injury: Past Loss Of Consortium

\$200,000 Personal Injury: Future Loss Of Consortium

\$250,000 Personal Injury: past loss of household services

\$500,000 Personal Injury: future loss of household services

\$16,615 Personal Injury: prejudgment interest

Fabian Williams

\$393,907 Personal Injury: Past Medical Cost

\$100,000 Personal Injury: Future Medical Cost

\$1,000,000 Personal Injury: Past Physical Impairment

\$500,000 Personal Injury: Future Physical Impairment

\$500,000 Personal Injury: future physical pain

\$19,653 Personal Injury: past loss of earning capacity

\$1,000,000 Personal Injury: past mental anguish

\$1,347,840 Personal Injury: future loss of earning capacity

\$500,000 Personal Injury: future mental anguish

\$1,500,000 Personal Injury: past physical pain

\$200,523 Personal Injury: prejudgment interest

Trial Information:

Judge: W. Kent Walston

Trial Length: 2 weeks

Editor's Comment: This report is based on information that was provided by plaintiffs' counsel. Defense counsel did not respond to the reporter's phone calls.

Writer jschneider

Fatigued, speeding trucker caused crash, plaintiff claimed

Type: Verdict-Plaintiff

Amount: \$19,215,779

Actual Award: \$19,666,584

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 136th, TX

Injury Type(s):

- *back* - herniated disc, lumbar
- *head*
- *knee* - anterior cruciate ligament, tear; medial collateral ligament, damage
- *neck* - herniated disc, lumbar; herniated disc, cervical
- *brain* - traumatic brain injury
- *other* - laceration; chiropractic; unconsciousness; physical therapy; epidural injections
- *shoulder* - rotator cuff, injury (tear)
- *face/nose* - chin; face
- *surgeries/treatment* - knee surgery
- *mental/psychological* - depression; cognition, impairment; memory, impairment

Case Type:

- *Gross Negligence*
- *Motor Vehicle* - Speeding; Rear-ender; Driver Fatigue; Multiple Vehicle
- *Transportation* - Trucking
- *Worker/Workplace Negligence* - Negligent Retention

Case Name: Dezmon Simpson and Yulonda Durst v. Genesis Energy, L.P., Genesis Davison, LLC, Davison Transportation Services, Inc., Two Amigos Auto Repair and James T. Benfield, No. D-199677

Date: December 11, 2019

Plaintiff(s):

- Yulonda Durst
- Dezmon Simpson (Male, 19 Years)

**Plaintiff
Attorney(s):**

- Clay Dugas; Clay Dugas & Associates; Beaumont TX for Dezmon Simpson, Yulonda Durst
- Charlton P. Hornsby; Clay Dugas & Associates; Beaumont TX for Dezmon Simpson, Yulonda Durst

**Plaintiff Expert
(s):**

- Lew Grill; Trucking Industry; Billings, MT called by: Clay Dugas, Charlton P. Hornsby
- Dean Nance; Accident Reconstruction; Port Arthur, TX called by: Clay Dugas, Charlton P. Hornsby
- Gene Trevino Ph.D.; Economics; San Antonio, TX called by: Clay Dugas, Charlton P. Hornsby
- Donald Trahan Ph.D.; Neuropsychology; Beaumont, TX called by: Clay Dugas, Charlton P. Hornsby
- Edward Gripon M.D.; Psychiatry; Beaumont, TX called by: Clay Dugas, Charlton P. Hornsby
- Steven Inbody M.D.; Neurology; Houston, TX called by: Clay Dugas, Charlton P. Hornsby
- Bradley Shore M.D.; Radiology; Metairie, LA called by: Clay Dugas, Charlton P. Hornsby
- Jeffrey Peterson; Vocational Rehabilitation; Sulphur, LA called by: Clay Dugas, Charlton P. Hornsby
- Stephen I. Esses M.D.; Orthopedic Surgery; Houston, TX called by: Clay Dugas, Charlton P. Hornsby
- Stefanos Kales M.D.; Occupational Medicine; Cambridge, MA called by: Clay Dugas, Charlton P. Hornsby

Defendant(s):

- James T. Benfield
- Genesis Davison LLC
- Genesis Energy L.P.
- Two Amigos Auto Repair
- Davison Transportation Services Inc.

**Defense
Attorney(s):**

- Randy Fairless; Johanson & Fairless; Sugar Land, TX for James T. Benfield, Davison Transportation Services Inc., Genesis Davison LLC, Genesis Energy L.P.
- Cynthia Jones; Newton, Jones & Spaeth; Houston, TX for James T. Benfield, Davison Transportation Services Inc., Genesis Davison LLC, Genesis Energy L.P.
- H. Dwayne Newton; Newton, Jones & Spaeth; Houston, TX for James T. Benfield, Davison Transportation Services Inc., Genesis Davison LLC, Genesis Energy L.P.
- None reported for Two Amigos Auto Repair
- Tim Nisbet; Johanson & Fairless; Sugar Land, TX for James T. Benfield, Davison Transportation Services Inc., Genesis Davison LLC, Genesis Energy L.P.

**Defendant
Expert(s):**

- Mark Maffet M.D.; Orthopedic Surgery; Houston, TX called by: for Randy Fairless, , , Cynthia Jones
- Robin Wright; Accident Reconstruction; Kirbyville, TX called by: for Randy Fairless, , , Cynthia Jones
- Corwin Boake Ph.D.; Neuropsychology; Houston, TX called by: for Randy Fairless, , , Cynthia Jones
- Leonard Hershkowitz M.D.; Neurology; Houston, TX called by: for Randy Fairless, , , Cynthia Jones

Insurers:

- Zurich North America
- Westchester Surplus Lines Insurance Co.

Facts:

On Feb. 13, 2017, plaintiff Dezmon Simpson, 19, a college student, was driving a sport utility vehicle in the left lane of Interstate 10, in Beaumont. Simpson's SUV began to smoke and decelerate rapidly. About 12 seconds after smoke appeared, James Benfield, driving a tanker truck loaded with hydrogen sulfide, rear-ended Simpson's SUV. The SUV was propelled across the roadway, and it struck a retaining wall. Simpson suffered an injury of his head.

Simpson and his SUV's owner, Yulonda Durst, sued Benfield; Benfield's employer, Genesis Energy L.P.; two related entities, Genesis Davison LLC and Davison Transportation Services Inc.; and an entity that had repaired the SUV in October 2016, Two Amigos Auto Repair. The lawsuit alleged that Benfield was negligent in the operation of the tanker, including transporting extremely hazardous material while fatigued and speeding. The lawsuit further alleged that Genesis Energy was negligent and grossly negligent in retaining Benfield as an employee for the transport of hazardous materials.

Two Amigos was non-suited before the trial, and plaintiffs' counsel did not pursue the claims against Genesis Davison or Davison Transportation.

Plaintiffs' counsel argued that the tanker's cargo, a colorless, flammable gas, posed a danger to anyone within a half mile of the accident, a radius that included schools and hospitals. Plaintiffs' counsel contended that the download from the tanker's engine control module showed that, less than two seconds before smoke from Simpson's SUV appeared, Benfield was traveling 71 mph in a 60-mph zone. Benfield was still speeding 12 seconds later, traveling 61 mph just before the impact. Plaintiffs' counsel argued that Benfield should have pulled over and stopped or, at least, should have slowed down rapidly because the smoke was obstructing his view. Genesis' Omnitrac system, a computer interface used by the trucking industry, showed speeding by Benfield on each of the eight days before the accident.

Plaintiffs' counsel also argued that footage from the tanker's SmartDrive video system showed Benfield exhibiting signs of fatigue, such as eye-rubbing and closing his eyes for long periods, before the accident. A sleep study, requested by plaintiffs' counsel, showed that Benfield had severe obstructive sleep apnea at the time of the accident. The doctor who performed the study said it was the worst case of obstructive sleep apnea that he had ever seen. Plaintiffs' counsel argued that, given Simpson's extensive history of obesity, Genesis should have known he was at risk for obstructive sleep apnea.

Plaintiffs' counsel further claimed that Benfield had prior speeding violations; that he had

been involved in a rear-end accident previously; that, on his job application, he misrepresented his employment and driving history; and that Genesis' corporate representative acknowledged that the company had been aware of his driving record and history. According to plaintiff's counsel, the corporate representative also acknowledged that Genesis should not have retained Benfield as an employee.

The defense argued that Simpson was negligent for not moving across three lanes of moderate traffic and onto the right shoulder in the 12 seconds between when his vehicle's starting to smoke and the impact. Defense counsel suggested that Simpson should bear one-third of the responsibility for the accident. At defense counsel's request, the jury charge included a "sudden-emergency instruction." The defense noted that Benfield slowed down immediately upon seeing smoke ahead.

The defense also denied negligent retention and gross negligence and argued that Benfield was a good employee. The defense emphasized that no spill of the cargo occurred. Benfield's prior accidents were remote in time, and his prior speeding was sporadic and remote in time, the defense argued.

Injury:

Simpson claimed that he lost consciousness in the accident and that he suffered a mild, permanent coup/contrecoup-type traumatic brain injury, with residual effects that included memory impairment, cognitive impairment, major depression and a suicide attempt.

Simpson also claimed that the accident caused a total of six herniated cervical and lumbar intervertebral discs; a chin laceration; a torn rotator cuff; and, in one knee, a torn anterior cruciate ligament and medial collateral ligament. He eventually underwent knee surgery. Neck and back surgeries were recommended.

Simpson was retrieved by an ambulance and transported to an emergency room. For about three weeks after the accident, he followed up with his pediatrician. He then started seeing a pain management doctor, who referred him to physical therapy. Simpson underwent a course of physical therapy with a chiropractor that went from May to June 2017. He did home exercises thereafter. The pain management doctor administered lumbar epidural steroid injections on May 8, 2017, and May 11, 2018. He also administered a nerve block at L4-5 and treated Simpson's headaches.

In 2018, a neurologist diagnosed Simpson with a traumatic brain injury. A single-photon emission computerized tomography scan was used to confirm the diagnosis.

In about March 2019, Simpson underwent surgical repair of the torn ligaments in his knee. He then underwent 12 physical therapy sessions with a chiropractor, primarily for his knee, though his back was treated too.

Simpson saw a spine surgeon three times in 2019. At the second visit, the doctor recommended a two-level lumbar fusion. He testified that Simpson's neck would also worsen and that Simpson would require a two-level cervical fusion.

Simpson claimed that his injuries prevented him from becoming a firefighter. He was enrolled in a firefighting academy at a technical college, and at the time of the accident, he was driving to the academy's last physical test. The instructor, a captain with the Beaumont Fire Department, testified that Simpson was excelling in the academy and that, but for the injuries, he believed Simpson would have completed the academy training and

become a firefighter.

Simpson, who had lettered in four sports in high school, further claimed that his injuries severely limited his ability to exercise and participate in sports. He also claimed that his injuries prevented him from employment. He claimed that he has lost three jobs, including one at a home-improvement store, since the accident. His vocational rehabilitation expert said a conservative estimate of Simpson's future loss of earning capacity would be \$2 million to \$3 million.

Plaintiffs' counsel asked the jury to award \$180,778.98 for past medical expenses, \$1,500,000 for future medical expenses, \$4 million for future loss of earning capacity, and \$20,000 for the market value of Durst's vehicle. The jury charge also included damages for past and future physical pain and suffering, past and future mental anguish, past and future physical impairment, and past disfigurement.

Only Simpson sought punitive damages, and only from Genesis Energy. The trial was bifurcated. Plaintiffs' counsel questioned whether punitives of \$15 million (1 percent of Genesis' \$1.5 billion net worth), if awarded, would be enough to get Genesis' attention.

The defense denied any brain injury, in part because, in the medical records, Simpson consistently denied any loss of consciousness. Also, according to the defense, a SPECT scan was not a reliable way to diagnose or confirm a brain injury.

The defense's expert orthopedist opined that Simpson's neck and back injuries from the accident were soft-tissue only and the injuries did not necessitate surgery. According to the defense, the medical records did not reference radicular symptoms until six or seven months after the accident.

The defense also noted that Simpson underwent surgery on the same knee's anterior cruciate ligament one to 1.5 years before the accident.

Defense counsel suggested the jury award actual damages of \$105,000, if the jury reached damages.

Result:

The jury found Benfield and Genesis negligent and found Genesis grossly negligent. It awarded Simpson \$19,215,778.98. The jury did not find Simpson negligent.

Yulonda Durst

\$20,000 Personal Injury: Property Damage

Dezmon Simpson

\$180,779 Personal Injury: Past Medical Cost

\$1,500,000 Personal Injury: Future Medical Cost

\$1,000,000 Personal Injury: Past Physical Impairment

\$2,000,000 Personal Injury: Future Physical Impairment

\$1,000,000 Personal Injury: Punitive Exemplary Damages

\$15,000 Personal Injury: Past Disfigurement

\$4,000,000 Personal Injury: future mental anguish

\$1,000,000 Personal Injury: past physical pain and suffering

\$4,000,000 Personal Injury: future loss of earning capacity

\$3,000,000 Personal Injury: future physical pain and suffering

\$1,500,000 Personal Injury: past mental anguish

Trial Information:

Judge: Baylor Wortham

Demand: \$18,000,000 (total, by both plaintiffs, from Benfield and Genesis Energy [during the trial])

Offer: \$1,000,000 (total, for both plaintiffs, by Benfield and Genesis Energy [during the trial])

Trial Length: 13 days

**Trial
Deliberations:** 1.5 hours

**Jury
Composition:**

5 black, 3 Hispanic, 4 white

Post Trial:

The court entered judgment on Dec. 23, 2019, in the amount of \$19,666,584.27, consisting of the jury award, prejudgment interest of \$431,253.14 and taxable costs of \$19,552.15. Plaintiffs' counsel moved for sanctions against Genesis Energy, alleging that it abused discovery by not disclosing its excess coverage, in the amount of \$25 million, until post-verdict discovery. The court awarded sanctions against Genesis Energy.

**Editor's
Comment:**

This report is based on information that was provided by plaintiffs' counsel. Counsel of Benfield, Transportation Services, Genesis Davison Genesis Energy declined to contribute, and the remaining defendant's counsel was not asked to contribute.

Writer

jschneider

Plaintiffs: Crash with loaded logging truck led to severe injuries

Type: Verdict-Plaintiff

Amount: \$5,406,772

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 172nd, TX

Injury Type(s):

- *back* - lower back; herniated disc, lumbar
- *head* - headaches
- *neck* - herniated disc, lumbar; herniated disc, cervical
- *brain* - traumatic brain injury
- *other* - laceration; chiropractic; physical therapy
- *wrist* - triangular fibrocartilage complex, torn
- *epidermis* - contusion
- *surgeries/treatment* - arthroscopy
- *mental/psychological* - cognition, impairment; memory, impairment; post-concussion syndrome

Case Type:

- *Motor Vehicle* - Truck; Rollover; Cell Phone; Lane Change; Multiple Impact; Multiple Vehicle
- *Transportation* - Trucking

Case Name: Robert Jones and April Ling Lin Jones v. Daniel Patrick Stanley, and BNSF Railway, No. E-205435

Date: January 25, 2023

Plaintiff(s):

- Robert Jones, (Male, 58 Years)
- April Ling Lin Jones, (Female, 30 Years)

Plaintiff Attorney(s):

- Kevin M. Camp; Roven Camp, PLLC; Houston TX for Robert Jones,, April Ling Lin Jones
- John Roven; Roven Camp, PLLC; Houston TX for Robert Jones,, April Ling Lin Jones

**Plaintiff Expert
(s):**

- Ton Ha D.C.; Chiropractic; Houston, TX called by: Kevin M. Camp, John Roven
- Dean Nance; Accident Reconstruction; Huntsville, TX called by: Kevin M. Camp, John Roven
- Gary Kronrad Ph.D.; Economics; Nacogdoches, TX called by: Kevin M. Camp, John Roven
- Larry Likover M.D.; Orthopedic Surgery; Houston, TX called by: Kevin M. Camp, John Roven
- Pankaj Satija M.D.; Neurology; Bellaire, TX called by: Kevin M. Camp, John Roven
- William Donovan M.D.; Orthopedic Surgery; Houston, TX called by: Kevin M. Camp, John Roven

Defendant(s):

- BNSF Railway
- Daniel Patrick Stanley

**Defense
Attorney(s):**

- Mark J. Dyer; Martin DIsiere Jefferson & Wisdom; Dallas, TX for Daniel Patrick Stanley
- Alan P. Moore; Martin DIsiere Jefferson & Wisdom; Dallas, TX for Daniel Patrick Stanley

**Defendant
Expert(s):**

- Jed Falkowski Ph.D.; Neuropsychology; Dallas, TX called by: for Mark J. Dyer, Alan P. Moore
- Michael Kaldis M.D.; Orthopedic Surgery; Houston, TX called by: for Mark J. Dyer, Alan P. Moore
- Wallace Stanfill; Vocational Rehabilitation; Houston, TX called by: for Mark J. Dyer, Alan P. Moore

Insurers:

- Redwood Fire and Casualty Insurance

Facts:

On March 20, 2018, plaintiff Robert Jones, 58, a traveling mechanic for BNSF Railway, was traveling in the right lane of a highway north of Center. He was driving a 20-foot Freightliner truck, owned by BNSF, with a mini-crane on the back. Daniel Patrick Stanley was in the left lane, in a fully-loaded logging truck. Jones started to pass Stanley, who moved into the right lane and struck Jones' front left wheel. Jones went off the road and lost control of the truck, which hit a tree and came to rest on its left side. Jones claimed he suffered injuries of his head, neck, back and wrist.

Jones and his wife sued Stanley. The lawsuit alleged that Stanley was negligent in the operation of his vehicle. The plaintiffs also sued BNSF, under the Federal Employers Liability Act, but the court dismissed BNSF on an unopposed motion for summary judgment.

Plaintiffs' counsel argued that Stanley changed lanes when it was unsafe and that he was on his cell phone at the time of the accident. Jones' cell phones were locked in his glove box, pursuant to BNSF policy, plaintiffs' counsel said.

The defense argued that Jones was in the logging truck's blind spot and therefore at fault for the accident.

Injury:

Jones lost consciousness in the accident, and when he came to, his engine was on fire. A passing motorist pulled him out through the windshield and was never identified. Jones was taken by ambulance to an emergency room. He sustained head contusions and lacerations, as well as a tear in the triangular fibrocartilage complex (TFCC) of his left (nondominant) wrist. He claimed that he also sustained a traumatic brain injury and cervical and lumbar disc herniations.

Two days after the accident, he was still feeling dizzy and having trouble staying awake, he said. Jones, who lived in Beaumont, went to a doctor in Houston and was diagnosed with a concussion. That doctor also sent him to a chiropractor in Houston, and the chiropractor referred him to an orthopedic surgeon in Houston. The orthopedic surgeon recommended injections for his neck and back. After a second opinion, Jones underwent two cervical injections, but he said they provided only temporary relief.

He continued to undergo chiropractic care about three times a week, eventually going more than 250 times. An orthopedic surgeon recommended an anterior cervical discectomy and fusion, which Jones did not undergo.

Jones underwent arthroscopic repair of his wrist in January 2019, followed by about six months of physical therapy.

About two years after the accident, he began seeing a neurologist for his ongoing headaches and neck problems. That doctor diagnosed him with a mild-to-moderate traumatic brain injury, cognitive delays and memory loss. He prescribed medications that

are also used to treat Alzheimer's disease and dementia. He also administered Botox injections to treat Jones' headaches and neck tightness.

Jones claimed that, because of his injuries, he could no longer work as a mechanic. He had worked for BNSF for 12 years and made about \$107,000 in his last full year of work.

In December 2021, Jones was diagnosed with Ph-positive acute lymphoblastic leukemia and was placed in a clinical trial. In January 2022, he was declared to be in complete molecular remission.

Jones sought \$523,933 for past loss of earning capacity; \$606,319 for future loss of earning capacity; \$211,700 for past physical pain; \$767,120 for future physical pain; \$211,700 for past mental anguish; \$767,120 for future mental anguish; \$350,400 for past physical impairment; \$1,181,286 for future physical impairment; \$150,000 for past physical disfigurement; and \$180,000 for future physical disfigurement.

Jones' wife, plaintiff April Ling Lin Jones, 38, sought \$500,000 for past loss of consortium and \$900,000 for future loss of consortium. The plaintiffs had been married for about five months at the time of the accident, and it was the second marriage for both. She had become a U.S. citizen only recently. She is originally from China and spoke very little English.

The defense argued that Jones' acute lymphoblastic leukemia would shorten his life and that it was too early to know whether he was truly cured.

The defense neuropsychology expert opined that, although Jones sustained a concussion in the accident, it resolved within a couple of months.

The defense also pointed to conflicting statements in the medical records and the fact that, a few months after the accident, his pain ratings were 1s and 2s. The defense also argued that the disc herniations were degenerative in nature.

Result:

The jury found that Stanley was liable for the accident. It determined that the plaintiffs' damages totaled \$5,406,772.

The jury did not find that Jones' negligence, if any, proximately caused the accident.

As to Jones, plaintiffs' counsel said the jury awarded essentially the amounts sought for economic damages, physical pain, mental anguish and physical impairment.

April Jones

\$ 500,000 Past Loss of Consortium

\$ 500,000 Future Loss of Consortium

\$ 1,000,000 Plaintiff's Total Award

Robert Jones

\$ 350,000 Past Physical Impairment

\$ 1,181,000 Future Physical Impairment

\$ 523,933 past loss of earning capacity

\$ 606,319 future loss of earning capacity

\$ 211,700 past mental anguish

\$ 767,120 future mental anguish

\$ 211,700 past physical pain

\$ 555,000 future physical pain

\$ 4,406,772 Plaintiff's Total Award

Trial Information:

Judge: Mitch Templeton

Demand:	\$908,124.40 (remaining coverage after payment for BNSF's property damage)
Offer:	\$200,000
Trial Length:	7 days
Trial Deliberations:	1.5 hours
Jury Vote:	12-0
Editor's Comment:	This report is based on information that was provided by plaintiffs' counsel. Defense counsel did not respond to the reporter's phone calls.
Writer	jschneider

Plaintiff claimed he suffered neck and back injuries in UIM lawsuit

Type: Verdict-Plaintiff

Amount: \$231,340

Actual Award: \$181,340

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 60th, TX

Injury Type(s):

- *back* - lower back; sprain, lumbar; strain, lumbar
- *neck* - sprain, cervical; strain, cervical
- *other* - chiropractic; physical therapy
- *epidermis* - contusion
- *urological* - kidney

Case Type:

- *Motor Vehicle* - Truck; Broadside; Passenger; Stop Sign; Intersection

Case Name: Jesse Lynn White v. Allstate County Mutual Insurance Co., No. 200161

Date: November 07, 2019

Plaintiff(s):

- Jesse Lynn White (Male, 59 Years)

Plaintiff Attorney(s):

- Trent Bond; Portner Bond; Beaumont TX for Jesse Lynn White

Defendant(s):

- Allstate County Mutual Insurance Co.

Defense Attorney(s):

- Tomanicka Morris; Susan L. Florence & Associates; Houston, TX for Allstate County Mutual Insurance Co.

Facts:

On April 24, 2015, plaintiff Jesse Lynn White, about 59, an electrician, was a passenger in his employer's pickup truck in Beaumont. Another pickup failed to yield at a stop sign and struck the right side of the vehicle occupied by White. Both vehicles were full-size pickups. White claimed he suffered neck and back injuries. White settled with the tortfeasor for his \$50,000 liability policy limit. The pickup occupied by White was covered by his employer's insurance policy, which included underinsured motorist (UIM) coverage. The UIM carrier was Allstate County Mutual Insurance Co.

White sued Allstate. The lawsuit alleged that the tortfeasor was negligent in the operation of his vehicle, and that Allstate was liable for UIM benefits.

Allstate stipulated to the negligence of the tortfeasor. The only issue that went to the jury was damages.

Injury:

White drove himself to the emergency room and was transferred by ambulance to another hospital. He was diagnosed with a right kidney contusion and admitted to the hospital for a couple of days. He also claimed cervical and lumbar sprains and strains.

After being discharged from the hospital, he followed up with a urologist about his kidney, but that injury resolved on its own. On Jan. 25, 2016, he went to a clinic with chiropractors and medical doctors. He underwent physical therapy through April 18, 2016, for his neck and back. He testified to ongoing pain and impairment.

White's counsel said he asked the jury to award \$31,340.13 in past medical expenses; \$10,200 in past lost earning capacity; \$50,000 for past physical pain and mental anguish; \$80,000 for future physical pain and mental anguish; \$20,000 for past physical impairment; and \$40,000 for future physical impairment.

Defense counsel argued that the amounts sought were excessive; that the case and treatment were attorney-driven; and that, if White were really still in pain, he would have sought additional treatment at some point in the last 3.5 years. The evidence showed that White was referred to the clinic by his attorney.

Result:

The jury awarded White \$231,340.13. Allstate's \$50,000 credit reduced the damages to \$181,340.13, which was still well within the UIM policy limit.

Jesse Lynn White

\$31,340 Personal Injury: Past Medical Cost

\$20,000 Personal Injury: Past Physical Impairment

\$40,000 Personal Injury: Future Physical Impairment

\$10,000 Personal Injury: past lost earning capacity

\$50,000 Personal Injury: past physical pain and mental anguish

\$80,000 Personal Injury: future physical pain and mental anguish

Trial Information:

Judge: Justin Sanderson

Offer: \$1,000

Jury Vote: 12-0

Editor's Comment: This report is based on information that was provided by plaintiff's and defense counsel.

Writer jschneider

Car crash's parties each claimed other ignored stop sign

Type: Verdict-Plaintiff

Amount: \$230,340

State: Texas

Venue: Jefferson County

Court: Jefferson County Court at Law No. 1, TX

Injury Type(s):

- *back* - stenosis; hypolordosis; sprain, lumbar; strain, lumbar; nerve impingement
- *neck* - stenosis; hypolordosis; nerve impingement; disc protrusion, cervical
- *other* - bursitis; effusion; chiropractic; physical therapy; epidural injections
- *shoulder* - rotator cuff, injury (tear)
- *neurological* - nerve impingement; radicular pain / radiculitis

Case Type:

- *Motor Vehicle* - Broadside; Stop Sign; Intersection; Multiple Vehicle

Case Name: Evelyn King v. Hoa Nguyen, No. 0132689

Date: July 31, 2019

Plaintiff(s):

- Evelyn King (Female, 42 Years)

Plaintiff Attorney(s):

- Cody Dishon; The Ferguson Law Firm, LLP; Beaumont TX for Evelyn King

Plaintiff Expert(s):

- Sean Roden D.C.; Chiropractic; Beaumont, TX called by: Cody Dishon

Defendant(s):

- Hoa Nguyen

Defense Attorney(s):

- Taylor Schwab; Susan L. Florence & Associates; Houston, TX for Hoa Nguyen

Insurers:

- Allstate Insurance Co.

Facts:

On April 3, 2017, plaintiff Evelyn King, 42, was driving west on Griffing Drive, in Port Arthur, approaching the intersection with Lombardy Drive. Hoa Nguyen was driving north on Lombardy Drive and approaching the same intersection. Both drivers had a stop sign. King's sedan struck the right rear of Nguyen's pickup truck. King claimed that she suffered back and shoulder injuries.

King sued Nguyen. The lawsuit alleged that Nguyen was negligent in the operation of his vehicle

King testified that she stopped at the stop sign and then proceeded into the intersection, and that Nguyen ran his stop sign. A witness listed on the police report testified that he saw the accident and agreed with King's version of the events. The investigating officer also testified and concluded that Nguyen disregarded a stop sign.

Nguyen testified that he stopped at the stop sign and then proceeded, and that King ran her stop sign. According to Nguyen, he had driven the same route for more than 20 years and always stopped there. He also testified that he had his children in his car and that he would not have put them in danger by running a stop sign. King's witness did not see the accident happen and did not arrive at the scene until later, Nguyen said.

Defense counsel also argued that King's witness's testimony and diagram of the accident scene conflicted with the officer's testimony and diagram. Defense counsel further argued that, because the impact was near the back of Nguyen's vehicle, King and not Nguyen was at fault.

Injury:

King was examined by a chiropractor 11 days after the accident. Conservative care was recommended.

King ultimately claimed that she suffered a mild partial-thickness tear of the infraspinatus tendon in her left shoulder, with mild bursitis and joint effusion; cervical and lumbar hypolordosis; lumbar sprains and strains; pain radiating down her left side; and protrusions and/or herniations of the C4-5, C5-6 and C6-7 intervertebral discs. She further claimed that those discs indented the thecal sac and that C4-5 and C5-6 discs contacted the spinal cord. In addition, she claimed that the three discs contributed to severe canal stenosis at C4-5, moderate canal stenosis at C5-6 and mild canal stenosis at C6-7.

King immediately began physical therapy, which lasted for about two months. She then underwent an epidural steroid injection at C6-7.

King testified that her neck still hurt at the time of trial. She further testified that, because of the pain, she had difficulty sleeping and her husband had to do more around the house. Friends and family members, including her husband, testified to King's pain and impairment, and the treating chiropractor opined that King would continue to need chiropractic care for her neck. He also explained how her neck injuries from the accident were different from neck injuries she had sustained in 2015, less than two years before the accident.

Plaintiff's counsel said that the chiropractor recommended future care including injections, which would cost \$15,000. Plaintiff counsel also asked for \$50,000 in future medical expenses; \$25,340 for past medical expenses; \$25,000 to \$40,000 for past physical pain; and unspecified damages for future physical pain, past and future mental anguish, and past and future physical impairment.

Defense counsel disputed the amounts requested, claiming that plaintiff's counsel was asking for \$150,000 in future medical, and that King's chiropractor was recommending three injections at \$50,000 each.

Defense counsel also asked the jury to consider the prior neck injury, for which King had undergone more extensive treatment, including six injections in the cervical spine. In addition, a 2015 MRI showed a herniation of King's C4-5 disc.

Defense counsel also noted that King sought no treatment at the scene and waited 11 days before seeking treatment. In addition, she had not sought any treatment related to the accident since more than two years before trial.

Result:

The jury found that Nguyen was liable for the accident. It awarded King \$230,340.

Evelyn King

\$25,340 Personal Injury: Past Medical Cost

\$150,000 Personal Injury: Future Medical Cost

\$5,000 Personal Injury: Past Physical Impairment

\$5,000 Personal Injury: Future Physical Impairment

\$15,000 Personal Injury: past physical pain

\$10,000 Personal Injury: future physical pain

\$20,000 Personal Injury: past mental anguish

Trial Information:

Judge: Gerald Eddins

Demand: \$50,000 (Stowers)

Offer: None

**Trial
Deliberations:** 4 hours

Jury Vote: 6-0

Post Trial: The defense indicated an intention to appeal, and the court ordered a post-trial mediation, which was scheduled for Sept. 25, 2019.

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.

Writer jschneider

Plaintiffs: Crash caused by drunken driver led to injuries

Type: Verdict-Plaintiff

Amount: \$178,358

Actual Award: \$118,358

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 136th, TX

Injury Type(s):

- *arm*
- *back* - herniated disc, lumbar; herniated disc at L4-5
- *neck* - herniated disc, cervical; herniated disc at C6-7
- *chest*
- *other* - chiropractic; physical therapy; steroid injection; epidural injections; strains and sprains
- *shoulder* - glenoid labrum, tear; rotator cuff, injury (tear)

Case Type:

- *Motor Vehicle* - Broadside; Left Turn; Passenger; Multiple Vehicle; Alcohol Involvement

Case Name: Matthew Barchett and Leyla Barchett v. Allstate Fire and Casualty Insurance Company, No. D-205,807

Date: March 09, 2022

Plaintiff(s):

- Leyla Barchett, (Female, 38 Years)
- Matthew Barchett, (Male, 38 Years)

Plaintiff Attorney(s):

- Timothy W. Ferguson; Ferguson Firm; Beaumont TX for Matthew Barchett,, Leyla Barchett
- Javier Cabanillas; Ferguson Firm; Beaumont TX for Matthew Barchett,, Leyla Barchett

Plaintiff Expert(s):

- Jeff Peterson; Vocational Assessment; Sulphur, LA called by: Timothy W. Ferguson, Javier Cabanillas
- Long Lee M.D.; Pain Management; Houston, TX called by: Timothy W. Ferguson, Javier Cabanillas
- Marcusella Jagneaux D.C.; Chiropractic; Beaumont, TX called by: Timothy W. Ferguson, Javier Cabanillas

Defendant(s):

- Allstate Fire and Casualty Insurance Co.

Defense Attorney(s):

- Karl D. Drews; Jackson, Drews & Boanerges; Houston, TX for Allstate Fire and Casualty Insurance Co.

Facts:

On Dec. 23, 2019, plaintiff Matthew Barchett, 38, a house-flipper, was driving west on Highway 87 in Crystal Beach. His wife, plaintiff Leyla Barchett, 38, a property manager, was a passenger. A driver traveling in the opposite direction attempted a left turn, and the plaintiffs struck his passenger side. Mr. Barchett claimed he suffered injuries of his neck, back, right arm and shoulders, and Mrs. Barchett claimed she suffered injuries of her neck, back, chest and right shoulder. Each plaintiff settled with the other driver for \$30,000, his liability policy limit.

The plaintiffs had underinsured motorist (UIM) policy limits of \$250,000/\$500,000 with Allstate Fire and Casualty Insurance Co.

The plaintiffs sued Allstate. The lawsuit alleged that the other driver was negligent in the operation of his vehicle and that Allstate was liable for UIM benefits. The plaintiffs testified that the other driver appeared to be intoxicated. He was arrested for driving while intoxicated, but that fact did not come into evidence.

Allstate stipulated that the other driver's negligence proximately caused the accident.

Injury:

The plaintiffs were taken by ambulance to an emergency room and were treated and released. Mr. Barchett ultimately claimed he suffered a herniated intervertebral disc at C6-7, back sprains and strains, right forearm pain and partial tears of the labrum and rotator cuff in each shoulder. Mrs. Barchett ultimately claimed she suffered herniated intervertebral discs at C6-7 and L4-5, as well as right shoulder and chest wall pain.

Mr. Barchett followed up with a chiropractor seven days later. He underwent physical therapy with the chiropractor through August 2020. He was then referred to pain management. He underwent a cervical epidural steroid injection and a right shoulder steroid injection. Additional injections were recommended, but were refused because of a drop in blood pressure after the initial injections. He underwent a second course of physical therapy in October 2020.

Mr. Barchett sought total damages between \$352,577.51 and \$492,551.52, including \$45,827.51 for past medical expenses; \$4,250 for future medical expenses; \$50,000 for

past lost wages; \$100,000 for future lost wages; and noneconomic damages of past and future physical pain and suffering, past and future mental anguish, past and future physical impairment and past disfigurement.

Mrs. Barchett, too, followed up with the chiropractor seven days later. She underwent physical therapy with the chiropractor through October 2020. She was then referred to pain management. She underwent multiple epidural steroid injections in her neck and back and steroid injections in her shoulder, as well. She saw the pain management doctor again in early 2021 but did not receive any additional injections.

Mrs. Barchett sought total damages between \$478,043.26 and \$618,043.26, including \$71,043.26 for past medical expenses; \$39,000 for future medical expenses; \$42,000 for past lost wages; \$10,000 for future lost wages; and noneconomic damages of past and future physical pain and suffering, past and future mental anguish, past and future physical impairment and past disfigurement.

Photographs showed significant damage to both vehicles, and both vehicles' airbags deployed.

The defense noted that the only complaints on the day of the accident were about Mrs. Barchett's chest pain and Mr. Barchett's forearm pain. The defense argued that the plaintiffs sustained no other injuries in the accident and that their later treatment was attorney-driven.

Defense counsel suggested the jury award Mr. Barchett \$10,851.51, representing the ambulance trip and hospital visit.

Defense counsel suggested the jury award Mrs. Barchett \$10,547.26, representing the ambulance trip, the hospital visit and three days of lost wages immediately after the accident.

Result:

The jury determined that the plaintiffs' damages totaled \$178,357.87. Allstate's \$60,000 credit reduced the damages to \$118,357.87.

Both sides had rejected a mediator's proposal of \$110,000 new money for Mr. Barchett and \$125,000 new money for Mrs. Barchett.

Leyla Barchett

\$ 71,043.26 Past Medical Cost

\$ 648 Past Lost Earnings

\$ 10,000 Past Physical Impairment

\$ 5,000 Future Physical Impairment

\$ 9,375 past physical pain and suffering

\$ 9,375 past mental anguish

\$ 105,441.26 Plaintiff's Total Award

Matthew Barchett

\$ 46,666.61 Past Medical Cost

\$ 6,250 Past Physical Impairment

\$ 5,000 Future Physical Impairment

\$ 7,500 past physical pain and suffering

\$ 7,500 past mental anguish

\$ 72,916.61 Plaintiff's Total Award

Trial Information:

Judge: Baylor Wortham

Demand: \$162,500 (by Mr. Barchett); \$192,500 (by Mrs. Barchett)

Offer: \$25,000 (for Mr. Barchett); \$20,000 (for Mrs. Barchett)

Trial Length: 3 days

**Trial
Deliberations:** 2.5 hours

Jury Vote: 11-1

**Jury
Composition:** 6 male, 6 female

**Editor's
Comment:** This report is based on information that was provided by plaintiffs' and defense counsel.

Writer jschneider

Father and son claimed injuries caused by motorist who ran stop sign

Type: Verdict-Plaintiff

Amount: \$170,000

Actual Award: \$56,000

State: Texas

Venue: Jefferson County

Court: Jefferson County Court at Law No. 1, TX

Injury Type(s):

- *back* - sprain, lumbar; strain, lumbar; bulging disc, lumbar
- *knee*
- *neck* - bulging disc, cervical
- *other* - chiropractic; physical therapy; trigger point injection; aggravation of pre-existing condition
- *shoulder* - rotator cuff, injury (tear)

Case Type:

- *Motor Vehicle* - Broadside; Stop Sign; Intersection; Multiple Vehicle; Automobile Insurance; Underinsured Motorist
- *Insurance* - First-party Benefits

Case Name: Hosie Davis Jr. and Hosie Davis Sr. v. Allstate Insurance Co., No. 131257

Date: October 29, 2019

Plaintiff(s):

- Hosie Davis Jr. (Male)
- Hosie Davis Sr. (Male, 73 Years)

Plaintiff Attorney(s):

- Taylor Miller; Reaud, Morgan & Quinn; Beaumont TX for Hosie Davis Sr., Hosie Davis Jr.

Plaintiff Expert (s):

- Curtis Thorpe M.D.; Orthopedic Surgery; Beaumont, TX called by: Taylor Miller

Defendant(s):

- Allstate Indemnity Co.

**Defense
Attorney(s):**

- Joshua D. Hamm; Susan L. Florence & Associates; Houston, TX for Allstate Indemnity Co.
- Pam Rea; Susan L. Florence & Associates; Houston, TX for Allstate Indemnity Co.

Insurers:

- Allstate Insurance Co.

Facts:

On July 27, 2014, plaintiff Hosie Davis Sr., 73, was driving a pickup truck in Beaumont. Plaintiff Hosie Davis Jr., his son, about 50, was a passenger. A motorist in a sedan pulled out from a stop sign. The plaintiffs, who did not have a stop sign, struck the front of the sedan on the left side. Davis Sr. claimed he suffered injuries to the neck, back and knee. Davis Jr. claimed he suffered neck and back injuries. The plaintiffs settled with the sedan driver, who had liability coverage of \$50,000 per person. The plaintiffs had underinsured motorist (UIM) coverage of \$30,000 per person with Allstate Indemnity Co., a subsidiary of Allstate Insurance Co.

The plaintiffs sued Allstate. The lawsuit alleged that the sedan driver was negligent in the operation of her vehicle.

The court granted the plaintiffs a directed verdict on liability.

Injury:

The plaintiffs drove home from the scene of the accident before a relative transported them to the hospital.

Davis Sr. claimed aggravation of preexisting conditions, a tear of the right (dominant) rotator cuff, cervical and lumbar intervertebral disc bulges and knee pain.

Davis Sr. underwent physical therapy with a chiropractor from August to October 2014. At the same time, he complained about his injuries to his primary care doctor, who prescribed pain medication.

In November 2014, Davis Sr. underwent cervical and lumbar trigger point injections.

In May 2016, an orthopedic surgeon examined Davis Sr. and opined that the plaintiff needed surgery.

Davis Sr. testified that he still suffered from debilitating pain in his neck, back and shoulder. Davis Sr. used a combination walker/transport chair at trial.

Davis Sr. also testified that his son had a learning disability and is legally blind.

After being transported to the hospital, Davis Jr. claimed a cervical disc bulge and lumbar sprains and strains.

Like his father, he also underwent physical therapy from August to October 2014. He also complained about pain from the injuries to his primary care doctor. The doctor prescribed pain medication for Davis Jr. as well.

In November 2014, Davis Jr. underwent a lumbar trigger point injection.

For Davis Sr., plaintiffs' counsel asked for \$34,000 for past medical expenses; \$12,500 for future medical expenses; \$20,000 for past physical pain and mental anguish; \$15,000 for future physical pain and mental anguish; \$10,000 for past physical impairment; and \$5,000 for future physical impairment.

For Davis Jr., plaintiffs' counsel asked for \$16,000 for past medical expenses; \$20,000 for future medical expenses; \$12,500 for past physical pain and mental anguish; and \$30,000 for future physical pain and mental anguish.

The defense focused on Davis Sr. and his prior health issues, including multiple injuries to both shoulders. He also had undergone arthroscopic surgery to repair a torn left rotator cuff. He had also undergone surgeries on both knees and was already using a walker/transport chair before this incident.

Result:

The jury awarded the plaintiffs \$170,000, consisting of \$91,500 for the dad and \$78,500 for the son. Allstate had a \$52,500 credit against each plaintiff's damages, resulting in net damages of \$39,000 for Davis Sr. and \$26,000 for the son. The UIM policy limited Davis Sr.'s recovery to \$30,000.

Hosie Davis Jr.

\$16,000 Personal Injury: Past Medical Cost

\$20,000 Personal Injury: Future Medical Cost

\$12,500 Personal Injury: past physical pain and mental anguish

\$30,000 Personal Injury: future physical pain and mental anguish

Hosie Davis Sr.

\$34,000 Personal Injury: Past Medical Cost

\$12,500 Personal Injury: Future Medical Cost

\$10,000 Personal Injury: Past Physical Impairment

\$5,000 Personal Injury: Future Physical Impairment

\$15,000 Personal Injury: past physical pain and mental anguish

\$15,000 Personal Injury: future physical pain and mental anguish

Trial Information:

Judge: Gerald Eddins

Demand: \$30,000 (for each plaintiff; insurance coverage's limit)

Offer: None

Trial Length: 2 days

**Trial
Deliberations:** 2 hours

Jury Vote: 6-0

**Jury
Composition:** 3 male, 3 female

**Editor's
Comment:**

This report is based on information that was provided by plaintiffs' counsel. Defense counsel did not respond to the reporter's phone calls.

Writer

jschneider

Plaintiff sought UIM benefits in rear-ender crash

Type: Verdict-Plaintiff

Amount: \$163,100

Actual Award: \$30,000

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 172nd, TX

Injury Type(s):

- *back* - sprain, lumbar; strain, lumbar
- *other* - chiropractic; physical therapy; epidural injections

Case Type:

- *Motor Vehicle* - Rear-ender; Multiple Vehicle; Automobile Insurance; Underinsured Motorist
- *Insurance* - First-party Benefits

Case Name: Roger Covington v. Allstate Fire and Casualty Insurance Co., No. 201140

Date: November 15, 2019

Plaintiff(s):

- Roger Covington (Male, 50 Years)

Plaintiff Attorney(s):

- Trent Bond; Portner Bond; Beaumont TX for Roger Covington

Defendant(s):

- Allstate Fire and Casualty Insurance Co.

Defense Attorney(s):

- Lauren Rea Sullivan; Susan L. Florence & Associates; Houston, TX for Allstate Fire and Casualty Insurance Co.

Insurers:

- Allstate Insurance Co.

Facts: On Nov. 21, 2016, plaintiff Roger Covington, a man in his 50s, was driving a full-size pickup truck in Beaumont. He was rear-ended by a driver in a sedan. Covington claimed back injuries and settled with the sedan driver for the \$30,000 liability policy limit. Covington had \$30,000 in underinsured motorist coverage with Allstate Fire and Casualty Insurance Co.

Covington sued Allstate. The lawsuit alleged that the sedan driver was negligent in the operation of his vehicle, and that Allstate was liable for UIM benefits.

The court granted a directed verdict for Covington on liability. The only issue that went to the jury was damages.

Injury: Covington drove himself to the emergency room on the day of the accident. He complained of lower back pain and was treated and released. He ultimately claimed lumbar sprains and strains.

A few days after the accident, he went to a clinic with chiropractors and medical doctors. He underwent physical therapy through March 22, 2017. He then received a lumbar epidural steroid injection. He testified to ongoing pain and impairment.

Covington's counsel asked the jury to award \$43,500 in past medical expenses; \$43,000 for past physical pain and mental anguish; \$35,100 for future physical pain and mental anguish; \$24,000 for past physical impairment; and \$17,500 for future physical impairment.

Defense counsel argued that the amounts sought were excessive; that the case and treatment were attorney-driven; and that, if Covington were really still in pain, he would have sought additional treatment at some point in the last 2.5 years. The evidence showed that Covington was referred to the clinic by his attorney.

Result: The jury awarded Covington \$163,100. Allstate's \$30,000 credit reduced the damages to \$133,100, and Covington's recovery was limited to \$30,000 by his UIM policy limit.

Roger Covington

\$43,500 Personal Injury: Past Medical Cost

\$24,000 Personal Injury: Past Physical Impairment

\$17,500 Personal Injury: Future Physical Impairment

\$43,000 Personal Injury: past physical pain and mental anguish

\$35,100 Personal Injury: future physical pain and mental anguish

Trial Information:

Judge: Mitch Templeton

Demand: \$30,000 (insurance coverage's limit)

Offer: None

Jury Vote: 12-0

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.

Writer jschneider

Plaintiff claimed lumbar sprains and strains from car collision

Type: Verdict-Plaintiff

Amount: \$117,772

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 58th, TX

Injury Type(s):

- *back* - stenosis; sprain, lumbar; strain, lumbar
- *neck* - stenosis
- *other* - chiropractic; physical therapy

Case Type:

- *Motor Vehicle* - Broadside; Left Turn; Intersection; Multiple Vehicle

Case Name: Melissa A. Alexander v. Melissa Flores, No. A-0200255

Date: November 12, 2019

Plaintiff(s):

- Melissa A. Alexander (Female, 46 Years)

Plaintiff Attorney(s):

- Scott R. Frase; Jim S. Adler & Associates; Houston TX for Melissa A. Alexander

Defendant(s):

- Melissa Flores

Defense Attorney(s):

- Lauren Sullivan; Susan L. Florence & Associates; Houston, TX for Melissa Flores

Insurers:

- Allstate Insurance Co.

Facts:

On Nov. 18, 2015, plaintiff Melissa Alexander, 46, a banker, was driving east on Gulfway Drive, approaching Sixth Avenue, in the city of Port Arthur. Melissa Flores was driving west on Gulfway Drive and attempted an unprotected left turn onto Sixth Avenue. Alexander broadsided the passenger side of Flores' car. Flores was cited for failing to yield the right of way. Alexander claimed that she suffered injuries of her back and neck.

Alexander sued Flores. She alleged that Flores was negligent in the operation of her vehicle.

Flores did not attend trial, and the defense stipulated to liability.

Injury:

Alexander went to an emergency room the day after the accident. She complained of neck and back pain. X-rays were normal except for degenerative changes in her cervical spine.

Alexander ultimately claimed that she suffered sprains and strains of her lumbar region and a protrusion of herniation of her C6-7 intervertebral disc. She further claimed that the herniated disc caused indentation of the thecal sac and mild to moderate stenosis.

A week later, Alexander went to a family practitioner and complained of neck and back pain. He recommended physical therapy and chiropractic care. Alexander underwent treatment with a chiropractor from Dec. 9, 2015, to Feb. 22, 2016. The number of visits to the chiropractor was 33. About a month after the accident, Alexander saw a pain management doctor, who prescribed Flexeril and ibuprofen but made no other treatment recommendations.

Alexander testified that the reason she is no longer treating was because she cannot afford it. The chiropractor's records said Alexander would need ongoing chiropractic care twice a month, with reevaluation every six months, potentially for the rest of her life. He estimated the treatments visits would cost \$100 to \$150 and that the evaluations would cost \$250 each.

Alexander teared up while testifying about how difficult her injuries make her daily household activities and about the chiropractor claiming she would need treatment for the rest of her live just to remain mobile.

Photos of the vehicles came into evidence. Flores' vehicle sustained significant damage, and its side air bag deployed.

Plaintiff's counsel asked the jury to award \$12,772.43 for past medical expenses, \$100,000 to \$151,700 for future medical expenses, \$5,000 for past lost earnings, \$19,000 for past pain and suffering, and \$20,000 for future pain and suffering.

When Alexander denied prior lower back problems, the defense impeached her with prior medical records saying she had chronic lower back pain starting in April 2014 and arthritis in her lower back. Also, she underwent a lumbar MRI 10 weeks before the accident.

The defense also argued that the claim of future medical expenses was too speculative, especially given the lack of treatment since 2016.

Defense counsel suggested an award of about half the medical bills; about half the claimed lost wages, \$2,500 for past pain and suffering, \$2,500 for future pain and suffering, and nothing for future medical expenses.

Result:

The jury awarded Alexander \$117,772.43.

Melissa A. Alexander

\$12,772 Personal Injury: Past Medical Cost

\$100,000 Personal Injury: Future Medical Cost

\$5,000 Personal Injury: Past Lost Earnings Capability

Trial Information:

Judge: W. Kent Walston

Demand: \$50,000 (insurance coverage's limit)

Offer: \$20,160

Trial Length: 1 days

Editor's Comment: This report is based on information that was provided by plaintiff's and defense counsel.

Writer jschneider

Plaintiff: Intersection crash with pizza driver led to injuries

Type: Verdict-Plaintiff

Amount: \$100,000

State: Texas

Venue: Jefferson County

Court: Jefferson County Court at Law No. 1, TX

Injury Type(s):

- *back* - lower back
- *head* - headaches
- *neck* - herniated disc, cervical
- *other* - chiropractic; steroid injection; epidural injections
- *shoulder*
- *neurological* - radicular pain / radiculitis

Case Type:

- *Motor Vehicle* - Broadside; Right Turn; Intersection; Multiple Vehicle; Weather Conditions

Case Name: Augustine Bertrand v. Jamadric LaPaul Harper and Toni Lynette Washington, No. 130876

Date: January 24, 2024

Plaintiff(s):

- Augustine Bertrand, (Male, 43 Years)

Plaintiff Attorney(s):

- Taylor Miller; Reaud, Morgan & Quinn; Beaumont TX for Augustine Bertrand

Plaintiff Expert(s):

- Jeffrey White M.D.; Chiropractic; Beaumont, TX called by: Taylor Miller

Defendant(s):

- Jamadric LaPaul Harper
- Toni Lynette Washington
- MAC Pizza Management Inc.

**Defense
Attorney(s):**

- Karl D. Drews; Jackson, Drews & Boanerges; Houston, TX for Jamadric LaPaul Harper, Toni Lynette Washington, MAC Pizza Management Inc.

Insurers:

- Allstate Insurance Co.
- Hanover Insurance Co.

Facts:

On Nov. 5, 2016, plaintiff Augustine Bertrand, 43, owner of a landscaping business, was driving in Jefferson County. The roads were wet. Defendant Jamadric LaPaul Harper, a pizza delivery driver, struck Bertrand's left rear wheel well at an intersection. Harper was in the course and scope of his employment with defendant MAC Pizza Management Inc., which did business as Domino's.

Bertrand said he was stopped at a stop sign and that Harper, coming from his left, made a right turn without slowing down and slid into Bertrand's vehicle.

Also, it came into evidence that MAC had a "hustle" policy in place for its drivers at the time of the accident and that it had instructed its drivers never to admit fault for an accident.

Harper contended that he was going straight and that Bertrand pulled out in front of him. Harper did not have a stop sign.

Defendant Toni Lynette Washington, an alleged owner of the Harper vehicle, was nonsuited before trial.

Injury:

Bertrand went to an emergency room the next day. He ultimately claimed three cervical disc herniations, with pain radiating into his shoulders. He also claimed headaches and lower back pain, but those injuries resolved on their own.

Bertrand treated with a chiropractor for about three months and underwent one cervical epidural steroid injection.

He testified that, during his recovery, he was unable to fish or golf and had trouble sleeping.

Bertrand sought \$14,750 for past medical expenses; \$42,625 for past physical pain and mental anguish; and \$42,625 for past physical impairment.

The defense disputed causation of the claimed injuries, noting that Bertrand's vehicle sustained minimal damage.

Result: The jury found that Harper's negligence proximately caused the accident. It determined that Bertrand's damages totaled \$100,000. MAC was liable, as well. The jury did not find that Bertrand's negligence, if any, proximately caused the accident.

Augustine Bertrand

\$ 14,750 Past Medical Cost

\$ 42,625 Past Physical Impairment

\$ 42,625 past physical pain and mental anguish

\$ 100,000 Plaintiff's Total Award

Trial Information:

Judge: Gerald Eddins

Offer: \$15,000 (\$5,000 from primary carrier; \$10,000 from secondary)

Trial Length: 3 days

**Trial
Deliberations:** 20 minutes

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.

Writer jschneider

Plaintiff: Crash with school bus at intersection led to injuries

Type: Verdict-Plaintiff

Amount: \$86,000

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 58th, TX

Injury Type(s):

- *head* - headaches
- *neck* - bulging disc, cervical
- *elbow*
- *other* - myospasm; swelling; chiropractic; physical therapy; strains and sprains; tendinitis/tendinosis; decreased range of motion
- *shoulder*
- *epidermis* - numbness

Case Type:

- *Motor Vehicle* - Bus

Case Name: Shenyatta Jones v. Beaumont Independent School District, No. A-02061170

Date: November 16, 2022

Plaintiff(s):

- Shenyetta Jones, (Female, 39 Years)

Plaintiff Attorney(s):

- Sydney Meriwether Womack; Womack Trial Lawyers; Houston TX for Shenyetta Jones

Defendant(s):

- Beaumont Independent School District

Defense Attorney(s):

- Joseph A. Callier; Callier Law Group; Houston, TX for Beaumont Independent School District
- Megan Elizabeth Callier; Callier Law Group; Houston, TX for Beaumont Independent School District

Facts:

On Sept. 7, 2018, plaintiff Shenyatta Jones, 39, a letter carrier, was driving her mail truck north on Harding Drive in Beaumont. A school bus made a right turn into the southbound lane. Because of the angle of the intersection, the bus driver had to make a wide turn. The bus' side mirror hit that of Jones. The bus driver was an employee of Beaumont Independent School District. Jones claimed she suffered injuries of her neck and shoulder.

Jones sued the school district. The lawsuit alleged that the bus driver was negligent in the bus' operation. The case was brought under the Texas Tort Claims Act.

Jones claimed that the bus driver crossed the center line and caused the accident. The bus driver was ticketed by the district's own police for failing to maintain a single lane, and she pleaded guilty.

The bus driver testified that she did not know how the accident happened, but that Harding was a narrow road. Defense counsel argued that the bus driver was not negligent and that it was Jones who crossed the center line.

Injury:

Jones went to an emergency room on her own on the date of the accident. She was given a Toradol injection for pain, and her right arm was placed in a sling. She ultimately claimed she suffered disc bulges at C4-5 and C5-6, cervical muscle spasms and right shoulder sprain and tendinosis. She further claimed that the injuries caused intermittent numbness and tingling in her right elbow; a 20 percent reduction in her shoulder's range of motion; a 15 percent reduction in her cervical range of motion; cervical swelling; and headaches.

A week after the accident, she went to a minor emergency center and was referred to physical therapy. She underwent physical therapy with a chiropractor and consulted with a medical doctor, as well.

Records from the medical doctor said enough force was transferred to Jones' body in the accident to cause her shoulder and neck injuries.

Jones testified that she rode horses and competed in rodeos with her family before the accident and that she can no longer do so.

Jones also claimed that her employment was terminated as a result of the accident.

Jones sought \$22,675.48 for past medical expenses and \$44,000 for past loss of earning capacity, as well as damages for past and future physical pain and mental anguish and past physical impairment.

The defense disputed causation of the claimed injuries, noting that only the mirrors collided.

Result:

The jury found that the defendant was liable for the accident. The jury determined that Jones' damages totaled \$86,000.

Shenyetta Jones

\$ 23,000 Past Medical Cost

\$ 8,000 Past Physical Impairment

\$ 40,000 past loss of earning capacity

\$ 5,000 past physical pain and mental anguish

\$ 10,000 future physical pain and mental anguish

\$ 86,000 Plaintiff's Total Award

Trial Information:

Judge: W. Kent Walston

Demand: \$57,500

Offer: \$30,000

Trial Length: 3 days

**Trial
Deliberations:** 1.5 hours

Jury Vote: 12-0

Post Trial: The parties reached a post-verdict settlement for \$100,000, which is the statutory cap for damages under the Texas Tort Claims Act.

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls.

College professor claimed collision resulted in sprains and strains

Type: Verdict-Plaintiff

Amount: \$63,268

Actual Award: \$30,000

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 172nd, TX

Injury Type(s):

- *back* - lower back; sprain, lumbar; strain, lumbar
- *neck* - sprain, cervical; strain, cervical
- *other* - chiropractic; physical therapy; aggravation of pre-existing condition

Case Type:

- *Motor Vehicle* - Truck; Right Turn; Intersection

Case Name: Ashraf Elhoubi v. Allstate Fire and Casualty Insurance Co., No. 200163

Date: November 13, 2019

Plaintiff(s):

- Ashraf Elhoubi (Male, 49 Years)

Plaintiff Attorney(s):

- Trent Bond; Portner Bond; Beaumont TX for Ashraf Elhoubi

Defendant(s):

- Allstate Fire and Casualty Insurance Co.

Defense Attorney(s):

- Joshua D. Hamm; Susan L. Florence & Associates; Houston, TX for Allstate Fire and Casualty Insurance Co.

Facts:

On Feb. 4, 2016, plaintiff Ashraf Elhoubi, about 49, a college professor, was driving a minivan in Beaumont. He stopped at a red light. A compact car approaching from Elhoubi's left executed a wide right turn and struck the front left of Elhoubi's vehicle. Elhoubi claimed he suffered neck and back injuries. He settled with the driver of the compact car for his \$30,000 liability policy limit. Elhoubi had \$30,000 in underinsured motorist (UIM) coverage with his own insurer, Allstate Fire and Casualty Insurance Co.

Elhoubi sued Allstate. The lawsuit alleged that the driver of the compact car was negligent in the operation of his vehicle and that Allstate was liable for UIM benefits.

The court granted a directed verdict for Elhoubi on liability. The only issue for the jury was damages.

Injury:

Elhoubi was taken by ambulance to the emergency room. He was treated and released. Elhoubi ultimately claimed cervical and lumbar sprains and strains and aggravation of preexisting lumbar disc bulges.

A few days after the accident, Elhoubi went to a chiropractic clinic, where he underwent a course of physical therapy through July 21, 2016. He then underwent a lumbar epidural steroid injection. MRIs showed some intervertebral disc bulges, but the evidence did not indicate that they were caused by the accident. Elhoubi testified that he recovered from his injuries.

Elhoubi's counsel asked the jury to award \$25,004 in past medical expenses; \$32,264 for past physical pain and mental anguish; and \$6,000 for past physical impairment.

Defense counsel argued that the amounts sought were excessive and that the case and treatment were attorney-driven. The evidence showed that Elhoubi was referred to the clinic by his attorney.

Result:

The jury awarded Elhoubi \$63,268. Allstate's \$30,000 credit reduced the damages to \$33,268, and Elhoubi's recovery was limited to \$30,000 by his UIM policy limit.

Ashraf Elhoubi

\$25,004 Personal Injury: Past Medical Cost

\$6,000 Personal Injury: Past Physical Impairment

\$32,264 Personal Injury: past physical pain and mental anguish

Trial Information:

Judge:	Mitch Templeton
Demand:	\$30,000 (UIM policy limit)
Offer:	none
Jury Vote:	12-0
Editor's Comment:	This report is based on information that was provided by plaintiff's counsel. Defense counsel declined to contribute.
Writer	jschneider

Plaintiff argued defendant admitted fault by paying ticket

Type: Verdict-Plaintiff

Amount: \$49,685

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 60th, TX

Injury Type(s):

- *back* - sprain, lumbar; strain, lumbar; herniated disc, lumbar; herniated disc at L4-5
- *neck* - sprain, cervical; strain, cervical; herniated disc, cervical; herniated disc at C6-7
- *other* - chiropractic; physical therapy

Case Type:

- *Motor Vehicle* - Head-On; Stop Sign; Right Turn; Multiple Vehicle

Case Name: James Garrard v. Estrada Salgado, No. B-199752

Date: May 21, 2019

Plaintiff(s):

- James Garrard (Male, 50 Years)

Plaintiff Attorney(s):

- Timothy M. Ferguson; The Ferguson Law Firm; Beaumont TX for James Garrard

Defendant(s):

- Estrada Salgado

Defense Attorney(s):

- Pam Rea; Susan L. Florence & Associates; Houston, TX for Estrada Salgado

Insurers:

- Allstate Insurance Co.

Facts:

On Feb. 10, 2017, plaintiff James Garrard, 50, a rig welder and truck driver, was driving a full-size pickup truck north in Jefferson County on State Highway 124, which has one lane in each direction. Estrada Salgado was eastbound on a side street, approaching the highway. Garrard entered the southbound lane to pass slower-moving vehicles, and Estrada began to turn her compact car right into the southbound lane from a stop sign. Garrard slammed on his brakes, but the front of the two vehicles collided. Garrard claimed neck and back injuries.

Garrard sued Salgado. Garrard alleged that Salgado was negligent in the operation of her vehicle.

Garrard testified that Salgado rolled through the stop sign without stopping, and his counsel argued that Salgado failed to look to the right before turning.

Salgado received a ticket for failing to yield the right of way. She paid the ticket. Garrard's counsel noted that she therefore pleaded guilty, and that she therefore admitted fault.

There were no solid lines between the highway lanes at that location, and the investigating officer concluded that Garrard was passing legally.

Salgado denied admitting fault. She testified that she stopped at the stop sign and looked left, right and then left again. Seeing no one in the southbound lane, she proceeded with her turn. Defense counsel argued that, because Salgado did not see him, Garrard must have been speeding. She also noted that Garrard was attempting to pass three vehicles, including a school bus.

Defense counsel argued Salgado acted as any reasonable driver would have done.

Injury:

An ambulance came to the scene, but Garrard declined to be transported. He was evaluated by a chiropractor 11 days after the accident. The chiropractor diagnosed cervical and lumbar sprains and strains and recommended conservative treatment.

Garrard claimed that he sustained herniations of his C6-7 and L4-5 intervertebral discs. He immediately began physical therapy with the chiropractor. The treatment lasted until early July. Garrard claimed that he sought no further treatment because he lacked insurance and that he only continued to work because he had to put food on the table.

Photos showed significant damage to Salgado's compact car and moderate damage to Garrard's pickup truck. Garrard's welding equipment was installed in the back of his pickup, and he testified that this equipment was damaged in the accident. Garrard also testified about the cost of repairing the equipment, but no documentation of the cost came into evidence.

Garrard sought \$8,460 for past medical expenses; \$5,000 to \$10,000 for either future medical expenses or future physical pain, but not both; \$5,000 to \$10,000 for past physical pain; \$6,724.74 for vehicle repairs; \$20,000 for loss of use of the vehicle; and \$2,000 for welding equipment repairs.

There were blanks in the charge for past and future physical impairment, past and future disfigurement and the rental value of Garrard's vehicle, but plaintiff's counsel did not seek damages for these elements.

The defense argued that Garrard was not hurt. The defense emphasized that Garrard denied injury at the scene and declined to be transported by the ambulance; that he went to work that same day and did not seek treatment until 11 days later; that he treated with a chiropractor and not a medical doctor; that a lawyer referred Garrard to the chiropractor and provided the chiropractor with a letter of protection; that Garrard missed no work; and that he sought no treatment after July 2017. Also, Garrard had sustained back injuries in a car wreck three years before this accident.

Defense counsel suggested that, if the jury reached damages, it should award past medical expenses of \$850, representing the first three visits to the chiropractor; \$6,724.74 for Garrard's vehicle repairs; and zero for everything else.

Result:

The jury found Salgado negligent and awarded Garrard \$49,684.74.

James Garrard

\$8,460 Personal Injury: Past Medical Cost

\$7,500 Personal Injury: Future Medical Cost

\$7,000 Personal Injury: past physical pain

\$6,725 Commercial: Cost Of Repair

\$20,000 Commercial: Loss Of Use

Trial Information:

Judge: Justin Sanderson

Trial Length: 2 days

**Trial
Deliberations:** 4.25 hours

Jury Vote: 11-1

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.

Writer jschneider

Plaintiff claimed rear-ending caused neck, back injuries

Type: Verdict-Plaintiff

Amount: \$40,000

State: Texas

Venue: Jefferson County

Court: Jefferson County Court at Law No. 1, TX

Injury Type(s):

- *back* - sprain, lumbar; strain, lumbar
- *neck* - sprain, cervical; strain, cervical
- *other* - chiropractic
- *shoulder*
- *neurological* - sciatica; radicular pain / radiculitis

Case Type:

- *Motor Vehicle* - Rear-ender; Multiple Vehicle

Case Name: Katrina Collins v. Fernando Becerra, No. 0133536

Date: April 27, 2021

Plaintiff(s):

- Katrina Collins, (Female, 26 Years)

Plaintiff Attorney(s):

- Timothy M. Ferguson; The Ferguson Law Firm; Beaumont TX for Katrina Collins
- Layne W. Walker; The Ferguson Law Firm; for Katrina Collins

Plaintiff Expert (s):

- Will Fults D.C.; Chiropractic; Beaumont, TX called by: Timothy M. Ferguson, Layne W. Walker

Defendant(s):

- Fernando Becerra

Defense Attorney(s):

- Joshua D. Hamm; Lisa Chastain & Associates; Houston, TX for Fernando Becerra
- Tomanicka Morris; Lisa Chastain & Associates; Houston, TX for Fernando Becerra

Insurers:

- Allstate Insurance Co.

Facts:

On Dec. 3, 2018, plaintiff Katrina Collins, 26, a call center representative, came to a stop at a red light on Highway 365 in Port Arthur. She was driving a subcompact sport utility vehicle. Fernando Becerra, in a compact sports car, struck Collins' right rear quarter panel. Collins claimed she suffered neck, back and shoulder injuries.

Collins sued Becerra. The lawsuit alleged that Becerra was negligent in the operation of his vehicle. The investigating officer put a contributing factor on Becerra for failing to control his speed, and the police report came into evidence.

Becerra claimed that he was trying to avoid hitting another vehicle. He designated the unidentified driver of that vehicle as a responsible third party. However, after voir dire, Becerra stipulated to liability.

Injury:

Collins was taken by ambulance to an emergency room. She ultimately claimed she suffered cervical and lumbar sprains and strains and left shoulder pain. She further claimed that the lower back injury caused sciatica.

She treated with a chiropractor seven times, from Dec. 6, 2018, to Sept. 25, 2019. The chiropractor opined that Collins would need additional chiropractic adjustments.

Collins testified that picking up her young child was painful for two weeks after the accident.

Collins' attorney asked the jury to award \$9,784.35 for past medical expenses and \$14,715.65 for future medical expenses, as well as damages for past and future physical pain, past and future mental anguish and past and future physical impairment.

The defense noted that Collins missed no work; that her daughter, a passenger, sustained no injuries; and that Collins had not treated in the 18 months before trial. In addition, the chiropractor had treated her for sciatica before the accident.

Defense counsel asked the jury to award only the bills from the date of the accident and no other damages.

Result:

The jury found that Becerra was liable for the accident. It awarded Collins \$40,000.

\$9784.35 Personal Injury: Past Medical Cost

\$14715.65 Personal Injury: Future Medical Cost

\$2000 Personal Injury: Past Physical Impairment

\$5000 Personal Injury: past physical pain

\$5000 Personal Injury: future physical pain

\$3500 Personal Injury: past mental anguish

Trial Information:

Judge: Gerald Eddins

Demand: \$50,000

Offer: \$6,000

Trial Length: 2 days

**Trial
Deliberations:** 3 hours

Jury Vote: 6-0

**Jury
Composition:** 1 male, 5 female

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls.

Writer jschneider

Auto accident aggravated back injury, plaintiff claimed

Type: Verdict-Plaintiff

Amount: \$40,000

Actual Award: \$46,210

State: Texas

Venue: Jefferson County

Court: Jefferson County Court at Law No. 1, TX

Injury Type(s):

- *leg*
- *back* - bulging disc, lumbar
- *other* - aggravation of pre-existing condition
- *neurological* - radicular pain / radiculitis

Case Type:

- *Motor Vehicle* - Broadside; Multiple Vehicle

Case Name: Angela Dodson v. Deborah Christine Wilkerson, No. 129470

Date: June 13, 2019

Plaintiff(s):

- Angela Dodson (Female, 34 Years)

Plaintiff Attorney(s):

- Larry C. Hunter; The Ferguson Law Firm, LLP; Beaumont TX for Angela Dodson

Defendant(s):

- Deborah Christine Wilkerson

Defense Attorney(s):

- Ezra L. Finkle; Lewis Brisbois Bisgaard & Smith LLP; Houston, TX for Deborah Christine Wilkerson

Insurers:

- Allstate Insurance Co.

Facts:

On July 10, 2014, plaintiff Angela Dodson, 34, a marketer, was driving north on Longfellow Drive, in Beaumont. Deborah Wilkerson, in a sport utility vehicle, exited a driveway on Dodson's right and struck the passenger side of Dodson's car. Dodson claimed that she suffered an injury of her back.

Dodson sued Wilkerson. Dodson alleged that Wilkerson was negligent in the operation of her vehicle.

Dodson contended that the accident was a result of Wilkerson having failed to exercise due caution and having failed to yield the right of way.

Wilkerson claimed that she was driving slowly and carefully out of the driveway and did not see Dodson until the impact.

Injury:

About four days after the accident, Dodson presented to a medical clinic. She complained of lower back pain. She underwent minor treatment.

Dodson ultimately claimed that the accident aggravated pre-existing, previously asymptomatic bulges of her L2-3, L4-5 and L5-S1 intervertebral discs. She also claimed that she developed residual radicular pain that extended to her legs.

Dodson claimed that, after the accident, she performed independent therapeutic exercises. She also claimed that she suffers ongoing pain. She contended that she previously enjoyed dancing and driving off road, but that her pain prevents her resumption of those activities. She also claimed that her pain restricts her social activities and has led to the loss of friendships.

Dodson's paid or incurred medical bills were \$1,295.28, but she non-suited that claim before trial. She sought recovery of \$20,000 to \$30,000 for past physical pain and mental anguish, and she sought recovery of \$10,000 to \$15,000 for future physical pain and mental anguish.

Defense counsel argued against the award of any damages. He contended that Dodson was not injured in the accident. Dodson's vehicular damage was minor. Defense counsel claimed that Dodson had suffered lower back injuries in two prior incidents and had a bulging disc at L5-S1 before those incidents. A lumbar MRI after the instant accident showed no new injuries, the defense argued.

On June 27, 2013, Dodson was driving on a freeway when an 18-wheeler collided with a vehicle that then hit Dodson's vehicle, causing Dodson to sustain neck and lower back injuries. Dodson went to an emergency room after that incident. An October 2013 lumbar MRI showed facet arthropathy at the L4-5 level and a bulge of the L5-S1 disc.

On Nov. 14, 2013, Dodson slipped and fell on a wet floor at an event hall, after which she went to an emergency room. She was diagnosed with a tailbone injury and bulges of the L2-3 and L4-5 discs. She underwent two injections, but the records reflected that the relief was merely temporary.

Result:

The jury found that Wilkerson was liable for the accident. It determined that Dodson's damages totaled \$40,000.

Wilkerson had \$30,000 in liability coverage. However, Dodson had the same insurer and had underinsured-motorist coverage. The insurer paid the excess out of Dodson's policy.

After the verdict, defense counsel interviewed four jurors: the lone dissenter, the presiding juror and two Hispanic men. The presiding juror felt that Wilkerson should have admitted liability, and the two Hispanic men did not find Wilkerson credible. The dissenting juror felt that Dodson did not meet her burden on injury causation.

Angela Dodson

\$25,000 Personal Injury: past physical pain and mental anguish

\$15,000 Personal Injury: future physical pain and mental anguish

Trial Information:

Judge: Gerald Eddins

Demand: \$15,000

Offer: \$2,029

Trial Length: 2 days

**Trial
Deliberations:** 1.5 hours

Jury Vote: 5-1

**Jury
Composition:** 3 male, 3 female

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.

Writer jschneider

Plaintiff: Rear-ending caused neck, back and shoulder woes

Type: Verdict-Plaintiff

Amount: \$30,500

Actual Award: \$33,000

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 172nd, TX

Injury Type(s):

- *back* - sprain, lumbar; strain, lumbar
- *neck* - sprain, cervical; strain, cervical
- *other* - chiropractic; physical therapy; strains and sprains
- *shoulder*

Case Type:

- *Motor Vehicle* - Rear-ender; Multiple Vehicle

Case Name: Tommy Milton Travis v. Jarod Michael Powell and Shana Powell, No. 205551

Date: October 29, 2021

Plaintiff(s):

- Tommy Milton Travis, (Male, 44 Years)

Plaintiff Attorney(s):

- Darren L. Brown; Provost & Umphrey Law Firm; Beaumont TX for Tommy Milton Travis
- Sean Villery-Samuel; Provost & Umphrey Law Firm; Beaumont TX for Tommy Milton Travis

Plaintiff Expert (s):

- Mark A. Beaty D.C.; Chiropractic; Nederland, TX called by: Darren L. Brown, Sean Villery-Samuel

Defendant(s):

- Shana Powell
- Jarod Michael Powell

**Defense
Attorney(s):**

- Jill D. Schein; Ramey, Chandler, Quinn & Zito, P.C.; Houston, TX for Jarod Michael Powell, Shana Powell

Insurers:

- State Farm Insurance Cos.

Facts:

On Aug. 20, 2019, plaintiff Tommy Milton Travis, 44, owner of a commercial HVAC installation and repair business, was driving a large pickup truck in Beaumont. It was raining. Jarod Michael Powell rear-ended Travis in a sport utility vehicle. Travis claimed he suffered injuries of his neck, back and shoulders.

Travis sued Powell. The lawsuit alleged that Powell was negligent in the operation of his vehicle. Travis also sued Powell's mother, SUV owner Shana Powell, for negligent entrustment, but nonsuited her shortly before trial.

Jarod Powell stipulated to liability shortly before trial.

Injury:

Soon after the accident, Travis went to a chiropractor, who recommended conservative care. Travis ultimately claimed he suffered a torn ligament in his neck, as well as lower back and bilateral shoulder sprains and strains.

An MRI was read as showing the torn ligament, and Travis underwent physical therapy with the chiropractor twice a week for about six weeks. He underwent no other treatment.

The chiropractor opined that, because of the accident, Travis was likely to experience a buildup of scar tissue and have an increased risk of developing osteoarthritis. He would be likely to need additional physical therapy, imaging and possibly surgery, the doctor said.

Travis testified that he goes hunting and fishing with his children but that, because of the accident, it is painful, and he worries that, eventually, the pain will be too great.

Photos of the vehicles came into evidence. Powell's vehicle sustained significant damage, and his airbag was deployed.

The defense stipulated shortly before trial that the accident caused injuries to Travis and \$2,500 in past medical expenses.

The damages submitted to the jury, for which Travis sought a total of \$208,000, were future medical expenses, past and future physical pain, past and future mental anguish, past and future physical impairment and past and future disfigurement.

The defense argued that the accident caused soft-tissue injuries that resolved with treatment and that all the treatment was with a chiropractor.

Result:

The jury determined that Travis' damages totaled \$30,500.

With the \$2,500 in stipulated past medical expenses, the damages totaled \$33,000.

The case was mediated before trial. According to plaintiff's counsel, the mediator's proposal was \$13,500 and was not accepted by the defense.

Tommy Travis

\$ 15,000 Future Medical Cost

\$ 3,000 Past Physical Impairment

\$ 5,000 Future Physical Impairment

\$ 2,500 past physical pain

\$ 5,000 future physical pain

\$ 30,500 Plaintiff's Total Award

Trial Information:

Judge: Mitch Templeton, Greg Thompson

Demand: \$30,000 (policy limit)

Trial Length: 1 days

**Trial
Deliberations:** 45 minutes

Jury Vote: 11-1

**Jury
Composition:** 2 male, 10 female; 2 Hispanic, 1 black, 9 white; ages 32-62 (avg. 51)

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.

Writer jschneider

Plaintiff said driver ran red light, causing neck and back injuries

Type: Verdict-Plaintiff

Amount: \$29,506

Actual Award: \$26,556

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 172nd, TX

Injury Type(s):

- *leg*
- *back* - lower back; disc protrusion, lumbar
- *neck* - sprain, cervical; strain, cervical
- *other* - chiropractic; physical therapy
- *neurological* - radicular pain / radiculitis

Case Type:

- *Motor Vehicle* - Truck; Broadside; Red Light; Intersection; Multiple Vehicle; Traffic Offenses; Question of Lights

Case Name: Dale Schroeder v. Jeremy Norsworthy, No. 203518

Date: February 21, 2020

Plaintiff(s):

- Dale Schroeder (Male, 44 Years)

Plaintiff Attorney(s):

- Taylor Miller; Reaud, Morgan & Quinn; Beaumont TX for Dale Schroeder

Defendant(s):

- Jeremy Norsworthy

Defense Attorney(s):

- Pam Rea; Susan L. Florence & Associates; Houston, TX for Jeremy Norsworthy

Insurers:

- Allstate Insurance Co.

Facts:

On July 16, 2018, plaintiff Dale Schroeder, about 44, a pipefitter, was driving a sedan westbound in Westlake, La. Jeremy Norsworthy was traveling north in a pickup truck. The vehicles collided in an intersection controlled by a stoplight. The damage to Norsworthy's vehicle was on the right rear. Schroeder's front bumper was torn off. Police ticketed Norsworthy for running a red light. Schroeder claimed he suffered neck and back injuries.

Schroeder sued Norsworthy. The lawsuit alleged that Norsworthy was negligent in the operation of his vehicle. The investigating officer testified that Norsworthy, who resided in Jefferson County, received a summons. Also, the police report said Norsworthy admitted he ran a red light.

Schroeder testified that a vehicle to his left blocked his view when he entered the intersection.

Norsworthy denied admitting that he ran a red light. Norsworthy testified that his light was green as he approached the intersection, yellow when he entered it and that the light changed almost immediately from yellow to red. He also testified that there were no other vehicles nearby beside his and Schroeder's. Defense counsel argued that Schroeder would have seen Norsworthy if he had been paying attention and that Schroeder was at least 50 percent responsible for the accident.

Injury:

Within a day or two, Schroeder went to the hospital. He complained of neck and back pain. He ultimately claimed a protrusion of the L4-5 intervertebral disc, cervical sprains and strains and pain radiating into his legs.

After the hospital visit, Schroeder went to his primary care doctor. She referred him to a chiropractor. Schroeder underwent a course of physical therapy with the chiropractor from July to December 2018. The chiropractor referred him to an orthopedic surgeon, who recommended a series of lumbar epidural steroid injections. Schroeder did not undergo the injections.

Schroeder testified that, for several months, his employer restricted him to light duty. Schroeder also testified that he still experienced occasional lower back pain. The neck pain and radicular pain resolved, he said.

Schroeder's wife testified that her husband was a hard worker who took pride in providing for their family.

The damages submitted to the jury were past and future medical expenses, past lost wages, past and future physical pain and mental anguish and past and future physical impairment. The amounts plaintiff's counsel sought in closing added up to about \$60,000; they included \$14,006.42 for past medical and about \$8,000 in lost wages.

Schroeder testified about the cost for a series of epidural steroid injections. His counsel asked the jury to award that amount for future medical.

Regarding lost wages, the defense was able to show significant discrepancies between Schroeder's testimony and his employment records.

The defense also argued that the medical records were inconsistent.

Defense counsel argued that Schroeder exaggerated his complaints; that he is able to work; and that he had not sought any treatment for his alleged injuries since 2018.

Also, there were multiple-week gaps in the chiropractic treatment. Schroeder explained that he lived in Houston and worked in Louisiana, and that he therefore had to miss at least a half day of work for each treatment session. The chiropractor was based in Houston.

Defense counsel suggested about \$7,000 for past medical expenses; about \$2,000 for past physical pain and mental anguish; and zero for everything else.

Result:

The jury found negligence and comparative responsibility of 90 percent on Norsworthy and 10 percent on Schroeder. It awarded Schroeder \$29,506.42, but the comparative-negligence reduction produced net damages of \$26,555.77.

Dale Schroeder

\$14,006 Personal Injury: Past Medical Cost

\$1,000 Personal Injury: Past Physical Impairment

\$1,500 Personal Injury: Future Physical Impairment

\$4,000 Personal Injury: Past Lost Earnings Capability

\$7,000 Personal Injury: past physical pain and mental anguish

\$2,000 Personal Injury: future physical pain and mental anguish

Trial Information:

Judge: Mitch Templeton

Demand: \$47,000 plus court costs

Offer: \$15,000

Trial Length: 3 days

**Trial
Deliberations:** 1.25 hours

Jury Vote: 10-2

**Jury
Composition:** 3 male, 9 female

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls.

Writer jschneider

Auto accident caused injuries of back, plaintiff claimed

Type: Verdict-Plaintiff

Amount: \$20,000

State: Texas

Venue: Jefferson County

Court: Jefferson County Court at Law No. 1, TX

Injury Type(s):

- *hip*
- *back* - sprain, lumbar; strain, lumbar
- *other* - chiropractic

Case Type:

- *Motor Vehicle* - Rear-ender; Multiple Vehicle

Case Name: Kelvin Ray Dillard v. Oscar Davis and Brian Davis, No. 130521

Date: September 21, 2021

Plaintiff(s):

- Kelvin Ray Dillard, (Male, 36 Years)

Plaintiff Attorney(s):

- Taylor Miller; Reaud, Morgan & Quinn; Beaumont TX for Kelvin Ray Dillard

Defendant(s):

- Brian Davis
- Oscar Davis

Defense Attorney(s):

- Gregory Coyer; Lisa Chastain & Associates; Houston, TX for Oscar Davis, Brian Davis

Insurers:

- Allstate Insurance Co.

Facts:

On April 3, 2015, plaintiff Kelvin Dillard, 36, a refinery's fire watch, was driving in Jefferson County. His car's rear end was struck by a trailing car that was being driven by Brian Davis. Dillard claimed that he suffered injuries of his back.

Dillard sued Davis and the owner of Davis' vehicle, Oscar Davis. The lawsuit alleged that Brian Davis was negligent in the operation of his vehicle. The lawsuit further alleged that Oscar Davis was vicariously liable for Brian Davis' actions.

Dillard's counsel did not pursue the claim against Oscar Davis. The matter proceeded against Brian Davis.

Dillard's counsel contended that the accident was a result of Brian Davis having failed to exercise due caution.

Davis acknowledged that he had been tailgating Dillard's vehicle. Judge Gerald Eddins ruled that Davis was liable for the accident. The trial proceeded to damages.

Injury:

During the morning that followed the accident, Dillard visited a medical clinic. He claimed that he was suffering pain related to the accident. He underwent minor treatment.

Dillard ultimately claimed that he suffered sprains and strains of his lumbar region. He claimed that he briefly experienced residual pain that radiated to a hip.

Dillard's counsel contended that the accident involved a significant impact that caused about \$3,000 of damage to Davis' vehicle. Dillard estimated that his vehicle was traveling about 70 mph -- about five miles an hour less than the limit -- and that Davis' vehicle was traveling 75 to 80 mph.

After some four weeks had passed, Dillard commenced a course of chiropractic treatment. The treatment lasted about nine weeks, and it was typically rendered about once a week.

Dillard claimed that, during his recovery, he could not tolerate prolonged periods in which he was seated or standing. He also claimed that he could not easily perform his job's functions. He sought recovery of \$10,000 for past medical expenses, and he sought recovery of \$30,000 for past physical pain and mental anguish.

The defense argued that the accident involved a merely minor collision. Davis claimed that his vehicle barely struck Dillard's vehicle.

Defense counsel also challenged the legitimacy of Dillard's medical expenses.

Result: The jury determined that Dillard's damages totaled \$20,000.

Kelvin Dillard

\$ 10,000 Past Medical Cost

\$ 10,000 past physical pain and mental anguish

\$ 20,000 Plaintiff's Total Award

Trial Information:

Judge: Gerald Eddins

Demand: None

Offer: \$3,500

Trial Length: 2 days

**Trial
Deliberations:** 45 minutes

**Jury
Composition:** 2 male, 4 female

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls.

Writer jschneider

Car accident caused permanent scar on elbow: plaintiff

Type: Verdict-Plaintiff

Amount: \$16,213

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 58th, TX

Injury Type(s):

- *arm* - scar and/or disfigurement, arm
- *back* - sprain, lumbar; strain, lumbar
- *neck* - sprain, cervical; strain, cervical
- *elbow*
- *other* - abrasions

Case Type:

- *Motor Vehicle* - Rollover; Right Turn; Multiple Vehicle

Case Name: Craig Larson v. Peter Shoemaker, No. A-200314

Date: August 27, 2019

Plaintiff(s):

- Craig Larson (Male, 40 Years)

Plaintiff Attorney(s):

- M. Dru Montgomery; The Heartfield Law Firm; Beaumont TX for Craig Larson

Defendant(s):

- Peter Shoemaker

Defense Attorney(s):

- Ezra L. Finkle; Lewis Brisbois Bisgaard & Smith LLP; Houston, TX for Peter Shoemaker

Insurers:

- Allstate Insurance Co.

Facts:

On Aug. 10, 2015, plaintiff Craig Larson, a minister in his 40s, was driving a pickup truck on a service road of Eastex Freeway, near the Parkdale Mall, in Beaumont. Peter Shoemaker was driving a car and exiting the parking lot of a restaurant in the mall. As Shoemaker attempted to turn right onto the service road, he clipped Larson's vehicle. The pickup truck rolled over several times. Larson claimed that he suffered injuries of his back, an elbow and his neck.

Larson sued Shoemaker. Larson alleged that Shoemaker was negligent in the operation of his vehicle.

The defense conceded liability shortly before the start of trial. The matter proceeded to damages.

Injury:

Larson was retrieved by an ambulance, and he was transported to Christus Southeast Texas-St. Elizabeth hospital. He complained of pain in his neck, back, left shoulder and left elbow. The clinical impression was sprains and strains of Larson's cervical and lumbar regions. He also had an abrasion of his left elbow.

Larson underwent various tests and received medication at the hospital. He also received a wrap for his arm abrasion. He was released the same day. He had no further treatment.

Larson claimed that he had symptoms for six weeks following the accident. He claimed that he had neck stiffness during that time and that it was difficult for him to lift heavy objects. He further claimed that he needed help running his ministry in the weeks after the accident.

Larson's wife testified that, at the time of the accident, Larson was planning to renovate a ministry camp. She claimed that he had to delay his work on the camp for four months following the accident.

Mr. Larson further claimed that the left elbow abrasion left him with a visible scar. His counsel contended that the lengthy legal process -- specifically the defense's refusal to admit liability until just before trial -- caused Larson and his family mental anguish.

Larson sought recovery of \$10,213.49 in past medical expenses. He also sought recovery of damages for past physical pain and mental anguish, past physical impairment, and past and future disfigurement. His counsel asked the jury to award between \$92,750 and \$165,500, related generally to the defense's delay in admitting liability and the resulting stress to Larson and his family.

The defense maintained that Larson's award should not exceed \$21,000. The defense argued that Larson should receive his past medical expenses along with \$500 to \$1,500 a week for six weeks of pain and suffering. The defense argued that Larson's scar was barely visible and that he stopped taking over-the-counter pain medication for his injuries approximately two weeks after the accident.

Defense counsel also maintained that he had the right to wait years before conceding liability.

Result: The jury determined that Larson's damages totaled \$16,213.49.

Craig Larson

\$10,213 Personal Injury: Past Medical Cost

\$1,000 Personal Injury: Past Physical Impairment

\$5,000 Personal Injury: past physical pain and mental anguish

Trial Information:

Judge: W. Kent Walston

Trial Length: 2 days

**Trial
Deliberations:** 55 minutes

Jury Vote: 12-0

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.
Additional information was gleaned from court documents.

Writer msiegel2

Plaintiff: Rear-ending in traffic led to neck and back injuries

Type: Verdict-Plaintiff

Amount: \$14,000

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 58th, TX

Injury Type(s):

- *back* - herniated disc, lumbar
- *neck* - sprain, cervical; strain, cervical; herniated disc, lumbar
- *other* - chiropractic; steroid injection; epidural injections

Case Type:

- *Motor Vehicle* - Rear-ender; Multiple Vehicle

Case Name: Shene St. Simone v. David Ramirez, No. A-203218

Date: March 24, 2022

Plaintiff(s):

- Shene St. Simone, (Female, 64 Years)

Plaintiff Attorney(s):

- Clay Dugas; Clay Dugas & Associates; Beaumont TX for Shene St. Simone

Defendant(s):

- David Ramirez

Defense Attorney(s):

- Karl D. Drews; Jackson Drews & Boanerges; Houston, TX for David Ramirez

Facts:

On Dec. 19, 2018, plaintiff Shene St. Simone, 64, an ad trafficker for a television station, was driving a sedan west on Interstate 10 in Beaumont. She came to a stop in traffic on the exit ramp for College Street, and David Ramirez rear-ended her in a pickup truck. The investigating police officer faulted Ramirez for the accident, based on his failure to control his speed. St. Simone claimed she suffered injuries of her neck and back.

St. Simone sued Ramirez. The lawsuit alleged that he was negligent in the operation of his vehicle.

Ramirez said he looked over his shoulder to change lanes, and when he looked forward again, traffic had come to a stop. He admitted that the accident was his fault and that he could have avoided it if he had been driving more slowly or keeping a greater distance between his vehicle and St. Simone's.

The court granted St. Simone's motion for directed verdict on liability.

Injury:

St. Simone went to an emergency room on her own the next day. She ultimately claimed she suffered multiple lumbar intervertebral disc herniations, as well as cervical sprains and strains.

Eight days after the hospital visit, she went to a pain management doctor, who referred her to a chiropractor and ordered a lumbar MRI. The chiropractor treated her through August 2019. St. Simone also underwent three lumbar epidural steroid injections during that time.

The pain management doctor then referred St. Simone to orthopedic surgeon Dr. Stephen Esses. Esses opined that conservative treatment had failed and that St. Simone needed a microdiscectomy and laminectomy, which he estimated would cost \$55,000 to \$60,000.

In 2020, St. Simone returned to Esses for a repeat lumbar MRI, and he renewed his surgical recommendation. However, after a third lumbar MRI in 2021, he decided that she was no longer a surgical candidate.

Soon after, St. Simone went to a neurosurgeon, who recommended a lumbar discectomy and fusion. Esses had opined that such a procedure would cost \$140,000 to \$150,000.

In September 2021, St. Simone went to a third surgeon, who agreed that St. Simone was a candidate for a discectomy and fusion. He recommended that she try another course of conservative care first, though.

She testified that she also experienced mental anguish and talked to a mental health provider about the accident.

Photos of the vehicles came into evidence. Both vehicles were totaled, and the damage to St. Simone's was very severe.

Her paid or incurred medical expenses were \$70,216, but she did not seek past medical at trial.

She sought a total of \$2.5 million, including \$60,000 to \$150,000 for future medical expenses; \$114,901 for future loss of earning capacity; \$35,619 for past loss of household services; \$278,363 for future loss of household services; and unspecified damages for past and future physical pain and suffering, past and future mental anguish and past and future physical impairment.

The defense disputed causation of the claimed injuries and treatment, including the need for future surgery. The defense also argued that the claimed injuries were preexisting. St. Simone acknowledged that she had injured her neck and back in an accident in 2013 and that she experienced pain "for a good while" after that accident.

The defense noted that St. Simone declined to be transported from the scene and that the police report gave her an injury code of "N," for "not injured." Also, her exam at the hospital was essentially normal, except for findings of degenerative changes in her back. In addition, she was referred to the pain management doctor by an attorney. Moreover, when she finished treating with the chiropractor in August 2019, her prognosis was noted to be good; the defense, therefore, questioned the need for the subsequent referral to Esses.

The defense also argued that, when the neurosurgeon made his surgical recommendation, he did so without having seen St. Simone's third lumbar MRI.

In addition, defense counsel noted, St. Simone never underwent the additional conservative care that was recommended in September 2021.

Defense counsel suggested an award of \$9,500. That amount represented \$500 a month for past pain and suffering and past physical impairment during the months that St. Simone was actively treating, plus \$500 for mental anguish based on St. Simone's mentioning the accident to a mental health provider one time.

Result:

The jury found that Ramirez was liable for the accident. It determined that St. Simone's damages totaled \$14,000.

Shene St. Simone

\$ 2,500 Future Medical Cost

\$ 4,500 Past Physical Impairment

\$ 1,000 Future Physical Impairment

\$ 1,000 Future Pain Suffering

\$ 4,500 Past Pain Suffering

\$ 500 past mental anguish

\$ 14,000 Plaintiff's Total Award

Trial Information:

Judge: Kent Walston

Demand: \$1 million

Offer: \$530,000

Trial Length: 4 days

**Trial
Deliberations:** 1.5 hours

**Jury
Composition:** 4 male, 8 female

**Editor's
Comment:** This report is based on information that was provided by defense counsel. Plaintiff's counsel declined to contribute.

Defense denied responsibility for multi-vehicle crash

Type: Verdict-Defendant

Amount: \$0

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 58th, TX

Injury Type(s):

- *back* - herniated disc, lumbar; disc protrusion, lumbar
- *neck* - bulging disc, cervical; herniated disc, lumbar
- *other* - chiropractic; aggravation of pre-existing condition

Case Type:

- *Motor Vehicle* - Passenger; Lane Change; Multiple Vehicle; Alcohol Involvement

Case Name: Leo Randall, Jr. v. Earnest Jeanmard, No. A-203365

Date: August 30, 2022

Plaintiff(s):

- Leo Randall, Jr. (Male, 56 Years)

Plaintiff Attorney(s):

- Brett S. Thomas; Roebuck, Thomas & Adams; Beaumont TX for Leo Randall, Jr.

Defendant(s):

- Earnest Jeanmard

Defense Attorney(s):

- Karl D. Drews; Jackson, Drews & Boanerges; Houston, TX for Earnest Jeanmard

Facts:

On June 25, 2017, plaintiff Leo Randall Jr., 56, was a passenger in a Kia Soul on an interstate in Orange County, after midnight. Earnest Jeanmard, traveling the same direction in a full-size pickup truck, struck the Kia's left rear quarter panel and door. Randall claimed he suffered injuries of his neck and back.

Randall sued Jeanmard. The lawsuit alleged that Jeanmard was negligent in the operation of his vehicle.

Both parties were going home from a horse track in Louisiana, and Jeanmard acknowledged he had been drinking. After hitting the plaintiff's vehicle, Jeanmard rear-ended a sport utility vehicle, and he acknowledged he did not see the Kia or the SUV before the accident. Plaintiff's counsel argued that Jeanmard was not paying proper attention.

Jeanmard denied negligence. He said there was a disabled vehicle in his lane, the left lane; that the disabled vehicle did not have any lights on; and that the road was unlit. He said he struck the Kia when he swerved to the right to avoid the disabled vehicle.

Injury:

Randall went to an urgent-care facility the day after the accident. He ultimately claimed he suffered two cervical disc bulges and aggravation of preexisting lumbar conditions. The preexisting conditions were one herniated disc and two bulging discs.

He went to a chiropractor about 11 days after the accident and treated with him for two months.

Photos of the Kia came into evidence. They showed moderate damage.

Randall sought past \$9,818 for past medical expenses and \$190,000 to \$250,000 for noneconomic damages.

The defense argued that the injuries were wholly preexisting and not aggravated by the accident. The lumbar herniation and protrusions had been sustained in a 2015 accident. Epidural steroid injections were recommended after that accident, but not performed. Also, Randall had not worked since the 2015 accident.

The defense argued that, if the jury reached the damages question, it should award zero, or in the alternative, \$3,737 for the urgent-care visit and \$300 for past pain and suffering.

Result:

The jury rendered a defense verdict. Specifically, it did not find that Jeanmard's negligence, if any, proximately caused the accident.

Leo Randall

Trial Information:

Judge: Kent Walston

Demand: \$20,000

Offer: \$12,700

Trial Length: 2 days

**Trial
Deliberations:** 30 minutes

Jury Vote: 11-1

**Jury
Composition:** 4 male, 8 female

**Editor's
Comment:** This report is based on information that was provided by defense counsel. Plaintiff's counsel did not respond to the reporter's phone calls.

Writer jschneider

Plaintiff responsible for fall outside nail salon, defense claimed

Type: Verdict-Defendant

Amount: \$0

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 58th, TX

Injury Type(s):

- *back* - herniated disc, lumbar
- *head* - headaches
- *neck* - fusion, cervical; herniated disc, lumbar; herniated disc, cervical
- *other* - chiropractic; steroid injection; epidural injections
- *face/nose* - jaw

Case Type:

- *Slips, Trips & Falls* - Falldown
- *Premises Liability* - Dangerous Condition

Case Name: Shirley Reese v. HEB Grocery Company, LP, Individually and d/b/a HEB Plus # 48; HEB, Inc., Individually and d/b/a HEB Plus # 48; HEB Plus # 48; Tic Tac Day Spa & Salon Inc.; and Tic Tac Nails Spa Inc., No. A-199497

Date: August 15, 2022

Plaintiff(s):

- Shirley Reese, (Female, 52 Years)

Plaintiff Attorney(s):

- Jason L. Cansler; Law Offices of Jason L. Cansler; Beaumont TX for Shirley Reese

Plaintiff Expert (s):

- David Singleton M.D.; Pain Management; Humble, TX called by: Jason L. Cansler

Defendant(s):

- HEB Inc.
- HEB Plus #48
- Tic Tac Nails Spa Inc.
- HEB Grocery Company L.P.
- Tic Tac Day Spa & Salon Inc.

**Defense
Attorney(s):**

- Christy Amuny; Germer PLLC; Beaumont, TX for Tic Tac Day Spa & Salon Inc., Tic Tac Nails Spa Inc.
- Valerie Lewis; Germer PLLC; Beaumont, TX for Tic Tac Day Spa & Salon Inc., Tic Tac Nails Spa Inc.
- Maryalyce Cox; MehaffyWeber; Houston, TX for HEB Grocery Company L.P., HEB Inc., HEB Plus #48

**Defendant
Expert(s):**

- Kenneth J. Lee M.D.; Orthopedic Surgery; Sugar Land, TX called by: for Christy Amuny, Valerie Lewis, Maryalyce Cox

Insurers:

- State Farm Insurance Cos.

Facts:

On March 19, 2015, plaintiff Shirley Reese, 52, a realtor, fell on a wheelchair ramp in front of Tic Tac Day Spa & Salon Inc., a nail salon in a shopping center owned by HEB Grocery Company L.P. in Beaumont. She claimed she suffered injuries of her neck and back, as well as headaches and jaw pain.

Reese had just received a pedicure at Tic Tac and was wearing disposable sandals provided by the salon.

The fall occurred while Reese was walking to her car. It was also raining.

Reese sued Tic Tac Day Spa & Salon Inc. and HEB Grocery Company L.P. The lawsuit alleged negligence as to Tic Tac and premises liability as to HEB. Reese also sued other Tic Tac and HEB entities, but they were not submitted to the jury.

Reese claimed that Tic Tac was negligent in failing to warn her not to wear the sandals out of the store.

As to HEB, she claimed that the paint on the wheelchair ramp and the way it was grooved made it too slick; that the roof over it allowed water to collect on the ramp; and that two other people had fallen on the ramp that day.

The defendants denied the allegations. As to Tic Tac, the defense noted that Reese had been coming to the salon for eight years and always left wearing the salon's disposable sandals. The defendants argued that it was Reese's choice to wear them, rather than waiting for her nails to dry and putting on her own shoes, which were closed-toe. The salon also had a nail-dryer available, which Reese did not use. She also could have brought her own sandals, the defense argued.

HEB further noted that its wheelchair ramp was ADA-compliant.

Injury:

Reese went to an emergency room later that day. She ultimately claimed she suffered headaches, jaw pain, multiple cervical disc herniations and multiple lumbar disc herniations.

Within a few days, she went to her family doctor for headaches, and he sent her back to the emergency room. She also saw her dentist, for jaw pain. The headaches and jaw pain resolved.

On April 15, 2015, she went to a medical and chiropractic clinic for neck and back pain. She treated there for about eight months, undergoing chiropractic care and seeing an orthopedic surgeon.

In February 2016, she began treating with a neurosurgeon. Two months later, he performed a multi-level cervical fusion. Reese also underwent lumbar epidural steroid injections. A lumbar fusion was recommended, but not performed.

In February 2019, she began treating with another orthopedic surgeon, primarily for lower back pain. He recommended additional lumbar epidural steroid injections, but they were not performed.

Reese sought past medical expenses of about \$150,000, as well as damages for future medical expenses, past and future physical pain and mental anguish and past and future physical impairment. She sought a total of about \$1.4 million.

The defense expert, an orthopedic surgeon, opined that Reese's lumbar MRIs did not show any herniations; that the lumbar injections were not medically necessary; and that Reese would not need lumbar surgery as a result of the incident. He further opined that the cervical fusion was not necessitated by the accident and that the fusion included more levels than necessary.

The defense also emphasized the lack of treatment between mid-2016 and early 2019.

Result:

The jury rendered a defense verdict. Specifically, it did not find that Tic Tac's or HEB's negligence, if any, proximately caused the occurrence/injury, and it found that Reese's negligence did.

Shirley Reese

Trial Information:

Judge: W. Kent Walston

Trial Length: 4 days

**Trial
Deliberations:** 30 minutes

**Editor's
Comment:** This report is based on information that was provided by defense counsel. Plaintiff's counsel did not respond to the reporter's phone calls.

Writer jschneider

Defense claimed other driver was cause of rear-ending

Type: Verdict-Defendant

Amount: \$0

State: Texas

Venue: Jefferson County

Court: Jefferson County District Court, 136th, TX

Injury Type(s):

- *back* - herniated disc, lumbar; herniated disc at L3-4; herniated disc, lumbar; herniated disc at L4-5; herniated disc, lumbar; herniated disc at L5-S1
- *neck* - herniated disc, cervical; herniated disc at C4-5; herniated disc, cervical; herniated disc at C5-6
- *other* - chiropractic; steroid injection; epidural injections; aggravation of pre-existing condition

Case Type:

- *Motor Vehicle* - Passenger; Rear-ender; Multiple Impact; Multiple Vehicle; Alcohol Involvement

Case Name: Kristi Johnson v. Julian Wilson, No. D-202221

Date: October 04, 2022

Plaintiff(s):

- Kristi Johnson, (Female, 40 Years)

Plaintiff Attorney(s):

- Jason L. Cansler; Law Offices of Jason L. Cansler; Beaumont TX for Kristi Johnson

Defendant(s):

- Julian Wilson

Defense Attorney(s):

- W. Shane Osborn; Martin, Disiere, Jefferson & Wisdom; Houston, TX for Julian Wilson

Insurers:

- State Farm Insurance Cos.

Facts:

On May 13, 2017, plaintiff Kristi Johnson, 40, was a passenger in a friend's car in the right lane of a highway in Beaumont. It was about 3 a.m., and they were coming home from a country and Western bar. The driver crested an overpass and saw emergency lights ahead for a fatality accident. She braked, and Julian Wilson rear-ended her. The Johnson vehicle struck a concrete barrier on the left, and Wilson's vehicle rolled over. Johnson claimed she suffered injuries of her head, neck and back.

Johnson sued Wilson. The lawsuit alleged that Wilson was negligent in the operation of her vehicle. Johnson was asleep at the time of the accident. Her driver denied the defense contention that she slammed on her brakes.

Also, plaintiff's counsel questioned Wilson's assertion that she had gotten off work and gone to the home of a coworker and had not been anywhere else that night. Johnson's driver testified that Wilson was wearing a wristband, and plaintiff's counsel noted that Wilson said she could not remember what time she finished work or what her coworker's name or address was.

Also, Johnson's driver testified that Wilson admitted fault at the scene.

Wilson denied negligence and denied admitting fault. She also testified that she had not had anything to drink and that, after work, she had not gone anywhere except a coworker's house.

Defense counsel argued that Johnson was passed out, not just asleep, and that her driver slammed on her brakes when she saw police lights because she, too, had been drinking. Johnson and her driver also gave conflicting trial and deposition testimony about how much they drank that night and when, the defense argued.

The defense also argued that Wilson did not expect Johnson's driver to slam on her brakes, because the emergency lights were in the left lane and a half mile ahead.

Injury:

Johnson's head cracked the windshield, but she declined treatment at the scene. Two days later, she went to an emergency room. She ultimately claimed she suffered herniated discs at C4-5, C5-6, L3-4 and L4-5; aggravation of a preexisting herniation at L5-S1; and headaches.

About 37 days after the hospital visit, she went to a chiropractor to whom her attorney referred her. The chiropractor treated her through February 2018. A pain management doctor then performed two rounds of cervical epidural steroid injections and two rounds of lumbar epidural steroid injections. In April 2017, he recommended a lumbar laminectomy and a cervical fusion, which Johnson did not undergo.

Johnson testified that she was still in pain at the time of trial.

Photos of the vehicles showed significant damage.

Johnson sought \$33,423 for past medical expenses; \$334,800 for future medical expenses; \$10,000 for past physical pain and suffering; \$50,000 for future physical pain and suffering; \$10,000 for past mental anguish; \$50,000 for future mental anguish; \$10,000 for past physical impairment; and \$50,000 for future physical impairment, a total of \$548,000.

The defense argued that the lumbar injuries were preexisting. Her medical records indicated chronic lower back pain, and she had undergone a lumbar MRI just three weeks before the accident.

The defense also argued that her injuries, if any, resulted from her admitted failure to wear a seat belt. The defense emphasized that Wilson and Johnson's driver were wearing seat belts and sustained no injuries.

Result:

The jury rendered a defense verdict. Specifically, it found that Johnson's negligence and not Wilson's, if any, proximately caused the injuries in question.

Kristi Johnson

Trial Information:**Judge:**

Baylor Wortham

Trial Length: 2 days

**Trial
Deliberations:** 43 minutes

Jury Vote: 12-0

**Jury
Composition:** 7 male, 5 female

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.

Writer jschneider