

THE NATIONAL
LAW JOURNAL

THE TOP 100 VERDICTS^{OF 2022}



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2022 top 100 verdicts					
Rank	Winner	Amount	Topic	Case/Court: Docket, Date	Prevailing Party(s)
1	P	\$1,211,000,000	Worker/Workplace Negligence	Gulf v. Hodge, Dallas Co., Texas No. 23-01, 03/13/24, June 21, 2022	Chen, A. Henderson, Jr. and Ray C. Henderson, Jr. (on behalf of themselves and Gulf) v. Hodge, Dallas Co., Texas No. 23-01, 03/13/24, June 21, 2022
2	P	\$1,030,000,000	Intellectual Property	Agave Corp. v. Phytopharm, Inc. (Follett), No. 02-23, 03/13/24, May 1, 2022	Agave Corp. v. Phytopharm, Inc. (Follett), No. 02-23, 03/13/24, May 1, 2022
3	P	\$1,104,000,000	Products Liability	Hill v. Ford Motor Co., General Co., No. 23-01, 03/13/24, May 1, 2022	Hill v. Ford Motor Co., General Co., No. 23-01, 03/13/24, May 1, 2022
4	P	\$1,000,000,000	Products Liability	Frederick v. PricewaterhouseCoopers, LLP, No. 23-01, 03/13/24, May 1, 2022	Frederick v. PricewaterhouseCoopers, LLP, No. 23-01, 03/13/24, May 1, 2022
5	P	\$881,000,000	Intentional Torts	Chen v. Hodge, Dallas Co., Texas No. 23-01, 03/13/24, June 21, 2022	Chen, A. Henderson, Jr. and Ray C. Henderson, Jr. (on behalf of themselves and Gulf) v. Hodge, Dallas Co., Texas No. 23-01, 03/13/24, June 21, 2022

THE TOP 100 VERDICTS

OF 2022

The National Law Journal's VerdictSearch affiliate scoured the nation's court records in search of 2022's biggest verdicts, also consulting with practitioners and reviewing reports by other ALM Media publications. The amounts listed here represent jury awards—they do not account for judicial reductions, offsets or appeals.

TOP 100 VERDICTS OF 2022

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Top Verdict Categories

Dollar value of Top 100 verdicts by cause of action, in millions.

2021			2022		
1	Worker/Workplace Negligence	\$301,929	1	Worker/Workplace Negligence	\$30,844
2	Intellectual Property	\$3,675	2	Intellectual Property	\$18,726
3	Motor Vehicle	\$2,046	3	Products Liability	\$13,131
4	Transportation	\$730	4	Intentional Torts	\$5,710
5	Products Liability	\$651	5	Motor Vehicle	\$2,417
6	Employment	\$489	6	Employment	\$2,404
7	Business Law	\$410	7	Professional Negligence	\$2,255
8	Intentional Torts	\$364	8	Medical Malpractice	\$1,553
9	Insurance	\$251	9	Business Law	\$1,332
10	Government	\$167	10	Toxic Torts	\$1,160

Source: VerdictSearch. Figures are rounded to the nearest \$1 million.

METHODOLOGY

VerdictSearch strives to report as many jury verdicts, decisions and settlements as possible. Although a great many cases are submitted by attorneys, we also rely on a diligent team of assignment editors who scour docket lists, cultivate relationships with law firms, and search the Internet and news sources, including the ALM family of legal publications. Our exhaustive efforts allow us to present what we believe is a comprehensive list of the top 100 jury awards of 2022. Nevertheless, we sincerely apologize to anyone whose case may have been inadvertently omitted.

The Top 100 verdicts are ranked by gross award calculated by the jury. They do not reflect reductions for comparative negligence or assignment of fault to settling defendants or nonparties; additurs, remittiturs or reversals; or attorney fees and costs, unless awarded by the jury. In cases in which awards were automatically doubled or trebled by statute, the doubled or trebled amount determined rank. We do not consider cases in which the jury only determined per-plaintiff or per-year damages that a judge later used to calculate the gross award, cases in which the jury's instructions permitted it to determine damages against a party that it had already deemed not liable, or cases in which a jury awarded damages against one or more parties while one or more other parties awaited trial in the same matter. The editors retain sole discretion to make adjustments in rank when necessary to reflect statutes that provide for election of remedies or other types of overlapping awards.

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Bar sued over patron's involvement in deadly crash

TYPE:	Verdict-Plaintiff
AMOUNT:	\$95,527,108
STATE:	Florida
VENUE:	Miami-Dade County
COURT:	Miami-Dade County Circuit Court, 11th, FL
INJURY TYPE(S):	<i>leg</i> - fracture, leg; crush injury, leg <i>back</i> - fracture, back; herniated disc <i>neck</i> - herniated disc <i>ankle</i> - fracture, ankle <i>brain</i> - coma; brain damage; subarachnoid hemorrhage; internal bleeding <i>chest</i> - fracture, rib <i>other</i> - death; seizure; hematoma; craniotomy; physical therapy; compression fracture <i>pelvis</i> - fracture, pelvis <i>shoulder</i> - fracture, shoulder; fracture, scapula <i>urological</i> - kidney <i>neurological</i> - neurological impairment <i>sensory/speech</i> - speech/language, impairment of <i>surgeries/treatment</i> - open reduction; internal fixation <i>mental/psychological</i> - cognition, impairment <i>pulmonary/respiratory</i> - respiratory <i>gastrointestinal/digestive</i> - liver; liver, laceration; gallbladder, injury
CASE TYPE:	<i>Wrongful Death</i> <i>Motor Vehicle</i> - Head-On; Passenger; Wrong Way; Multiple Vehicle; Alcohol Involvement <i>Hotel/Restaurant</i> - Dram Shop
CASE NAME:	Noel Criales, as Personal Representative of the Estate of Carmen Criales, and as Guardian of Bryan Criales v. Franklin Chavez, No. 2017-006062-CA-01
DATE:	June 21, 2022
PLAINTIFF(S):	Bryan Criales, (Male, 21 Years) Estate of Carmen Criales, (Female, 23 Years)
PLAINTIFF	
ATTORNEY(S):	Adam T. Rose; Leesfield Scolaro, P.A.; Miami FL for Estate of Carmen Criales,, Bryan Criales Aaron P. Davis; Davis Goldman, PLLC; Miami FL for Estate of Carmen Criales,, Bryan Criales
DEFENDANT(S):	Franklin Chavez The Georgetown Partnership LLC
DEFENSE	
ATTORNEY(S):	None Reported for The Georgetown Partnership LLC

FACTS: On Dec. 13, 2015, plaintiff's decedent Carmen Criales, 23, a student, was operating a sedan northbound on Interstate 95 in Miami-Dade County. Her brother, plaintiff Bryan Criales, 21, a retail worker, was sitting in the front passenger seat.

Franklin Chavez was operating another sedan southbound in the northbound travel lanes of Interstate 95. It was approximately 5:30 a.m., and he did not have his headlights activated. Chavez's sedan struck the plaintiffs' vehicle head-on. Carmen Criales was killed. Her brother suffered severe injuries to his legs, ankles, brain, back, pelvis, scapulas, liver and gallbladder, plus major injuries to multiple ribs and a kidney.

Chavez's blood alcohol content was twice the legal limit. He pleaded guilty to several charges, including vehicular homicide, and was sentenced to jail time.

The Criales' father, Noel Criales, acting as the personal representative of his daughter's estate and as the guardian of his son, sued Chavez. The lawsuit alleged that Chavez was negligent in the operation of his vehicle.

The complaint was later amended to include a dram-shop claim against The Georgetown Partnership – the owner of a bar that had served Chavez alcohol the night of the accident. The lawsuit alleged that the bar employees continued to serve Chavez even though he was a known alcoholic and was showing visible signs of intoxication.

Chavez's claim settled prior to trial. Georgetown Partnership did not respond to the lawsuit, and a default was entered. The matter proceeded to a damages-only trial against the bar owner.

INJURY: Carmen Criales suffered blunt-force trauma injuries. She was pronounced dead at the scene.

Bryan Criales was placed in an ambulance and transported to Jackson Memorial Hospital. He was admitted for 4.5 months.

Bryan Criales suffered crush injuries and fractures to both legs, along with bilateral ankle fractures and bilateral scapular fractures. He additionally suffered multiple rib fractures, a pelvis fracture and several compression fractures to his back. Criales was also diagnosed with a gallbladder hematoma, liver and kidney lacerations, respiratory failure, herniations of intervertebral discs in his back, and bi-frontal traumatic subarachnoid hemorrhages.

Criales suffered seizures and was in a coma for several months. While in the hospital, he underwent a craniotomy and a cranioplasty. He also underwent surgeries to repair the lacerations in his internal organs. He received open reduction with internal fixation on his legs, as well.

Criales spent much of 2017 and 2018 in and out of hospitals. He also underwent neurocognitive treatment, physical therapy and speech therapy. He additionally developed digestive issues that required treatment. His counsel contended that Criales will need a lifetime of physical, speech and neurocognitive therapy.

MOTOR VEHICLE

Passenger: Future care needed for traumatic brain injury

Criales requires full-time care from his parents. He needs assistance with daily activities such as showering, eating and getting dressed, is unable to communicate and has limited cognitive ability. He is wheelchair-bound and can only stand with assistance for a second or two at a time. In addition, he no longer has feeling on the right side of his body.

The estate sought recovery of damages for the past and future pain and suffering of Carmen Criales' parents. Bryan Criales also sought past medical expenses and damages for his past and future pain and suffering.

RESULT: The jury found that Bryan Criales suffered a permanent injury in the subject collision. It determined that Bryan's damages totaled \$58,527,108, and that Carmen Criales' estate was entitled to damages totaling \$37 million, for a total of \$95,527,108.

Bryan Criales
\$ 1,527,108 Past Medical Cost
\$ 50,000,000 Future Pain Suffering
\$ 7,000,000 Past Pain Suffering
\$ 58,527,108 PLAINTIFF'S TOTAL AWARD

Estate of Carmen Criales
\$ 3,500,000 Past pain and suffering of Carmen Criales' mother
\$ 3,500,000 Past pain and suffering of Carmen Criales' father
\$ 15,000,000 Future pain and suffering of Carmen Criales' father
\$ 15,000,000 Future pain and suffering of Carmen Criales' mother
\$ 37,000,000 PLAINTIFF'S TOTAL AWARD

Trial Information:

JUDGE: Mark Blumstein
TRIAL LENGTH: 1 day
TRIAL DELIBERATIONS: 0
JURY VOTE: 6-0
JURY COMPOSITION: 2 male, 4 female

EDITOR'S COMMENT: This report is based on information that was provided by plaintiff's counsel. Additional information was gleaned from court documents. Counsel for Chavez was not asked to contribute.

TYPE: Verdict-Plaintiff
AMOUNT: **\$50,004,912**
ACTUAL AWARD: **\$52,947,897**
STATE: California
VENUE: Los Angeles County
COURT: Superior Court of Los Angeles County, Santa Monica, CA
INJURY
TYPE(S): *head*
brain - traumatic brain injury
CASE TYPE: *Motor Vehicle* - Broadside; Passenger; Intersection; Tractor-Trailer; Multiple Vehicle
CASE NAME: Dalia Gamboa, guardian ad litem for Joshua Seth Hernandez v. Nathan Harris, Phenix Transportation West, Inc., Phenix Transportation, Inc., and Does 1 to 50, No. BC667551
DATE: April 07, 2022
PLAINTIFF(S): Joshua Seth Hernandez, (Male, 17 Years)
PLAINTIFF
ATTORNEY(S): William D. Shapiro; Law Offices of William D. Shapiro; San Bernardino CA for Joshua Seth Hernandez
PLAINTIFF
EXPERT(S): Barry I. Ludwig M.D.; Neurology; Los Angeles, CA called by: William D. Shapiro
Darryl R. Zengler M.A., C.E.A.; Economics; Pasadena, CA called by: William D. Shapiro
Sharon K. Kawai M.D.; Life Care Planning; Fullerton, CA called by: William D. Shapiro
DEFENDANT(S): Nathan Harris
Peco Foods Inc.
Daphne P. Wilkerson
Phenix Transportation, Inc.
Phenix Transportation West Inc.
DEFENSE
ATTORNEY(S): Daniel E. Kenney; Harrington, Foxx, Dubrow & Canter, LLP; Los Angeles, CA for Nathan Harris, Phenix Transportation West Inc., Phenix Transportation, Inc.
None reported for Peco Foods Inc., Daphne P. Wilkerson,

FACTS: On June 14, 2017, plaintiff Joshua Hernandez, 17, a student, was a passenger in a vehicle that was westbound on Southern Avenue, in South Gate. As his vehicle entered the intersection with Long Beach Boulevard, it was broadsided by

a tractor-trailer operated by Nathan Harris, which entered the intersection from southbound Long Beach Boulevard.

Joshua sustained injuries to his head.

Joshua, by and through his guardian ad litem, Dalia Gamboa, sued Harris; Harris’ employers that owned the tractor-trailer, Phenix Transportation West Inc. and Phenix Transportation Inc.; the shipper of the goods that was loaded in the tractor-trailer, Peco Foods Inc.; and the alleged owner of the Phenix companies, Daphne Wilkerson. Joshua alleged that Harris was negligent in the operation of his vehicle and that the remaining defendants were vicariously liable for Harris’ actions.

Peco Foods was an independent contractor that was alleged to be vicariously liable on legal doctrines. However, its motion for demurrer was sustained. In addition, Wilkerson was dismissed from the case. Thus, the matter only proceeded to trial against Harris, Phenix Transportation West Inc. and Phenix Transportation Inc.

Harris and the Phenix companies ultimately accepted liability just before trial.

INJURY: Joshua was taken by ambulance from the scene of the accident and brought to a hospital, where he was diagnosed with a traumatic brain injury. He remained in the hospital for 10 days and was then transferred to another hospital, where he remained for many months.

Although Joshua does have cognitive function, he claimed he is not able to perform many activities himself. He alleged that he will require full-time care for the rest of his life.

The plaintiff’s neurology expert described the anatomical nature and extent of Joshua’s injuries, as well as the alleged need for future care.

The plaintiff’s physical medicine and rehabilitation expert, who was also a life care planner, described Joshua’s alleged future medical care and other needs, as well Joshua’s alleged life expectancy. The expert also presented supporting evidence for her conclusions and a life care plan that set forth all of Joshua’s alleged future needs.

The plaintiff’s expert economist utilized the life care plan, as well as loss-of-earnings calculations, and converted them to present day values. Joshua was not employed at the time of the accident, and the economic report that was prepared by the plaintiff’s expert economist outlined the economic damages Joshua allegedly suffered, the amounts of which were not disputed.

Joshua sought recovery of past and future medical costs, future loss of earnings, and damages for his past and future pain and suffering.

The parties ultimately stipulated to Joshua’s past medical expenses and past economic damages.

Defense counsel disputed the nature and extent of Joshua’s injuries. Counsel also disputed Joshua’s life care plan and the conclusions made by the plaintiff’s expert economist.

RESULT: The jury determined that Joshua’s damages totaled \$50,004,912.

With the addition of the stipulated amounts of \$785,825.67 for Joshua’s past economic loss and \$2,156,159 for Joshua’s future loss of earnings, Joshua’s recovery totaled \$52,947,896.67.

Joshua Hernandez
\$ 786,825.67 Past Medical Cost
\$ 20,004,912 Future Medical Cost
\$ 2,156,159 Future Lost Earnings
\$ 22,500,000 Future Pain Suffering
\$ 7,500,000 Past Pain Suffering
\$ 52,947,896.67 PLAINTIFF’S TOTAL AWARD

Trial Information:

JUDGE:	Lawrence Cho
TRIAL LENGTH:	0
TRIAL	0
DELIBERATIONS:	

EDITOR’S COMMENT: This report is based on information that was provided by plaintiffs’ counsel. Defense counsel for Harris, Phenix Transportation West and Phenix Transportation did not respond to the reporter’s phone calls. The Wilkersons and Peco Foods’ were not asked to contribute.

MOTOR VEHICLE

Pickup exiting driveway failed to yield to motorcyclist: lawsuit

TYPE:	Verdict-Plaintiff
AMOUNT:	\$36,250,000
STATE:	California
VENUE:	Los Angeles County
COURT:	Superior Court of Los Angeles County, Los Angeles, CA
INJURY	
TYPE(S):	<i>other</i> - death; multiple trauma
CASE TYPE:	<i>Wrongful Death</i> <i>Motor Vehicle</i> - Truck; Driveway; Motorcycle
CASE NAME:	Hortencia Andrade and Salvador Andrade v. Norman S. Wright Climatec Mechanical and Luis A. Tapia, No. 19STCV10659
DATE:	September 16, 2022
PLAINTIFF(S):	Salvador Andrade, (Male, 0 Years) Hortencia Andrade, (Female, 0 Years) Estate of David Andrade, (Male, 26 Years)

PLAINTIFF

ATTORNEY(S): Arash Homampour; The Homampour Law Firm, PC; Sherman Oaks CA for Estate of David Andrade,, Hortencia Andrade,, Salvador Andrade Jason S. Halpern; Halpern & Associates; Westlake Village CA for Estate of David Andrade,, Hortencia Andrade,, Salvador Andrade Ronan J. Duggan; The Homampour Law Firm, PC; Sherman Oaks CA for Estate of David Andrade,, Hortencia Andrade,, Salvador Andrade

PLAINTIFF

EXPERT(S): Steven Anderson P.E.; Motorcycles; Laguna Hills, CA called by: Arash Homampour, Jason S. Halpern, Ronan J. Duggan Joellen Gill M.S.; Ergonomics/Human Factors; Mica, WA called by: Arash Homampour, Jason S. Halpern, Ronan J. Duggan

DEFENDANT(S): Luis A. Tapia Norman S. Wright Climatec Mechanical Equipment of Southern California, LLC

DEFENSE

ATTORNEY(S): Daniel R. Friedenthal; Friedenthal, Heffernan & Brown, LLP; Pasadena, CA for Norman S. Wright Climatec Mechanical Equipment of Southern California, LLC, Luis A. Tapia Michael G. Rix; Friedenthal, Heffernan & Brown, LLP; Pasadena, CA for Norman S. Wright Climatec Mechanical Equipment of Southern California, LLC, Luis A. Tapia Ruth D. Kahn; Law Offices of John A. Hauser; Los Angeles, CA for Norman S. Wright Climatec Mechanical Equipment of Southern California, LLC, Luis A. Tapia

DEFENDANT

EXPERT(S): Carla Kinslow Ph.D.; Toxicology; Portland, OR called by: for Daniel R. Friedenthal, Michael G. Rix, Ruth D. Kahn David A. Krauss Ph.D.; Ergonomics/Human Factors; Los Angeles, CA called by: for Daniel R. Friedenthal, Michael G. Rix, Ruth D. Kahn Stein E. Husher M.S.; Accident Reconstruction; Camarillo, CA called by: for Daniel R. Friedenthal, Michael G. Rix, Ruth D. Kahn Stephen Garets; Motorcycles; Corvallis, OR called by: for Daniel R. Friedenthal, Michael G. Rix, Ruth D. Kahn

FACTS: On Oct. 23, 2018, plaintiffs’ decedent David Andrade, 26, a gate fabricator, was motorcycling on Bradley Avenue, in Los Angeles, when he was struck by a pickup truck operated

by Luis Tapia, who was pulling out of a driveway in an attempt to make a left across the oncoming lane where Andrade was traveling. Andrade died immediately on impact.

The decedent’s mother, Hortencia Andrade, and the decedent’s father, Salvador Andrade, sued Tapia and Tapia’s employer, Norman S. Wright Climatec Mechanical Equipment of Southern California, LLC. The decedent’s parents alleged that Tapia was negligent in the operation of his vehicle and that Norman S. Wright Climatec Mechanical Equipment was vicariously liable for Tapia’s actions.

Plaintiffs’ counsel contended that David Andrade had the right of way and that Tapia failed to yield to him prior to exiting the driveway. Counsel also contended that Tapia should have seen and heard Andrade approaching on the roadway and that Tapia had sufficient time to observe Andrade before the accident.

Defense counsel argued that Tapia did not have enough time to avoid striking Andrade and that Andrade was at fault for the accident. Specifically, counsel argued that Andrade was speeding and had trace amounts of methamphetamine in his bloodstream.

INJURY: Andrade sustained multiple traumatic injuries and died immediately upon impact. He was survived by his parents.

Plaintiffs’ counsel claimed that Andrade was extremely close with his parents and that, in particular, there was never an adult son closer to a mother than Andrade’s relationship with his mother.

Andrade’s parents sought recovery of wrongful death damages for the loss of their son’s love, companionship, comfort, care, assistance, protection, affection, society and moral support.

RESULT: The jury found that Tapia was negligent and that his negligence was a substantial factor in causing Andrade’s death. It also found that Andrade was negligent, but that his negligence was not a substantial factor in causing his own death. The jury determined that Andrade’s mother’s damages totaled \$18,125,000 and that Andrade’s father’s damages totaled \$18,125,000. Thus, Andrade’s parents’ damages totaled \$36.25 million.

Trial Information:

JUDGE:	Mark A. Borenstein
TRIAL LENGTH:	16 days
TRIAL DELIBERATIONS:	2 days

POST TRIAL: Defense counsel moved to set aside the verdict and for a new trial.

On Dec. 9, 2022, the court granted the defense’s motion for a new trial on all issues.

EDITOR’S COMMENT: This report is based on information that was provided by plaintiffs’ and defense counsel.

Hotel liable for assault by security guard, plaintiff argued

TYPE:	Verdict-Plaintiff
AMOUNT:	\$177,000,000
STATE:	Missouri
VENUE:	St. Louis City
COURT:	St. Louis County Circuit Court, 22nd, MO
INJURY TYPE(S):	<i>other</i> - sexual assault <i>mental/psychological</i> - post-traumatic stress disorder
CASE TYPE:	<i>Worker/Workplace Negligence</i> - Negligent Hiring; Negligent Training; Negligent Supervision
CASE NAME:	Shannon Dugan v. David Allen White, No. 1822-CC00663
DATE:	October 14, 2022
PLAINTIFF(S):	Shannon Dugan, (Female, 37 Years)
PLAINTIFF	
ATTORNEY(S):	Scott S. Bethune; Davis, Bethune & Jones, LLC; Kansas City MO for Shannon Dugan Wes Shumate; Davis, Bethune & Jones, LLC; Kansas City MO for Shannon Dugan Kevin D. Buchanan; Davis, Bethune & Jones, LLC; Kansas City MO for Shannon Dugan Richard E. McLeod; The McLeod Law Firm, P.C.; Kansas City MO for Shannon Dugan
PLAINTIFF	
EXPERT(S):	Jane K. Gray Ph.D.; Criminology; Columbus, OH called by: Scott S. Bethune, Wes Shumate, Kevin D. Buchanan, Richard E. McLeod Angela Del Russo; Psychotherapy; Toms River, NJ called by: Scott S. Bethune, Wes Shumate, Kevin D. Buchanan, Richard E. McLeod Marilyn A. Hutchinson Ph.D.; Psychology/ Counseling; Kansas City, MO called by: Scott S. Bethune, Wes Shumate, Kevin D. Buchanan, Richard E. McLeod
DEFENDANT(S):	Hyatt Corp. David Allen White
DEFENSE	
ATTORNEY(S):	Byron A. Bowles Jr.; McAnany, Van Cleave & Phillips, P.A.; Kansas City, KS for Hyatt Corp. Alan T. Fogleman; McAnany, Van Cleave & Phillips, P.A.; Kansas City, KS for Hyatt Corp. Julia Wilke; Wilson Elser Moskowitz Edelman & Dicker LLP; St. Louis, MO for Hyatt Corp.

FACTS: On April 19, 2016, plaintiff Shannon Dugan, 37, a sergeant in a law enforcement agency, was asleep in her room at

the Hyatt Regency St. Louis at the Arch, in the early morning. David Allen White, a hotel security officer, entered her room with his master key and groped her sexually. White was in the room for about 10 minutes. Later that morning, Dugan questioned the hotel about who had entered her room. She then reported the incident to police. White was arrested, and he pleaded guilty to burglary and sexual abuse.

Dugan and a male colleague had traveled to St. Louis from New Jersey for a weeklong seminar on crime scene investigation, hosted by the hotel. They went to a Cardinals game on the night of the 18th and had several drinks. After returning to the hotel, they went to their separate rooms. A little later, Dugan's colleague tried unsuccessfully to contact her. He then called the front desk and requested a welfare check. White was sent, but the swing-bar security latch on Dugan's door was closed, and White had to have the hotel's engineering team open it. White found Dugan asleep in bed, and he left without waking her. An hour later, he returned to Dugan's room and groped her. Security footage and data from the door lock showed his arrivals and departures.

Dugan sued White and Hyatt Regency St. Louis at the Arch. The lawsuit alleged that Hyatt was negligent in its hiring of White, in its supervision of White and other employees, and in its training of other employees. Dugan further alleged that Hyatt showed complete indifference to and conscious disregard for its guests' safety. Dugan dismissed White without prejudice before trial.

Dugan's counsel argued that the hotel violated its own policies regarding welfare checks. Those policies included sending at least two security officers, making sure that the room is secured with the security latch when they leave the guest's room, and if the guest is asleep, either waking her or, if they are unable to wake her, calling for medical assistance. Dugan's counsel noted that, because the security latch can only be closed from the inside the guest must be the one to close it, which she cannot do if she is asleep.

White had been hired about 10 months earlier. Prior to his employment with Hyatt, White had been arrested numerous times for sexually deviant behavior, sexual assault and sodomy. None of those arrests resulted in convictions.

Dugan's counsel argued that Hyatt violated its own hiring policies by failing to verify White's employment for the previous five years and failing to obtain two favorable references. Counsel also argued that the hiring of White violated Hyatt's security policies, which required "higher scrutiny" for security officer positions. There was also a policy about the importance of a "clean background" for a security officer, stating that the position is one of substantial responsibility and trust and for which personal integrity is essential, and also stating that a criminal history is sufficient to exclude employment. Per Dugan's counsel, Hyatt limited White's background check to seven years and convictions- only, and asked White no questions about his criminal background during his interview.

Warehouse worker crushed, paralyzed by falling pallet load

The defense denied negligence. It argued that the hotel followed its regular practice and procedure for welfare checks by sending one officer and not waking the guest. The defense also contended that White was the sole cause of damage to Dugan. Defense counsel told the jury that the hotel had learned lessons from this incident and now always sends two officers, including a female if the guest is female, and always wakes the guest to close the security latch.

INJURY: White entered Dugan's room and sexually groped her through her clothes while she slept.

Dugan woke up during the assault, and White left about 10 minutes after he arrived.

When Dugan returned home after the seminar, she began treating with a psychotherapist. She was diagnosed with post-traumatic stress disorder.

Dugan sought \$20 million for past and future compensatory damages. Her life expectancy was 41 years, and she claimed she would suffer for the rest of her life.

For punitive damages, she sought 10 percent of Hyatt's annual gross revenue or, in the alternative, 10 times the award of compensatory damages.

Defense counsel suggested that, if the jury reached the compensatory damages question, it should award \$250,000 to \$350,000.

RESULT: The jury found that Hyatt was liable for the incident. Specifically, it found negligence in the hiring of White, negligent supervision of White and other employees, and negligent

training of other employees. It also found that Hyatt's negligent supervision and negligent training were in complete indifference to or conscious disregard of others' safety and that

Dugan was therefore entitled to punitive damages.

The jury determined that Dugan's compensatory and punitive damages totaled \$177 million.

Trial Information:

JUDGE:	Timothy J. Boyer
DEMAND:	n/a
OFFER:	\$1 million (during deliberations)
TRIAL LENGTH:	3 days
TRIAL DELIBERATIONS:	hours
JURY VOTE:	12-0 on liability/compensatory damages; 10-2 on punitive damages
JURY COMPOSITION:	male, 9 female

EDITOR'S COMMENT: This report is based on information that was provided by plaintiff's counsel. Hyatt's counsel did not respond to the reporter's phone calls. The jury deliberated about 1.5 hours on liability and compensatory damages and reached a unanimous verdict on these issues. On punitive damages, they deliberated about 40 minutes and reached a 10-to-2 verdict.

TYPE:	Verdict-Plaintiff
AMOUNT:	\$100,000,000 Connecticut
VENUE:	Hartford, Connecticut
COURT:	Hartford Judicial District, Superior Court, CT
INJURY TYPE(S):	<i>back</i> - fracture, back; fracture, T11; fracture, vertebra; fracture, T11 <i>chest</i> - fracture, rib; hemopneumothorax <i>other</i> - arthrodesis; retropulsion; unconsciousness; crush injury, lumbar <i>pelvis</i> - crush injury, pelvis <i>abdomen</i> - crush injury, abdomen <i>urological</i> - neurogenic bowel; neurogenic bladder <i>surgeries/treatment</i> - open reduction; internal fixation <i>pulmonary/respiratory</i> - contusion, pulmonary <i>paralysis/quadruplegia</i> - paraplegia
CASE TYPE:	<i>Workplace</i> - Forklift; Negligent Supervision <i>Worker/Workplace Negligence</i> - Negligent Training; Negligent Supervision
CASE NAME:	Juan Cruz and Emily Cruz v. Spec Personnel, LLC, Special Personnel, LLC, JeanPaul D. Paez, Phillips North America LLC, Philips North America Lighting Corporation, Signify North America Corporation, C.H. Robinson Worldwide, Inc., Venture Properties LLC, A. Duie Pyle, Inc. and Randstad North America, Inc., No. HHD-CV18-5051489-S
DATE:	October 05, 2022
PLAINTIFF(S):	Juan Cruz, (Male, 42 Years) Emily Cruz, (Female, 41 Years)
PLAINTIFF	
ATTORNEY(S):	Andrew P. Garza; Connecticut Trial Firm, LLC; Glastonbury CT for Juan Cruz,, Emily Cruz Andrew B. Ranks; Connecticut Trial Firm, LLC; Glastonbury CT for Juan Cruz,, Emily Cruz Alexa L. Mahony; Connecticut Trial Firm, LLC; Glastonbury CT for Juan Cruz,, Emily Cruz Ryan C. McKeen; Connecticut Trial Firm, LLC; Glastonbury CT for Juan Cruz,, Emily Cruz
PLAINTIFF	
EXPERT(S):	S. Paul Singh Ph.D.; Pallets/Packaging Equipment; East Lansing, MI called by: Andrew P. Garza, Andrew B. Ranks, Alexa L. Mahony, Ryan C. McKeen Richard A. Royston C.P.A.; Accounting; Madison, CT called by: Andrew P. Garza, Andrew B. Ranks, Alexa L. Mahony, Ryan C. McKeen

Richard J. Schuster Ph.D.; Life Care Planning;
New York, NY called by: Andrew
P. Garza, Andrew B. Ranks, Alexa L. Mahony,
Ryan C. McKeen

DEFENDANT(S): JeanPaul D. Paez

A. Duie Pyle, Inc.
Spec Personnel, LLC
Special Personnel, LLC
Venture Properties LLC
Phillips North America LLC
Randstad North America, Inc.
C.H. Robinson Worldwide, Inc.
Signify North America Corporation
Philips North America Lighting Corporation

DEFENSE

ATTORNEY(S): Christopher M. Vossler; Howd & Ludorf, LLC;
Hartford, CT for Philips North America Lighting
Corporation, Signify North America Corporation
Rachel M. Bradford; Howd & Ludorf, LLC;
Hartford, CT for Philips North America Lighting
Corporation, Signify North America Corporation

DEFENDANT

EXPERT(S): Joseph Pessalano M.A., C.R.C.; Vocational
Rehabilitation; Garden City, NY called by: for
Christopher M. Vossler, Rachel M. Bradford
Walter J. Girardi; Forklifts; Galesburg, MI called by:
for Christopher M. Vossler, Rachel M. Bradford

FACTS: On Sept. 19, 2017, plaintiff Juan Cruz, 42, a warehouse worker, was working at a lighting distributor's warehouse in Hartford. A temporary services worker, JeanPaul Paez, who was operating a reach truck in an adjacent aisle, reportedly caused a full pallet of unitized LED lighting products to fall 20 feet from an upper storage rack. Cruz, who was struck by the 1300-pound load, was knocked unconscious. He also claimed back, chest, abdomen and pelvis injuries, as well as permanent paraplegia.

Cruz sued Paez, as well as Paez's employer, Spec Personnel, LLC, a temporary staffing company that assigned Paez to the subject warehouse. He also sued the lighting corporation and manufacturer of the LED tube lamps, Signify North America Corp., formerly known as Philips Lighting North America Corp. Cruz alleged that Paez was negligent in the operation of the forklift. He also alleged failure to train, failure to supervise and failure to inspect against Signify, and negligent hiring, furnishment, supervision and retention against Spec Personnel, LLC.

C.H. Robinson Worldwide, Inc., A. Duie Pyle, Inc. and Randstad North America, Inc. were also sued, but were voluntarily dismissed from the case. Ultimately, the matter proceeded against Signify/Philips only, as Spec Personnel, LLC, Paez and property owner Venture Properties LLC settled out of the case for a combined \$8 million before opening statements.

Cruz's counsel initially alleged that Paez had a known heroin dependency and came to work at the subject warehouse high on heroin prior to operating the forklift. Counsel further alleged that Spec was negligent in providing Paez as a temporary worker, when Spec should have known of his dependency. The drug issues were not presented to the jury due to the preclusion of Cruz's toxicologist. Counsel contended that Signify/Philips workers did not properly secure or stretch-wrap the boxes of Philips LED lamps to the pallet, which would have prevented the pallet from falling.

Signify/Philips contended that the owner of the warehouse was at fault for failing to train, supervise and monitor Paez prior to the accident.

Cruz's counsel noted that Signify/Philips also blamed Venture, who owned the property, and sought an apportionment of liability against them as well. However, Cruz's counsel reported that Signify/Philips did not submit sufficient evidence for Venture to be on the verdict form and their apportionment claim against Venture was withdrawn.

INJURY: Cruz lost consciousness and was taken to a hospital by ambulance.

Cruz was diagnosed with complete tears to the spinal cord at T10, T11, T12 and L1; a T11 fracture with retropulsion; T10 paraplegia; left- and right-sided rib fractures; pulmonary contusion; traumatic hemopneumothorax; and crushing injuries to his abdomen, lower back and pelvis.

Cruz's treatment included open reduction with internal fixation of the thoracic spine and placement of segmental instrumentation at T9-10, T12 and L1. He also underwent arthrodesis with fusion from T9 through L1. He is left with a neurogenic bowel and bladder and will be reliant on a wheelchair.

Cruz sought recovery for past and future lost earnings, past and future medical costs, and past and future pain and suffering. His wife, Emily, will be his caretaker and sought damages for loss of consortium.

RESULT: The jury apportioned 90 percent fault to Signify/Philips and the remaining 10 percent to Paez, with no fault apportioned to Spec Personnel, LLC. It awarded \$90 million to Mr. Cruz and \$10 million to Mrs. Cruz, for a total verdict of \$100 million.

Emily Cruz
\$ 10,000,000 Non-economic Damages
\$ 10,000,000 PLAINTIFF'S TOTAL AWARD

Juan Cruz
\$ 15,000,000 Economic Damages
\$ 75,000,000 Non-economic Damages
\$ 90,000,000 PLAINTIFF'S TOTAL AWARD

Trial Information:

JUDGE: Stuart D. Rosen
DEMAND: \$20 million
OFFER: \$1.5 million
TRIAL LENGTH: 3 weeks
TRIAL DELIBERATIONS: 1 day

EDITOR'S COMMENT: This report is based on information that was provided by plaintiffs' counsel. Additional information was gleaned from court documents. Defense counsel for Signify did not respond to the reporter's phone calls

WORKER/WORKPLACE NEGLIGENCE

Cameraman permanently disabled by movie-set accident

TYPE: Verdict-Plaintiff
AMOUNT: \$66,662,795
ACTUAL AWARD: \$60,836,864
STATE: New Mexico
VENUE: Santa Fe County
COURT: Santa Fe County District Court, 1st, NM
INJURY
TYPE(S): *arm*
leg
back - fracture, back; fracture, vertebra
head - closed head injury
neck - fracture, neck; fracture, vertebra
brain - traumatic brain injury
other - unconsciousness; physical therapy; hardware implanted; spleen, laceration; decreased range of motion
pelvis - fracture, pelvis; crush injury, pelvis
shoulder
epidermis - numbness; paresthesia
urological - neurogenic bowel; neurogenic bladder
neurological - brachial plexus; nerve damage/ neuropathy
surgeries/treatment - arthroscopy; open reduction; internal fixation
mental/psychological - depression; emotional distress; post-traumatic stress disorder
gastrointestinal/digestive - liver; liver, laceration
CASE TYPE: *Workplace* - Workplace Safety
Worker/Workplace Negligence - Negligent Supervision
CASE NAME: James Razo and Susan Weinmuller v. No Exit Film, LLC and Black Label Media, No. D- 101-CV-2019-01495

DATE: December 23, 2022
PLAINTIFF(S): James Razo, (Male, 48 Years)
Susan Weinmuller, (Female, 0 Years)
PLAINTIFF
ATTORNEY(S): Lee Hunt; Hunt Law Firm; Santa Fe NM for James Razo,, Susan Weinmuller
Cynthia L. Zedalis; Hunt Law Firm; Santa Fe NM for James Razo,, Susan Weinmuller
PLAINTIFF
EXPERT(S): M. Brian McDonald Ph.D.; Economics; Albuquerque, NM called by: Lee Hunt, Cynthia L. Zedalis
Brad P. Avrit P.E.; Safety; Marina Del Rey, CA called by: Lee Hunt, Cynthia L. Zedalis
Dawn Cook R.N., C.N.L.C.P.; Life Care Planning; Las Vegas, NV called by: Lee Hunt, Cynthia L. Zedalis
Joseph Terrazzino M.D.; Physical Medicine; Valencia, CA called by: Lee Hunt, Cynthia L. Zedalis
DEFENDANT(S): Black Label Media
No Exit Film, LLC
DEFENSE
ATTORNEY(S): Christopher J. Tebo; Ray Peña McChristian, P.C.; Albuquerque, NM for No Exit Film, LLC, Black Label Media
Jeremy I. Schmehl; Ray Peña McChristian, P.C.; Albuquerque, NM for No Exit Film, LLC, Black Label Media
DEFENDANT
EXPERT(S): Bill Witthans; Safety; Los Angeles, CA called by: for Christopher J. Tebo, Jeremy I. Schmehl
Elizabeth A. Davis Ph.D., R.N.; Life Care Planning; Cedar Bluff, VA called by: for Christopher J. Tebo, Jeremy I. Schmehl

FACTS: On June 20, 2016, plaintiff James Razo, 48, a cameraman, was operating a mobile camera crane unit on a film set at a ski mountain in Los Alamos. Razo was driving the mobile unit, which was essentially an all-terrain vehicle outfitted with a crane, through mountainous terrain. As he proceeded up the mountain, the front end of the camera unit lost traction and started to slide, eventually standing up on its rear wheels before tipping backward, knocking Razo unconscious and trapping him under its weight. Razo suffered multiple fractures to his neck, pelvis and spine.

Razo sued the film set's production company, No Exit Film LLC, and its parent company, Black Label Media. Razo alleged that the defendants negligently failed to provide a safe workplace.

Razo's safety expert testified that the movie set operator failed in its duty to provide a safe route to the worksite. The expert noted that, prior to the accident, Razo began to drive the unit up the slope, following an escort vehicle, but when they reached a fork in the road, no one was directing traffic. Instead of taking him on a designated route to the top, the escort led him straight up a steeper route with a loose surface. Additionally, crew members were rushing Razo to get to the top to start filming.

According to the expert, the defendants failed to designate a safe route and failed to allow Razo time to properly scout the route. The crew specifically directed him into a dangerous section of the mountain that led Razo to flip his mobile unit and land on him, the expert opined.

The expert concluded that a movie set filming on a mountain required the defendants to designate a safety professional, which they failed to do.

The defense maintained that Razo was negligent. The defense's expert in movie set safety testified that Razo was a seasoned professional who should have known where the mobile crane could and could not go on the premises. Even though he was directed to travel the steep section of mountain, Razo should have known to avoid that and instead find a safer means, the expert concluded.

INJURY: Razo was airlifted to a hospital and admitted. He was diagnosed with a fracture to a cervical vertebra, a fracture to a lumbar vertebra, a crush injury to his pelvis, neurogenic bladder and bowel, a traumatic brain injury, lacerations to his spleen and liver, and a brachial plexus nerve injury that impaired his right dominant arm. He was ultimately diagnosed with depression and post-traumatic stress disorder.

Razo remained hospitalized for two months. During that time, he underwent multiple surgeries to his spine and pelvis. Following his discharge, Razo began treating with multiple providers, including orthopedists, a neurologist and a psychologist, and extensively treated with occupational and physical therapy. In the ensuing years, Razo underwent additional surgeries, with the last one being surgery to the lumbar spine, in the fall of 2022. In total, Razo underwent about 10 surgeries.

At the time of the trial, Razo continued to treat with pain management, occupational and physical therapy and psychotherapy.

Razo's physiatrist testified that he suffered permanent, disabling injuries from the accident. Razo requires lifelong treatment that consists of future surgeries, extensive therapy and, as he ages, daily nursing care.

Razo testified that he suffers from chronic, daily pain. This includes constant nerve pain that causes loss of sensation in his legs, which makes it difficult for him to walk and sleep, and

bladder and bowel dysfunction. He sought to recover about \$1.3 million in past medical costs, approximately \$5 million in future medical costs and \$4 million in future lost wages, plus damages for past and future pain and suffering. Razo further sought to recover punitive damages.

Razo's wife testified that, due to her husband's injuries and impaired physical condition, she has become his caretaker as much as his spouse. She discussed how she has taken the responsibility of helping him with his medical issues while keeping the family together. Razo's wife sought damages for her claim for loss of consortium.

The defense did not dispute Razo's injuries and treatment. The defense's expert in life-care planning estimated Razo's future treatment between \$2 million to \$3 million.

RESULT: The jury found Black Label Media 63 percent liable, No Exit Film 18 percent liable and Razo 19 percent liable.

The jury determined that Razo and his wife would receive \$66,662,795, which was accordingly reduced to \$60,836,863.95.

Susan Weinmuller

\$ 6,000,000 loss of consortium

\$ 6,000,000 Plaintiff's Total Award

James Razo

\$ 24,662,795 compensatory damages

\$ 9,000,000 punitive damages against No Exit Film

\$ 27,000,000 punitive damages against Black Label Media

\$ 60,662,795 Plaintiff's Total Award

Trial Information:

JUDGE: Matthew J. Wilson

DEMAND: \$9 million

OFFER: \$6 million

TRIAL LENGTH: 5 days

TRIAL DELIBERATIONS: 4 hours

JURY VOTE: 12-0

JURY

COMPOSITION: 8 male, 4 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.

Hotel failed to use reasonable care when checking on guest

TYPE: Verdict-Plaintiff

AMOUNT: **\$60,445,361**

STATE: California

VENUE: Orange County

COURT: Superior Court of Orange County, Orange, CA

INJURY TYPE(S): *arterial/vascular* - aneurysm; aneurysm, rupture
mental/psychological - cognition, impairment; memory, impairment

CASE TYPE: *Hotel/Restaurant*
Worker/Workplace Negligence - Negligent Training; Negligent Investigation

CASE NAME: Priscilla O'Malley, by and through her Guardian Ad Litem, Michael O'Malley; and Michael O'Malley v. Diamond Resorts International; Diamond Resorts Holdings, LLC; California Riviera Vacations, Inc.; Riviera Beach and Spa Resort Vacation Plan Owners Association; Riviera Beach and Spa Resort; and Does 1 through 100, inclusive, No. 30- 2015-00771021-CU-PO-NJC

DATE: March 02, 2022

PLAINTIFF(S): Michael O'Malley, (Male, 0 Years)
Priscilla O'Malley, (Female, 59 Years)

PLAINTIFF ATTORNEY(S): Matthew B.F. Biren; Biren Law Group; Los Angeles CA for Priscilla O'Malley,, Michael O'Malley Arash Homampour; The Homampour Law Firm PC; Sherman Oaks CA for Priscilla O'Malley,, Michael O'Malley
John A. Roberts; Biren Law Group; Los Angeles CA for Priscilla O'Malley,, Michael O'Malley

PLAINTIFF EXPERT(S): Amy L. Magnusson M.D.; Physical Medicine; San Diego, CA called by: Matthew Barry D. Pressman M.D.; Neuroradiology; Los Angeles, CA called by: Matthew B.F. Biren, Arash Homampour, John A. Roberts Barry D. Pressman M.D.; Neuroradiology; Los Angeles, CA called by: Matthew B.F. Biren, Arash Homampour, John A. Roberts Carol Hyland C.L.C.P.; Life Care Planning; Lafayette, CA called by: Matthew B.F. Biren, Arash Homampour, John A. Roberts

David G. Frecker M.D.; Neurology; Santa Barbara, CA called by: Matthew B.F. Biren, Arash Homampour, John A. Roberts
Peter Formuzis Ph.D.; Economics; Santa Ana, CA called by: Matthew B.F. Biren, Arash Homampour, John A. Roberts
Tarvez Tucker M.D.; Neurology; Portland, OR called by: Matthew B.F. Biren, Arash Homampour, John A. Roberts
Dr. Jeffrey Schaeffer M.D.; Neuropsychology; Los Angeles, CA called by: Matthew B.F. Biren, Arash Homampour, John A. Roberts

DEFENDANT(S): Riviera Beach and Spa Resort
Diamond Resorts Holdings, LLC
Diamond Resorts International
Diamond Resorts Management Inc.
California Riviera Vacations Inc.
Hospitality Staffing Solutions, LLC
Riviera Beach and Spa Resort Vacation

DEFENSE ATTORNEY(S): Christopher E. Faenza; Yoka & Smith LLP; Los Angeles, CA for Diamond Resorts Management Inc.
Brent D. Anderson; Taylor | Anderson, LLP; Denver, CO for Diamond Resorts Management Inc.
Floyd R. Hartley; Taylor | Anderson, LLP; Denver, CO for Diamond Resorts Management Inc.
None reported for Diamond Resorts International, Diamond Resorts Holdings, LLC, Riviera Beach and Spa Resort Vacation, Riviera Beach and Spa Resort, Hospitality Staffing Solutions, LLC, California Riviera Vacations Inc.

DEFENDANT EXPERT(S): Mary E. Jesko Ed. D.; Life Care Planning; San Diego, CA called by: for Christopher E. Faenza, Brent D. Anderson, Floyd R. Hartley
Sidney Starkman M.D.; Emergency Medicine; Los Angeles, CA called by: for Christopher E. Faenza, Brent D. Anderson, Floyd R. Hartley
Geoffrey P. Colby M.D., Ph.D.; Neurosurgery; Los Angeles, CA called by: for Christopher E. Faenza, Brent D. Anderson, Floyd R. Hartley

FACTS: On March 29, 2014, plaintiff Priscilla O'Malley, 59, a business owner, checked into the Diamond Resorts hotel, in Capistrano Beach. Hours later, Ms. O'Malley's husband, Michael O'Malley, called the hotel's front desk after 10 p.m., explaining that he had not heard from his wife after having called her cellphone repeatedly since 7 p.m. Mr.

O'Malley told the front desk that he was concerned about his wife, as she was not answering her phone, and that he wanted

the front desk clerk to send someone to check on her. The front desk clerk eventually agreed to send a maintenance person to check on Ms. O'Malley.

The maintenance person knocked on the door of Ms. O'Malley's hotel room and called out, "Maintenance!" He then opened the door, knocked and called out again, but he never entered into the room. The maintenance person later admitted that the room was dark and that he could not see beyond the entryway. Since no one responded to him and the lights in the room were off, the maintenance person reported to the front desk clerk that Ms. O'Malley was not in her hotel room. The front desk clerk then called Mr. O'Malley back and reported that Ms. O'Malley was not in her room.

Mr. O'Malley continued to call his wife's cellphone and after still not hearing from her, he eventually decided to drive to the hotel to check on her himself.

At around 5:30 a.m. on March 30, 2014, Mr. O'Malley entered his wife's hotel room and found her lying incapacitated on the hotel living room floor. It was determined that Ms. O'Malley had suffered a ruptured brain aneurysm at around 6:30 p.m. the prior evening, causing her to remain incapacitated on the floor for 11 hours until she was discovered by her husband.

Mr. O'Malley, acting individually and as his wife's guardian ad litem, sued the hotel's management company, Diamond Resorts Management Inc.; the employer of the maintenance person, Hospitality Staffing Solutions, LLC; and several entities associated with the hotel, including Diamond Resorts International, Diamond Resorts Holdings, LLC, Riviera Beach and Spa Resort Vacation Plan Owners Association, Riviera Beach and Spa Resort, and California Riviera Vacations Inc. Mr. O'Malley alleged that the defendants were negligent in their duty of care to ensure the safety of its guests.

Specifically, he alleged that the defendants were negligent in undertaking the action of checking on his wife's safety, causing her further harm.

Several of the hotel's entities were dismissed from the case, and Hospitality Staffing Solutions was granted summary judgment on the "negligent undertaking" theory of liability.

The O'Malleys appealed the judgment.

The Courts of Appeal noted that "under the 'negligent undertaking' theory of liability, where a person who generally lacks a duty of care to another nonetheless undertakes to lend aid to that other, liability may result where the person does not act with reasonable care." It found that "because there were disputed material facts and inferences regarding precisely what [the maintenance person] may have undertaken to do and because the risk that [Ms. O'Malley] may have been lying incapacitated somewhere in the hotel room may have been reasonably foreseeable, a reasonable trier of fact might decide that some portion of the O'Malleys' injuries were the result of a

lack of reasonable care exercised by [the maintenance worker]." Thus, the Courts of Appeal held that the summary judgment on the negligent undertaking theory of liability was improper. According to O'Malley's counsel, the appellate victory was the guide stone for the subject case's "negligent undertaking" claims, where one agrees to exercise reasonable care in rendering services to another.

As a result of the Courts of Appeal's decision, the O'Malleys agreed to dismiss the claims against Hospitality Staffing Solutions, if Diamond Resorts Management agrees to treat the maintenance person as if he were an employee of Diamond Resorts Management. The hotel's management company agreed to be responsible for the case, and the matter proceeded to trial against Diamond Resorts Management only.

Plaintiffs' counsel argued that the hotel was negligent in its failure to complete the undertaking to see if Ms. O'Malley was in the hotel room and okay. Specifically, counsel contended that the hotel had a room/welfare check policy in place that required two people, with one being from management, to go to the room to see if a guest was okay. Thus, plaintiff's counsel argued that the hotel violated its own policy and procedure by only sending the maintenance person to check on Ms. O'Malley and that as a result, the maintenance person failed to fully enter the room and check for Ms. O'Malley.

Plaintiffs' counsel contended that Diamond Resorts Management had just taken over management of the hotel and that it never trained either the front desk clerk or the maintenance person on the hotel's policy and procedure regarding welfare checks.

Counsel argued that if the maintenance person had turned on the light and entered the room, instead of only observing the dark room from the doorway, Ms. O'Malley would have been discovered at 10:30 p.m., instead of hours later. Additionally, counsel argued that if the management company and maintenance worker had properly done what they were supposed to do, Ms. O'Malley would have been able to obtain emergent medical care seven hours earlier than she did.

Diamond Resorts Management's counsel argued that the maintenance person's conduct was reasonable and that it was acceptable for the maintenance person to not enter the room to check for Ms. O'Malley because of his consideration for her privacy.

INJURY: Ms. O'Malley suffered a ruptured brain aneurysm at around 6:30 p.m. on March 29, 2014. She was found incapacitated approximately 11 hours later, at around 5:30 a.m. on March 30, 2014. She was transported to a hospital, where it was determined that she has permanent, irreversible brain damage.

Plaintiffs' counsel contended that Ms. O'Malley suffers from short-term memory loss in the form of anterograde amnesia,

which causes her to be unable to hold new memories for even seconds. Counsel noted that Ms. O'Malley cannot remember anything she is told, even five seconds before, and that Ms. O'Malley requires monitoring every second, as she can leave a location and then not know where she is.

The plaintiffs' medical experts opined that if Ms. O'Malley was found in the hotel room earlier, the processes that caused the loss of her short-term memory, which is controlled by the hippocampi, could have been prevented or, if already started, controlled before permanent damage set in. More specifically, the experts opined that if Ms. O'Malley had been found four hours after the rupture, instead of 11 hours later, and received neurocritical care, then she would have suffered only minor residual problems as a result of the initial bleed from the aneurysm.

Plaintiffs' counsel contended that Ms. O'Malley's future care would include 24/7, around-the-clock care and additional neurological behavior care during the 16 waking hours. Counsel argued that as a result, the cost of Ms. O'Malley's future care would total approximately \$10 million.

Mr. O'Malley, acting on his wife's behalf, sought recovery for Ms. O'Malley's future medical costs, and past and future pain and suffering. Since Mr. O'Malley helped to care for his wife for years after the accident, he also sought recovery for his own past and future loss of consortium.

The defense's medical experts opined that the injuries that caused Ms. O'Malley's memory loss occurred with the initial bleed from the aneurysm and that Ms. O'Malley's condition would have been the same no matter what time she was found. The experts also opined that nothing that happened after the initial bleed would have altered her short-term memory.

RESULT: The jury found that Diamond Resorts Management was negligent and that its negligence was a substantial factor in causing harm to Ms. O'Malley. It also found that Diamond Resorts Management failed to exercise reasonable care in voluntarily rendering services needed for

the protection of Ms. O'Malley and that this failure was also a substantial factor in causing harm to Ms. O'Malley. The jury further found that Diamond Resorts Management's failure to use reasonable care added to the risk of harm to Ms. O'Malley and that Ms. O'Malley suffered increased harm because Mr. O'Malley relied on Diamond Resorts Management's services. It determined that Ms. O'Malley's damages totaled \$50,445,361 and that Mr. O'Malley's damages totaled \$10,000. Thus, the O'Malleys' jury verdict awards totaled \$60,445,361.

Michael O'Malley

\$ 5,000,000 Past Loss of Consortium

\$ 5,000,000 Future Loss of Consortium

\$ 10,000,000 PLAINTIFF'S TOTAL AWARD

Priscilla O'Malley

\$ 9,445,361 Future Medical Cost

\$ 29,000,000 Future Pain Suffering

\$ 12,000,000 Past Pain Suffering

\$ 50,445,361 PLAINTIFF'S TOTAL AWARD

Trial Information:

JUDGE:	Frederick P. Horn
DEMAND:	\$15 million
OFFER:	\$225,000 to Ms. O'Malley; \$25,000 to Mr. O'Malley
TRIAL LENGTH:	13 days
TRIAL DELIBERATIONS:	5.5 hours
JURY VOTE:	12-0 (liability); 10-2 (damages, with two jurors wanting to award more)

POST TRIAL: Plaintiffs' counsel anticipates that there will be \$30 million in interest added to the O'Malleys' recovery.

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.



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