

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

March, 2006

Statewide Jury Verdict Coverage

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Unbiased and Independently Researched Jury Verdict Results

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Indiana including court, division, presiding judge, parties, cause number, attorneys and results.

Uninsured Motorist - An uninsured man lost control of his vehicle on a snow-covered road and crossed the center line; the woman who was injured in the resulting head-on crash sought uninsured motorist benefits from her employer's insurer

Kueck v. Auto Owners Insurance Company, et al., 64D06-0310-CT-8853
Plaintiff: F. Joseph Jaskowiak,
Hoepfner Wagner & Evans,
Merrillville

Defense: David W. Pera, *Buoscio Pera & Kramer*, Merrillville

Verdict: \$1,400,000 for plaintiff

County: **Porter**, Superior

Court: J. Thode, 5-6-05

In the morning of 1-30-02, Glennas Kueck, age 50 and an employee of

Valparaiso Community Festivals and Events, Inc., was driving a 1993 Ford Aerostar van. She was heading north on S.R. 2 near the intersection with Thornhill Road in Valparaiso.

At the same time, a 1999 Ford Ranger being driven by Henry Helton was approaching from the opposite direction. Behind Helton was a vehicle driven by Clinton Lerch.

It had been snowing recently, and there was a layer of snow and slush on the road approximately two inches deep. This made for slick and dangerous driving.

As Helton and Kueck drew near one another, Helton apparently slid on the wet pavement. In doing so, he crossed the center line and collided with Kueck

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This is a partial look at the Medical Negligence Report – see the complete report in the 2005 Book

Medical Negligence Verdicts at a Glance 2000-2005

A snapshot summary of the 2000-2005 Medical Verdicts by category. 2005 results in bold

<u>Case Type</u>	<u>Case No.</u>	<u>County</u>	<u>Verdict</u>	<u>Case Type</u>	<u>Case No.</u>	<u>County</u>	<u>Verdict</u>
Anesthesia	1346	Lake	\$2,500,000	Hospital	1070	Delaware	Zero
Anesthesia	1477	Porter	Zero	Hospital	797	Vanderburgh	Zero
Anesthesia	1165	Monroe	Zero	Hospital	162	Marshall	Zero
Cancer	963	Lake	Zero	Infection	1937	Marion	Zero
Cancer	1204	Clark	Zero	Infection	2161	Barth.	\$930,000
Cancer	582	St. Joseph	\$300,000	Infection	277	Tippecanoe	\$725,000
Cancer	674	Porter	\$850,000	Infection	239	Madison	Zero
Cancer	276	Tippecanoe	Zero	Internal Med	1548	Vanderburgh	Zero
Cardiac	2024	Lake	Zero	Internal Med	126	Lake	\$500,000
Cardiac	2162	Monroe	Zero	Laparoscopic	1413	St. Joseph	Zero
Cardiac	2115	Porter	\$750,000	Laparoscopic	1093	Porter	\$620,000
Cardiac	1548	Vanderburgh	Zero	Laparoscopic	724	Vigo	\$100,000
Cardiac	686	Tippecanoe	\$920,308	Laparoscopic	459	Marion	Zero
Cardiac	360	Vanderburgh	Zero	Laparoscopic	342	Monroe	\$443,500
Cardiac	203	Allen	Zero	Needle Reused	1941	Marion	\$45,000
Cardiac	123	Lake	\$800,000	Neurology	2026	Lake	Zero
Cart Drop	2137	Vigo	Zero	Neurology	2080	Allen	Zero
Chiropractic	727	Sullivan	\$175,000	Neurology	1441	Allen	Zero
Colorectal	791	Vanderburgh	\$200,000	Neurology	962	Lake	Zero
Dental	1869	Bartholomew	\$75,000	Neurology	1125	Vigo	\$300,000
Dental	1411	St. Joseph	Zero	Neurology	812	Jefferson	\$68,800
Dental	1266	Marion	Zero	Nursing Home	1014	Cass	\$1,500,000
Dental	883	Marion	Zero	Obstetrics	2025	Lake	Zero
Dental	1012	St. Joseph	\$40,000	Obstetrics	2180	Vanderb.	Zero
Dental	652	Hamilton	\$69,400	Obstetrics	2114	Porter	\$35,000
Dermatology	279	Tippecanoe	Zero	Obstetrics	1631	Marion	Zero
Emergency	1939	Marion	\$850,000	Obstetrics	1695	Lake	Zero
Emergency	1759	Allen	Zero	Obstetrics	1696	Lake	Zero
Emergency	1698	Lake	\$1,570,000	Obstetrics	1694	Lake	Zero
Emergency	1699	Lake	\$15,000	Obstetrics	1888	Clark	Zero
Emergency	1549	Spencer	Zero	Obstetrics	1442	DeKalb	\$151,666
Emergency	958	Lake	\$400,000	Obstetrics	1412	Elkhart	\$170,000
Emergency	1080	Jasper	Zero	Obstetrics	1509	Vigo	Zero
Emergency	885	Indianapolis	\$1,500,000	Obstetrics	1410	St. Joseph	Zero
Emergency	957	Lake	\$200,000	Obstetrics	1203	Floyd	Zero
Emergency	380	Clark	Zero	Obstetrics	769	Lawrence	\$3,567,000
Emergency	359	Vanderburgh	Zero	Obstetrics	724	Vigo	\$100,000
Emergency	165	Cass	Zero	Obstetrics	541	Lake	Zero
ENT	1268	Fed-Indy	Zero	Obstetrics	584	Lake	Zero
Family	1700	Lake	\$1,005,000	Obstetrics	726	Vigo	Zero
Family	1875	Daviess	\$7,000,000	Obstetrics	585	St. Joseph	Zero
Family	1476	Porter	Zero	Obstetrics	793	Dubois	Zero
Family	583	Elkhart	Zero	Obstetrics	621	Allen	Zero
Family	581	Elkhart	Zero	Obstetrics	201	Allen	\$1,285,000
Family	622	Allen	Zero	Obstetrics	278	Tippecanoe	\$400,000
Family	379	Clark	Zero	Obstetrics	161	St. Joseph	\$480,000
Forgotten Sponge	673	LaPorte	\$168,000	Obstetrics	202	Allen	\$500,000
Gallbladder	128	Lake	\$3,500,000	Obstetrics	54	Marion	\$500,000
Home Health	53	Indianapolis	Zero	Obstetrics	164	South Bend	Zero
Hospital	1780	Randolph	Zero	Obstetrics	296	Putnam	Zero
Hospital	1779	Wayne	\$90,000	Obstetrics	52	Marion	Zero
Hospital	1262	Marion	\$650,000	Obstetrics	240	Madison	Zero
Hospital	1440	Allen	Zero	Oncology	2187	Knox	\$750,000
Hospital	1447	Porter	Zero	Oncology	1347	Lake	Zero

nearly head-on. Lerch then collided with Helton.

It was a serious crash that required Kueck to be extracted from her vehicle. The record is silent on the nature of her injuries or the amount of her medical expenses.

It turned out that Helton was uninsured. However, it seems Kueck was in the course of her employment at the time of the crash, and she was covered under an insurance policy issued to her employer by Auto Owners Insurance Company. The policy provided UM coverage of \$1,000,000.

Kueck's employer apparently made its own claim under the policy and later settled with Auto Owners. Kueck, however, filed suit against Auto Owners for her UM benefits. She also targeted Helton and blamed him for the crash.

Auto Owners and Helton defended the case and disputed the nature and extent of Kueck's claimed injuries. Defendants also blamed the crash on Kueck. According to Helton, it was Kueck rather than himself who crossed the center line and caused the collision. Kueck countered that version of events with the testimony of eyewitness Lerch.

Although Kueck herself had no specific recollection of the crash, Lerch remembered it clearly. He had been traveling behind Helton, and he testified that it was definitely Helton who crossed the center line. Lerch thus corroborated Kueck's account.

A jury in Portage heard the case and assigned 100% of the fault to Helton. The jury awarded Kueck damages of \$1,400,000. The court followed with a judgment for that amount. Interestingly, the judgment contains no indication that the court reduced the award to the \$1,000,000 limit of the Auto Owners policy. In any event, the judgment has been satisfied.

Auto Negligence - A teenager suffered injuries to both his knees after colliding with another motorist who turned in his path

Curtis v. Sampson,
45C01-9905-CT-1388

Plaintiff: Timothy Schafer, *Schafer & Schafer*, Merrillville

Defense: Robert M. Green, *State Farm Litigation Counsel*, Crown Point

Verdict: \$560,596 for plaintiff

County: Lake, Circuit

Court: J. Arredondo, 2-7-06

On 6-2-97, Pamela Sampson was

driving a 1990 Chevrolet Cavalier through the Lowell Plaza parking lot in the Town of Lowell. At the same time, Matthew Curtis, a teenager, was traveling east on S.R. 2.

Sampson exited the parking lot and tried to cross S.R. 2 while making a left turn. She did so in Curtis's path, and the two collided. Curtis suffered injuries to both his knees and later underwent surgery. His medical expenses are unknown.

Curtis filed suit against Sampson and blamed her for turning in his path and causing the crash. Curtis's identified expert was Dr. Lorin Brown, Pediatric Orthopedic Surgery, Munster.

Sampson defended the case and took the position that she and Curtis were both at fault. She also disputed the extent of Curtis's claimed injuries. In particular, Sampson conceded the crash might have been the cause of the injury to Curtis's left knee. However, she argued the injury to his right knee was not related to the crash.

As evidence for this theory, Sampson noted the surgery on Curtis's right knee was not performed until some two years after the crash. Sampson's IME was Dr. Dale Federico, Orthopedic Surgery, Chicago, Illinois.

The case was tried for two days in Crown Point. The jury returned with a verdict for Curtis in the amount of \$560,596. The court, however, entered a judgment for only \$560,594. The record does not explain the reason for the \$2.00 discrepancy, but it appears it might be a scrivener's error.

Products Liability - A retired judge on vacation in Jamaica lost vision in one eye when he slipped and was struck in the face by the handle of a float he was carrying

Miller v. Sevylor, 3:05-169

Plaintiff: Charles P. Rice, *Boveri*

Murphy Rice & LaDue, South Bend

Defense: Bradley A. Snyder and Rodger S. Greiner, *Snyder Dorenfeld*, Calabasas, CA

Verdict: \$550,000 for plaintiff

Federal: **South Bend**

Court: J. Nuechterlein, 3-2-06

On 3-27-03, Robert Miller, Sr., a retired judge and then age 82, got away from it all for a vacation in Montego Bay, Jamaica. He stayed at the Wyndham Resort. As Miller stepped into the resort's swimming pool to round up his grandchildren, he carried a float –

the float was a River Tube model manufactured by Sevylor.

Suddenly Miller lost his balance and fell forward. The tube flipped as he fell and the handle struck him in the left eye. Initially he was treated for a torn cornea in Jamaica, before returning to the U.S. for surgery – the retinal nerve was severed and he lost sight in his eye. His medical bills were approximately \$70,000.

Miller sought recourse in this diversity action filed in South Bend – originally he pursued the action pro se. [This might have been less a handicap to him than other plaintiffs – besides being a retired judge, Miller's son was then the Chief District Judge in South Bend.]

Later joined by counsel, it was Miller's theory that the Sevylor float was defectively designed, the propensity of the tube to flip, coupled with the location of the handle, making it unreasonably dangerous. The judge's engineer expert was Raymond Brach, Engineer, Notre Dame.

Sevylor, a manufacturer of water park flotation rings, defended the case that rather than its float being defective, this was simply a freak accident. Its aquatic safety expert, John Hunsucker, Dickson, TX, explained the event was exceptionally rare, the float being safely designed for normal usage – as such an accident has never been reported, the company having made 3.5 million floats or even contemplated before, Sevylor was not required to design to avoid it.

Tried to a federal jury in South Bend, Miller prevailed on the products count – the jury also rejected the imposition of comparative fault to him. Then to damages, he took a general award of \$550,000. [His lawyer had asked the jury in closing to award \$400,000.] When the court record was reviewed, no judgment had been entered.