

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

March, 2012

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.

Correction

In our February 2012 issue, we reported on the case of *Catron v. Schoen*. In our report we stated that the defense settlement offer was \$17,034. That information was incorrect. We have since learned that the defense settlement offer was actually for \$33,704. We regret the error.

Truck Negligence - The driver of a pickup truck was rear-ended by a tractor-trailer in a four-vehicle chain-reaction crash; the pickup driver suffered a traumatic brain injury that ended his highly-paid career as a pipefitter

Stovall v. Kapanke, et al.,
45D01-0808-CT-54

Plaintiff: Andrew A. Crosmer, Terrence M. Rubino, and Richard P. Long, *Rubino Ruman Crosmer Smith Sersic & Polen*, Dyer
Defense: Carlton D. Fisher and Renee J. Mortimer, *Hinshaw & Culbertson, LLP.*, Schererville
Verdict: \$7,744,983 for plaintiffs (allocated \$6,244,983 to James and \$1,500,000 to Tracy; zero punitives)
County: **Lake**, Superior
Court: J. Schneider, 10-25-11

In 2007, James Stovall, age 35, was employed as a pipefitter employed by BMW Constructors and making \$108,000 per year. On 11-14-07, Stovall was driving a 2003 Dodge Dakota pickup truck as he headed north on S.R. 912 / Cline Avenue in Gary.

Behind Stovall and also headed north was a semi tractor-trailer owned by Universal Am-Cam, Ltd. The truck was being driven by Karl Kapanke, an employee of M.C. Schmitt Trucking,

Inc. Under an agreement between the two companies, M.C. Schmitt Trucking had leased Kapanke's services to Universal Am-Cam.

At a point just north of the exit to 5th Avenue, Stovall stopped in traffic. An instant later, Kapanke rear-ended him. The force of the impact caused Stovall to collide with two other vehicles. Thus, a total of four vehicles were involved in this chain-reaction crash. Stovall's truck sustained \$12,369 in damage and was totaled.

Stovall suffered a traumatic brain injury due to the crash and has been left with focal epilepsy and recurring seizures. His medical expenses came to \$852,575, though that figure was ultimately reduced to \$330,000 after write-offs. Stovall also anticipates future medical expenses at between \$99,253 and \$173,783 annually for the remainder of his life.

In addition, Stovall's career as a pipefitter is over. He has not worked since the crash and will likely never work again. As a result he has applied for and been granted Social Security Disability benefits. He calculates his lifetime earnings loss due to his injuries at between \$3,183,730 and \$4,398,550.

Stovall filed suit against Kapanke and Universal Am-Cam. He blamed Kapanke for causing the crash, and he targeted Universal Am-Cam on a theory of vicarious liability. Stovall later amended his complaint to add M.C. Schmitt Trucking as a co-defendant on a claim for negligent hiring, supervision, training, retention, and entrustment. Stovall's wife, Tracy Stovall, also presented a derivative claim for her loss of consortium. If successful, plaintiffs sought both compensatory and punitive damages.

Plaintiffs identified a number of retained experts. They included Stephan

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Neese, Accident Reconstruction, Schererville; Walter Guntharp, Commercial Vehicle Safety, Pendleton; and Dr. Virginia Shingleton, Economics, Valparaiso.

Additionally, plaintiffs also identified several of Stovall's treating doctors as expert witnesses. They included Dr. Richard Cristea, Neurology, Merrillville; Dr. Lonnie Amico, Neurology, Merrillville; and Dr. John Heroldt, Psychology, Merrillville.

Kapanke, Universal Am-Cam, and M.C. Schmitt Trucking all defended the case and disputed the nature, extent, and causation of Stovall's claimed injuries. They also accused him of failing to mitigate his damages, and they disputed the reasonableness and necessity of his medical expenses.

Defendants also identified a number of experts. They included Dr. Elizabeth Kessler, Neurology, Highland Park, IL; Dr. J. Preston Harley, Neuropsychology, Warrenville, IL; Andrew Sievers, Commercial Vehicle

Safety, Mahomet, IL; and Paul M. Deutsch, Life Care Planning, Oviedo, FL.

The case was tried for 13 days in Hammond. The jury returned a verdict for plaintiffs and awarded damages of \$6,244,983 to James, plus another \$1,500,000 to Tracy on her consortium claim. The jury awarded zero for punitive damages.

The court entered a judgment that reflected the verdict, and defendants filed a motion to correct error. When the court denied that motion, defendants appealed. At the time the IJVR reviewed the record, the appeal was still pending.

As it happens, Universal Am-Cam is a self-insured company whose shares are traded on the NASDAQ exchange. The company thus has unlimited liability and will itself be responsible for plaintiffs' entire award if the verdict is upheld on appeal.

Plaintiffs' initial settlement demand prior to trial was bracketed with a high

of \$8,000,000 and a low of \$5,000,000. Defendants' initial settlement offer was \$500,000. By the time of trial, plaintiffs had modified their settlement demand to a high of \$5,500,000 and a low of \$3,500,000. Defendants had increased their offer to \$3,000,000.

Auto Negligence - A pedestrian was injured when a drunk driver ran into him; defendant was apparently pro se throughout the litigation and did not appear for trial

Mundy v. Roberts,
 49D12-1006-CT-28495
 Plaintiff: Troy K. Rivera, Ken Nunn Law Office, Bloomington

Defense: *Pro se*
 Verdict: \$2,750,000 for plaintiffs (comprised of \$2,000,000 in compensatory damages and \$500,000 in punitive damages for Andrew and \$250,000 in compensatory damages for Carol)

County: **Marion**, Superior Court: J. Welch, 12-13-11

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Indiana Jury Verdict Reporter**

Case Style _____

Jurisdiction _____ Case Number _____

Trial Judge _____ Date Verdict _____

Verdict _____

For plaintiff _____ (Name, City, Firm)

For defense _____ (Name, City, Firm)

Fact Summary _____

Injury/Damages _____

Submitted by: _____

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damages of \$860,000 on his claim, while Nancy was awarded \$130,000 on her consortium claim. The court entered a judgment for those amounts.

Prior to trial, defendants made a final settlement offer of \$300,000. Plaintiffs demanded \$750,000. That demand was made at mediation, and no further settlement negotiations took place due to the policy of plaintiffs' counsel to try all cases that do not settle at mediation.

Truck Negligence - An elderly man bringing an acquaintance home from the hospital suffered a fractured cervical vertebra when his vehicle was rear-ended by a Canadian semi tractor-trailer

Cochran v. Vachon, et al.,
90C01-0906-CT-6

Plaintiff: Troy K. Rivera, *Ken Nunn Law Office*, Bloomington

Defense: Eric A. Riegner and Richelle M. Harris, *Frost Brown Todd*, Indianapolis

Verdict: \$205,000 for plaintiffs (allocated \$200,000 to John and \$5,000 to Wilda)

County: **Wells**, Circuit

Court: J. Kiracofe, 8-31-11

During the noon hour on 9-8-08, John Cochran, then age 78 and retired from the insurance business, was on an errand of mercy. As a personal favor, he had taken Steve Clark to the VA Hospital in Fort Wayne and was now bringing Clark back to his home in Bluffton.

Cochran's route took him south on S.R. 1 in Bluffton. Behind him and headed in the same direction was a semi tractor-trailer owned by a Canadian company called Transport Couture & Fils, Ltee. The truck was being driven by Transport Couture employee Marco Vachon, a citizen of Québec.

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