

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

May 2017

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.

Physical Therapy Negligence

- A stroke patient with known gait instability and a history of falling was following his occupational therapist to the therapy room when he fell and hit his head, resulting in neurological injuries; the patient blamed the incident on the occupational therapist for having him follow her unassisted instead of walking with him or using other precautions to prevent him from falling

Owens v. St. Vincent Anderson Regional Hospital, 48C03-1511-CT-166
Plaintiff: Caroline A. Gilchrist, *Baker & Gilchrist, Avon*

Defense: Jeffrey S. Zipes and Erika Sylvester, *Coots Henke & Wheeler, Carmel*

Verdict: \$2,500,000 for plaintiff

County: **Madison**, Circuit

Court: J. Newman, 4-7-17

In February of 2011, William Owens suffered a mild stroke. He subsequently underwent inpatient rehabilitation therapy at two different facilities before being discharged with instructions to continue home therapy.

It was later determined that home therapy would not be sufficient. Accordingly, Owens was referred to the Carl D. Erskine Rehabilitation Center at St. Vincent Anderson Regional Hospital in Anderson for physical therapy and occupational therapy.

Owens's initial therapy evaluation was performed by Deborah Chinn on 10-14-11. During that evaluation Chinn noted Owens's gait



Caroline A. Gilchrist for the plaintiff

abnormality, that he had a history of falling, and that he was at high risk for falls. With those notations in mind, a physical therapy plan was developed.

On 10-19-11, Owens reported to Chinn that he'd had two falls the previous week. The following day on 10-20-11, Owens went to the Rehabilitation Center for his physical therapy. When Chinn entered the waiting room, she asked Owens to follow her to the therapy room.

Significantly, Chinn did no assessment of Owens's stability at that time. She also did not walk with him or recommend a gait belt. Instead, she simply walked several feet ahead while Owens followed behind her with his walker.

Truck Negligence - In three lanes of traffic on I-80/I-94, the plaintiff blamed a trucker for merging into his lane, the impact causing the plaintiff to crash into a barrier, his vehicle then overturning

Collins v. Air Freight Systems,
2:10-459

Plaintiff: Donald C. Darnell, Dexter, MI and Nik Lulgjura, Chelsea, MI
Defense: Robert D. Hawk, Jr. and Sean P. Fagan, *Spangler Jennings & Dougherty*, Merrillville

Verdict: Defense verdict on liability
Federal: **Hammond**

Court: J. Rodovich, 4-7-17

Michael Collins drove on 9-25-08 on I-80/I-94 in Northern Indiana. At this location the highway had three lanes of traffic. Collins was in the left lane. Stanley Neals was operating a tractor-trailer for Air Freight Systems. Neals was in the center lane.

Collins alleged that Neals encroached his lane and a collision occurred. This caused Collins to crash into the concrete barrier in the median – his pick-up truck then rolled over and landed upside down. The crash left Collins with a severe shoulder injury. He underwent several repair surgeries.

Collins sued Air Freight and blamed Neals for encroaching his lane. Neals had a different version of how this wreck happened. The highway was nearing a construction zone and it was moving from three lanes to just two.

The defense further explained this reduction in the number of lanes was well-marked by multiple warning signs and an arrow board. The lane in which Collins was driving was ended.

How then did the wreck happen? The defense argued that Collins tried

to speed up and sneak in ahead of Neals. As Collins did so, he clipped the tractor-trailer, it being the conduct of Collins that set off this collision.

This case was tried for four days in Hammond. The verdict was for the defense on liability and Collins took nothing. A defense judgment was entered.

Underinsured Motorist - A teenaged passenger suffered a serious leg injury when his driver who was engaging in a drag race lost control and crashed into a tree; the teenager sought underinsured motorist coverage under his grandmother's insurance policy, but the insurer argued there was no coverage because the teenager, who was a runaway living with his grandmother, was not technically a resident of her household

Burt v. State Farm, 84D02-1301-CT-976

Plaintiff: Gerald H. McGlone, *McGlone Law*, Terre Haute
Defense: Matthew J. Jankowski, *Kopka Pinkus Dolin, P.C.*, Carmel

Verdict: For plaintiff

County: **Vigo**, Superior

Court: J. Reddy, 10-26-16

In the later months of 2010, the domestic life of teenager Christopher Burt was somewhat troubled.

Although he was living with his divorced father, Michael Burt, Christopher did not get along with his stepmother. Christopher dealt with those problems by running away in September of 2010 and moving in with his grandmother, Suzanne Clark.

During the day on 1-30-11, Christopher got together with his friend, Camron Wormser, and the two smoked some marijuana. Later

that evening, the two were joined by a couple of girls of their acquaintance, and the group began joy riding through Terre Haute in a Hyundai Elantra driven by Wormser.

As the group of teenagers drove aimlessly through the town, they found themselves traveling west on Walnut Street near the intersection with 9 ½ Street. When they stopped for a stop light, an unidentified driver in a Mustang pulled up next to them.

When the light turned, Wormser began drag racing the Mustang. As his speed climbed well over 100 mph, his passengers, including Christopher, repeatedly screamed for him to stop. Wormser ignored the pleas to stop, and an instant later he passed over a set of railroad tracks at high speed.

The jolt from the railroad tracks caused Wormser to lose control of his vehicle, spin out, and crash into a tree. Christopher suffered injuries in the crash that included a broken femur and ankle, a smashed foot, and various cuts and bruises.

Christopher underwent a surgical repair of his injuries that included the placement of a permanent titanium rod from his knee to his hip. He also complains of continuing pain and nightmares about the incident. His medical expenses came to \$69,452.

It turned out that Wormser's insurance coverage amounted only to \$25,000. However, Christopher believed he was entitled to underinsured motorist coverage under his grandmother's \$100,000 policy with State Farm.

State Farm denied the claim, and Christopher filed suit. In addition to his UIM claim against State Farm, Christopher also named Wormser as

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