

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

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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.

Premises Liability - A hospital patient recovering from spine surgery went to use his hospital bathroom to have a bowel movement; when he sat down the toilet seat shifted beneath him, allegedly causing him to re-injure his spine

Fines v. Franciscan Health Hospital Indianapolis, 49D01-1708-CT-29857
Plaintiff: Joseph E. Allman, *Allman Law, LLC.*, Indianapolis; and Gloria J. Danielson, Greenwood
Defense: Michael Roth and Thomas J. Flynn, *Eichhorn & Eichhorn, LLP.*, Indianapolis

Verdict: \$507,000 for plaintiff less 60% comparative fault to non-party County: **Marion**, Superior Court: J. Welch (Special Judge), 1-12-23

In 2016, Joshua Fines, then age 38, was working as a carpenter. In November of 2016 Fines was on the job when he attempted to lift and move a heavy deck. In doing so, he injured his back. Fines lived with the resulting back pain for a couple of months until it became acutely worse on 1-26-17.

Fines consulted on the matter with Dr. Jose Vitto, a pain medicine specialist. Dr. Vitto's treatment regimen included the administration of an epidural injection. When that did not fully resolve the problem, Fines underwent a spine surgery on 2-1-17.

The surgery was performed by a different doctor at the Franciscan Health Hospital Indianapolis. During the surgery it was discovered

that Fines had a serious staph infection in his lumbar spine. It was believed the infection had been caused by Dr. Vitto's epidural injection.

Fines underwent a second surgery a week later on 2-8-17 in order to clear the infection. When that effort was not entirely successful he underwent a third surgery approximately two weeks later on 2-23-17. Following this third surgery, Fines's surgeon expressed 100% certainty that they'd successfully removed all the infection.

Fines then spent the next couple of days recuperating in his hospital room. As it happened, his room had a private bathroom. Fines had used it to urinate at various times over the previous three days. At approximately 10:00 pm on 2-25-17, Fines made use of the bathroom to have a bowel movement for the first time during his stay.

When Fines sat on the commode, the seat was loose, and it shifted suddenly to the left. The tabs beneath the seat that had kept it elevated above the rim of the commode were thus no longer in their proper position. As a result, the seat dropped down approximately an inch or so – i.e., the height of the tabs.

Although Fines was startled by this event, he did not notice any immediate injury. Instead, he simply got up and walked back to his bed. He did, however, mention the incident to his wife who was in the room with him at the time.

Ford would not have died. The identified experts for plaintiff included Dr. Ryan Jacobsen, Emergency Medicine, Olathe, KS.

The defense of this case focused on the issue of statutory immunity.

According to defendants, they were entitled by statute to immunity from liability unless it could be shown that their conduct was willful or wanton.

Defendants argued that their mishandling of Ford's 911 call was simply an honest mistake and did not rise to the level of the willful or wanton standard. Thus, immunity applied. Based on that argument, defendants sought summary judgment.

The court denied defendants' motion for summary judgment on the ground that defendants' employees had violated standard operating procedures, and thus there was an issue of material fact whether those violations constituted willful and wanton conduct. Defendants appealed that decision, but the appellate court affirmed the decision of the trial court.

Back in the trial court, the litigation proceeded with defendants continuing to claim entitlement to statutory immunity. The identified defense experts included Dr. Jason Hollingsworth, Emergency Medicine, Fishers.

The court granted a joint motion by the parties to bifurcate the trial on the issues of liability and damages. Thus, the sole issue for consideration by the jury was whether defendants' misconduct was willful or wanton.

A jury in Kokomo heard the case and returned a defense verdict for the Howard County Sheriff's Department and Howard County 911 Communications. If the court entered a judgment, it was not part

of the record at the time the IJVR reviewed it.

Case Documents:

[Interlocutory Appellate Opinion](#)
[Jury Verdict](#)

Auto Negligence - Defendant ran a red light and crashed into plaintiff at high speed, causing plaintiff to suffer widely-ranging injuries; defendant admitted fault for the crash but disputed plaintiff's damages

Kiepura v. Hacker, 45D04-2004-CT-376

Plaintiff: Karl E. Hand, *Law Office of Karl E. Hand, P.C.*, Schererville; and Joseph G. Bombagetti, III, *Kelly Law Offices, LLC.*, Schererville

Defense: Hannah J. Barnard, *State Farm Litigation Counsel*, Crown Point

Verdict: \$400,000.99 for plaintiff

County: **Lake**, Superior

Court: J. Kantar, 4-25-23

On 4-1-19, Christine Kiepura, a kindergarten teacher, was driving north on Calumet Avenue in Hammond. At the same time, Erin Hacker was driving on 173rd Street toward the intersection with Calumet Avenue at what the record describes as a "high speed."

At the intersection of the two roads, Hacker ran a red light and crashed into Kiepura's vehicle. Kiepura suffered injuries to her neck, left hip, shoulder, right hand and middle finger, and right elbow. The record does not reveal the amount of her medical expenses.

Kiepura filed suit against Hacker and blamed her for running the red light and crashing into her. Additionally, Kiepura presented an underinsured motorist claim against her own insurer, Auto-Owners Insurance. Kiepura's UIM coverage under the Auto-Owners policy was 500/250.

Kiepura later stipulated to the dismissal of Auto-Owners. The litigation proceeded thereafter solely on the claim against Hacker. She admitted fault for the crash but disputed the nature and extent of Kiepura's claimed injuries.

According to Hacker, Kiepura suffered only a temporary exacerbation of a pre-existing condition and had recovered by February of 2020.

The case was tried in Gary for two days solely on the issue of damages. The jury returned a verdict for Kiepura and awarded her damages in the oddly specific amount of \$400,000.99 (the basis for that figure is not explained in the record). The court entered a judgment for that amount, plus costs, and it has been satisfied.

Case Documents:

[Jury Verdict](#)
[Final Judgment](#)

Medical Negligence - A young woman died from excessive bleeding following the delivery of her baby by c-section; the woman's husband and her estate blamed her death on her ob-gyn for not taking her back to surgery when the bleeding developed

Estate of Miller, et al. v. Fitzpatrick, 87C01-1908-CT-1388

Plaintiff: Terry Noffsinger and Kyle A. Noffsinger, *Kooi Law, LLC.*, Carmel

Defense: Holly A. Reedy, *Reminger Co., LPA.*, Indianapolis; and William W. Drummy, *Wilkinson Goeller Modesitt Wilkinson & Drummy, LLP.*, Terre Haute

Verdict: Defense verdict on liability
County: **Warrick**, Circuit

Court: J. Granger, 4-28-23

In late 2012, Nicholas Miller and