

The Virginia Jury Verdict Reporter

The Most Current and Complete Summary of Virginia Jury Verdicts

April 2015

Statewide Jury Verdict Coverage

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April 2015 Highlights

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Civil Jury Verdicts

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

Products Liability - The plaintiff was left a C6-7 quadriplegic after she rolled over her Mazda Miata convertible automobile – her products theory blamed her injuries on a failed roof latch that allowed the windshield to collapse – Mazda resisted that there had been a latch collapse and blamed the wreck itself for the plaintiff's injuries – the verdict was for the plaintiff in exactly the sum her lawyer had requested in his closing argument

Walters v. Mazda Motor Corporation, 11-1907

Plaintiff: John E. Lichtenstein and Gregory L. Lyons,

LichtensteinFishwick, Roanoke and P. Brent Brown and William A.

Jennings, *Brown & Jennings*, Roanoke and Daniel L. Crandall and Peter A.

Katt, *Crandall & Associates*, Roanoke

Defense: Christopher C. Spencer and Elizabeth K. Shoenfeld, *Spencer, LLP*, Richmond

Verdict: \$20,000,000 for plaintiff

Court: **Roanoke City Circuit Court**

Judge: William D. Broadhurst

Date: 10-22-14

Shannon Walters, then age 26, worked at a Roanoke animal shelter and on the evening of 6-3-06, she took two kittens home with her for a weekend visit. As she proceeded on a rural road she saw an object suddenly appear in the road. It was an inflatable swimming pool that had fallen from the back of a truck.

Walters, who was driving a 1995

ragtop Mazda Miata convertible, swerved to avoid the object. In the process the Miata left the road and rolled over. The crash left Walters a permanent C5-6 quadriplegic paralyzed from the chest down. She remains confined to a wheelchair with only limited use of her arms and hands. Her medical bills were \$552,519 and her life care plan was valued at \$5.07 million. [An economist for Walters was Lawrence Lynch.]

In this lawsuit against Mazda Motor Corporation, Walters blamed her injuries on a defect in the Miata. She cited a roof latch on the convertible had failed. That failure allowed the windshield to invade the passenger compartment – she struck it during the rollover event, that impact causing an extreme hyperflexion and the paralyzing injury. Had the latch remained in place, the roof and frame would have protected Walters.

The plaintiff's experts were James Mundo, Auto Design and Gunnar Brolinson, Osteopath who discussed Injury causation. As the case proceeded to trial, Walters presented both negligent design and breach of implied warranty counts.

Mazda's defense was not complex. It argued that the latch had never failed in the first place. The Miata, the defense postured, had performed as it should have, Walters having assumed the inherent danger of driving a convertible. A defense expert, Thomas McNish, Biomechanics, San Antonio, TX, also contested that the Miata had tipped as it rolled, the roll

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Medical Negligence - Defense p. 8
While attempting to relieve impacted ear wax a nurse injected water into the plaintiff's ear – the injection led to a perforated tympanic membrane and permanent hearing loss

Virginia Beach Circuit Court

Medical Negligence - \$1,700,000 p. 3
During an ankle replacement surgery a podiatrist severed the plaintiff's posterior tibial nerve – in this lawsuit the plaintiff's expert explained that while a doctor might nick the neurovascular bundle at this location, a doctor should never sever it

Auto Negligence - \$12,744 p. 4
The plaintiff complained of soft-tissue symptoms after a minor rear-end wreck – a Virginia Beach jury awarded him a sum equal to his medical bills – the defendant has since moved for a new trial arguing the verdict was inadequate – the plaintiff replied that he was happy with the verdict and it was absurd for the defendant to argue the verdict was inadequate

Auto Negligence - \$800,000 p. 9
A drunk bicyclist was seriously injured when a rear-ended vehicle flipped and landed on him – the bicyclist blamed the driver of that car (the one that flipped) and another driver that struck the flipped vehicle – importantly the trial court excluded any proof of the plaintiff's .17 blood alcohol level

Chesapeake Circuit Court

Medical Negligence - \$1,500,000 p. 4
The plaintiff's Ob-Gyn was blamed for missing signs of fetal distress at the conclusion of an otherwise normal pregnancy – by the time the Ob-Gyn ordered a c-section it was too late and the baby boy was stillborn

Loudoun Circuit Court

Auto Negligence - \$6,000 p. 6
The plaintiff complained of an L4-5 disc injury (he had a repair surgery and incurred medical bills of \$40,993) after a rear-end crash – while the defendant stipulated some \$16,000 of those medical bills, the jury awarded the plaintiff just \$6,000 in damages – the court has since ordered a new trial on damages

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The plaintiff slipped on slippery moss at a car wash and sustained a broken knee cap

Petersburg Circuit Court

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The plaintiff was ejected and killed in a single vehicle roll-over crash – in this lawsuit her estate blamed the purported driver of the vehicle (this was a fact question) and several UIM carriers

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A postman complained of ongoing soft-tissue symptoms after being rear-ended (the collision was very minor) by a county vehicle – the jury's verdict in Chesterfield was equal to the postman's special damages, the trial court immediately declaring a mistrial as the damages were inadequate

Prince William Circuit Court

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A rear-end chain reaction collision left the plaintiff with a shoulder injury

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Martinsville Circuit Court

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A doctor was blamed for issuing an order over the phone of a penicillin-derivative drug when the plaintiff had a known penicillin allergy – the plaintiff suffered a serious allergic reaction and developed Stevens-Johnson Syndrome – the doctor defended that the prescription was reasonable and the rash was caused by another drug

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Uninsured Motorist - \$80,000 p. 11
The plaintiff complained of soft-tissue neck and back pain after a rear-end crash – the parties entered a \$75,000-\$35,000 Hi-Lo agreement before trial and the court's judgment was for the high parameter of that agreement

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