The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

April 2025 **Statewide Jury Verdict Coverage** **26 IJVR 4**

Unbiased and Independently Researched Jury Verdict Results

In This Issue

Marion County
Auto Negligence - $45,000 p. 2
Uninsured Motorist - $2,500 p. 7
Elkhart County
FELA - $8,200,000 p. 1
Clark County
Premises Liability - $44,634 p. 3
Lake County
Auto Negligence - Defense verdict p. 5
St. Joseph County
Medical Malpractice - Defense verdict p. 5
Federal Court - Terre Haute
Civil Rights - $5,000 p. 8
Notable Illinois Appellate Opinion
$43.825 million trucking verdict reversed on appeal p. 10
A Notable Kentucky Verdict
Louisville, Kentucky
Premises Liability - Defense p. 12

Civil Jury Verdicts

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

FELA - A railroad employee was in a train and operating it by remote control under the direction of a yardmaster when the train collided with another train that was stationary; the impact of the two trains threw the employee against the wall and caused him to fall to the floor, suffering injuries that he claimed rendered him no longer able to work

Sporner v. Norfolk Southern Railway Co., 20D05-2104-CT-63
Plaintiff: George T. Brugess and Michael C. Terranova, *Cogan & Power, P.C.*, Chicago, IL
Defense: Barry L. Loftus and James F. Olds, *Stuart & Branigin, LLP.*, Lafayette
Verdict: $8,200,000 for plaintiff less 40% comparative fault
County: **Elkhart**, Superior
Judge: Christopher J. Spataro, 3-11-25

In the evening of 1-4-21, Scott Sporner was on the job for his employer, the Norfolk Southern Railway Company, at the railroad's Elkhart Yard located in the city of Elkhart. That evening Sporner was working as an "RCO" – i.e., a remote control operator.

As an RCO, Sporner was positioned in the cab of a locomotive and was operating it by remote control under the direction of a yardmaster. In times past this component of the yardmaster's job had been done by "switch tenders." However, Norfolk Southern had eliminated those positions, and the work was now done by the yardmaster who was in charge of directing all train movements.

Sporner was in a train comprised of three locomotives. Two of them were conventional locomotives, while the third was a so-called "slug" – i.e., a diesel-electric locomotive that lacked a prime mover and that derives its power from a "mother" locomotive.

As Sporner maneuvered the train under the yardmaster's direction, his train suddenly collided with another train that was stationary. The impact threw Sporner against the wall of the cab, and then he fell to the floor.

Sporner would later report widely-ranging injuries, including to his head, neck, shoulders, and hip. He also complained of concussion, post-concussive syndrome, tinnitus, PTSD, and cognitive deficits. Sporner underwent medical treatment that included surgery. However, his medical expenses are not known.

Sporner filed suit against Norfolk Southern under the FELA statute and blamed the railroad for failing to provide him with a reasonably safe place to work. Among other things, Sporner argued that the yardmaster who had been directing his train was overworked and distracted. According to Sporner, his injuries have rendered him no longer able to work.

If successful, Sporner sought compensation for both his past lost income (calculated at $416,553) and his future lost income. His identified experts included Delores Gonzalez, Vocational Rehabilitation, Sunset

direction was a vehicle being driven by John Litmer. An instant later, Litmer rear-ended Tam. It was a minor impact that left little or no visible damage on either vehicle.

Tam claimed to have suffered a cervical herniated disc due to the crash. She followed a course of chiropractic care and also had a course of physical therapy. Tam's incurred medical expenses came to $9,490. Her *Stanley* medicals were $4,862.

Tam filed suit against Litmer and blamed him for crashing into her. Additionally, Tam also presented an uninsured/underinsured motorist claim against her own insurer, GEICO. However, the parties later stipulated to the dismissal of GEICO.

The litigation proceeded thereafter on Tam's claim against Litmer. He admitted fault for the crash but disputed the nature and extent of Tam's claimed damages. He also noted that Tam was injured in a second MVA on 1-27-23, during which she aggravated her neck injury. Finally, Litmer accused Tam of failing to mitigate her damages.

The case was tried for two days in Indianapolis solely on the issue of damages. The jury returned a verdict for Tam in the amount of $45,000. This figure was slightly over nine times her *Stanley* medicals. The court entered a judgment for that amount.

Case Documents:
Jury Verdict
Final Judgment

Premises Liability - An elderly man exercising on a "balance ball" at a YMCA fell as he dismounted the ball and hit his groin on a kettlebell that was lying on the floor, thereby sustaining a dissection of his urethra; the man blamed the incident on the YMCA for leaving its equipment lying around in a dangerously disorganized condition

Lynn v. The YMCA of Greater Louisville, Inc., 10C06-2206-CT-77
Plaintiff: Gregory M. Reger, J. David Agnew, and Olivia G. Schear, *Lorch Naville Ward, LLC.*, New Albany
Defense: Deanna M. Marzian Tucker and Matthew R. Londergan, *Barnes Maloney, PLLC.*, Louisville, KY
Verdict: $44,634 for Stanley Lynn less 50% comparative fault; $0 for Mary Lynn
County: **Clark**, Circuit
Judge: Kyle P. Williams, 3-20-25

At the age of 75, Stanley Lynn joined the YMCA of Southern Indiana. The membership application that Lynn signed upon joining the organization contained a waiver of liability. At some later time the organization merged with the YMCA of Greater Louisville, which continued operations at 33 State Street in New Albany.

Lynn was a frequent visitor at the facility over the subsequent eleven years. It was his custom to visit three times per week and make use of the exercise equipment. Lynn continued in this pattern until COVID caused the facility to shut down temporarily.

Eventually, however, the facility re-opened, and Lynn immediately resumed his thrice weekly visits. On 8-28-20, only a few months after the re-opening, Lynn was once again at the facility for one of his regular exercise sessions.

Lynn would later recall that the premises were in disarray with equipment scattered in various locations. He arrived at the facility shortly after 4:00 pm and found the rowing machine had been moved to a hallway near an office.

Lynn made use of the rowing machine for a time before deciding to switch to a "balance ball" that had also been moved into the hallway. The balance ball had a flat surface on one side and a hemisphere on the other side.

Lynn positioned the balance ball so that the round side was face down so he could climb onto and stand upon the flat side while trying to maintain his balance. There were no YMCA personnel present to supervise Lynn during this session, nor did he seek out any such personnel.

After standing upon the balance ball for a while, Lynn attempted to dismount. As he did so, he tripped and fell, hitting his groin on a kettlebell that was lying nearby on

The balancing ball in question

A Notable Kentucky Verdict

Premises Liability - The plaintiff (a medical assistant at an allergist's office) was working at her desk when suddenly an elderly woman hit the gas rather than the brake while parking outside the office – the elderly woman then crashed her SUV into the building and the plaintiff suffered injuries when she was trapped at her desk by a falling window – the plaintiff settled with the elderly woman pre-litigation for her $100,000 limits and then sought damages from the property owner in this premises liability case alleging negligence in not having bollards or other parking protection to prevent the purportedly foreseeable hazard of an out-of-control driver

Rotruck v. DuPont Urology Properties, 20-3055

Plaintiff: James M. Bolus, Jr. and Miles Mussetter, *Bolus Law Offices*, Louisville, KY and Robert C. Heuke, Jr., *Stout & Heuke*, Louisville, KY
Defense: Deanna M. Marzian Tucker and Matthew R. Londergan, *Barnes Maloney*, Louisville, KY
Verdict: Defense verdict on liability
Court: **Louisville, Kentucky Jefferson Circuit Court**
Judge: Jennifer Wilcox
Date: 11-22-24

Stephanie Rotruck, then age 47, was working on 5-31-19 in medical billing for Forrest Kuhn Allergy. Dr. Kuhn rents office space from DuPont Urology Properties in St. Matthews. It is an ordinary single-story office building. Rotruck's desk faced a large window that fronted the building. The design of the parking lot allows patrons to park "nose-in" directly in front of the building in a perpendicular fashion.

This morning an elderly patient, Kathleen Sullivan, age 88, appeared for her appointment. She began to park her Kia Sportage SUV. Sullivan hit the gas instead of the brake. Her vehicle crashed into the office building. The large window fronting Rotruck's desk crashed down upon her. She was briefly pinned between the window and a safe next to her desk.

Rotruck was taken to the ER and underwent a battery of tests. While she was shaken and sore, she had not suffered any fractures. Rotruck has since treated for chronic low-back pain related to an L4-5 disc injury. She walks with a slight limp. Rotruck's had a significant course of care including epidural injections with the treating Dr. Charles Crawford, Orthopedics, Louisville.

Rotruck moved first against Sullivan (the driver) in pre-litigation. Sullivan paid her $100,000 policy limits. While never a party to the litigation, her duties would remain in issue for apportionment.

Rotruck sued a single defendant – DuPont Urology. She alleged it violated the standard of care by the design of the parking lot, and particularly, by the failure to provide any protection against the purportedly reasonably foreseeable hazard of a driver crashing into the building.

The plaintiff's expert in bollards and parking safety, Rob Reiter, Colorado Springs, CO, argued that in a high volume parking area (the allergy office had 70 patients an hour), the standard of care required

A set of pictures depicting the DuPont Urology incident