

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

June 2024

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.

Police Negligence - A

lieutenant with the Lake County Sheriff's Department was assisting with traffic control at the conclusion of an air show in the City of Gary when he drove his squad car while intoxicated and ran into a spectator; the spectator suffered broken bones and a traumatic brain injury, as well as a subsequent addiction to opioids that resulted from his extensive medical treatment

Dircks v. City of Gary, et al.,
45D11-1702-CT-275

Plaintiff: Robert A. Montgomery,
Law Offices of Robert A. Montgomery,
Chicago, IL

Defense: Christopher Cooper, *Law Office of Christopher Cooper, Inc.,*
Griffith, for Mikulich; Ricardo A. Hall, *Kopka Pinkus Dolin, P.C.,*
Crown Point, and Rodney Pol, Jr.,
City of Gary - Law Department, Gary,
for City of Gary

Verdict: \$19,630,000 for plaintiff
(comprised of \$15,000,000 against
the City of Gary; \$30,000
compensatory and \$4,600,000
punitive against Mikulich)

County: **Lake,** Superior

Judge: Bruce D. Parent, 5-31-24

On 7-10-16, the City of Gary was hosting the Gary Air Show at a facility located at Route 12 and Atchison Boulevard and Old Hobart Road in Gary. Prior to the event, the City had requested other local law enforcement agencies to assist with security.

One law enforcement officer who was on site in his official capacity at

the event was Lieutenant Guy Mikulich of the Lake County Sheriff's Department. Mikulich had apparently been enjoying himself a bit too much. At some point he was allegedly provided alcohol by Derek and Gail Puckett, as a result of which Mikulich became intoxicated.

Among the civilian spectators at the air show was Derrick Dircks, a professional iron worker. Dircks attended the show with his wife and children and had parked their car off the road at nearby Oak and Pike Street.

As the air show wound down to its conclusion, Lieutenant Mikulich volunteered to help with traffic control while the spectators departed. At just that time, Dircks returned to his car to retrieve a beverage from the trunk for one of his family members.

While Dircks stood at the rear of his car, Mikulich sped by in his squad car, left the road, and ran into him. The impact threw Dircks some twenty feet into the air and caused him to land on his head on the pavement. His injuries included multiple broken bones and a massive traumatic brain injury. Mikulich did not stop following the incident and was caught by police a short time later.

The record does not reveal the amount of Dircks's medical expenses. However, it is known that he endured extensive treatment that resulted in his becoming addicted to opioids. This, in turn, led Dircks to spiral downward into a deep and dark depression. It was so bad that at

Premises Liability - Plaintiff suffered a broken femur when she slipped and fell on the painted surface of a convenience store's handicap parking space on a rainy day; plaintiff blamed the incident on an allegedly improper paint job that had been done on the parking space nearly a month earlier that made the surface slippery when wet
Biro v. Mac's Convenience Stores, LLC. d/b/a Circle K, 49D11-1912-CT-50159
 Plaintiff: Michael W. Phelps, *Hankey Marks & Crider*, Indianapolis
 Defense: Michelle L. Casper, *Ulmer & Berne, LLP.*, Columbus, OH
 Verdict: Defense verdict on liability
 County: **Marion**, Superior
 Judge: John F. Hanley, 9-7-23

In the late afternoon of 8-26-19, Denise Biro was visiting the Circle K convenience store located at 4221 South Emerson Avenue in Indianapolis. She parked next to the building in the rear not far from the handicap parking space.

Biro emerged from her vehicle and began walking toward the store. It happened to have rained nearly half an inch in the previous 24 hours, and the pavement was still wet. As Biro walked across the handicap parking space toward the building, she slipped and fell.

At just that moment the store manager, Tammy Teed, was leaving to go home for the day. Although Teed did not witness Biro fall, she did see Biro lying on the ground by the handicap parking space. Teed immediately came to Biro's assistance.

Biro said she was hurting in her hip. Teed called an ambulance, which soon arrived and transported Biro to St. Francis Hospital. The next day Biro's daughter visited the Circle K and informed Teed that Biro had



. The parking spot in question at the Circle K

broken her femur and required surgery. Biro was also assigned a permanent partial impairment rating of 11% to the person as a whole. The record does not reveal the amount of her medical expenses.

Biro filed suit against Mac's Convenience Stores, LLC. d/b/a Circle K. According to Biro, Circle K had the handicap parking space painted slightly less than a month before the incident. The job was done on contract by a workman named Jared Marr. Biro alleged that Marr failed to mix in aggregate with the paint.

It was Biro's theory that the failure to mix aggregate with the paint caused the painted surface to be slippery when wet. This, in turn, set the stage for Biro to slip and fall on the rain-soaked painted surface and thereby sustain her injury.

Also, Biro's husband, George Biro, initially presented a derivative claim for his loss of consortium. However, George later stipulated to the

dismissal of that claim. The litigation proceeded thereafter solely on Biro's claim for her injury.

The identified experts for Biro included Dr. Robert Gregori, Physical Medicine, Indianapolis; and David Collette, Walkway Safety, Loveland, OH. It was Collette's opinion that in accepting Marr's paint job, Circle K had violated industry standards for walkway safety.

Circle K defended the case and disputed the nature and extent of Biro's claimed injuries. Defendant also implicated Biro's own comparative fault. The identified defense experts included Dr. Arthur Lee, Orthopedics, Cincinnati, OH; and George Wharton, Engineering, Cleveland, OH.

The case was tried for three days in Indianapolis. The jury returned a verdict that found Circle K not at fault. The jury therefore did not reach the issues of apportionment of fault or damages. The court entered a defense judgment.