

Westlaw

2005 WL 3804534

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For Dockets See LC064281

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Superior Court, Los Angeles County, California

SCOTT LECHUGA, ALINA DIMA AND NICK MALONE V. DOE CONTRACTOR, AND ROE SUBCONTRACTOR

No. LC 064281

DATE OF VERDICT/SETTLEMENT: April 15, 2005

TOPIC: MOTOR VEHICLE - SINGLE VEHICLE - DANGEROUS CONDITION OF PUBLIC PROPERTY - PRODUCTS LIABILITY UPON COLLISION, GUARDRAIL TURNED INTO BLADE, PLAINTIFFS ARGUED

SUMMARY:

AWARD: \$1,385,000

RESULT: Settlement

The parties settled the case for the sum of \$1,385,000.

EXPERT WITNESSES:

Plaintiff: Mr. Harry J. Krueper; Civil; San Bernardino, CA F. David Rudnick, M.D.; Psychiatry; Los Angeles, CA Frank C. Beall, M.D.; Wood; Los Angeles, CA Maurice E. Bronstad; Highway/Street; San Antonio, TX Ron Peterson; Wood; Los Angeles, CA Sandra Schneider; Vocational Rehabilitation; Los Angeles, CA Sharon K. Kawai; Life Care Planning; Fullerton, CA Steven J. Nagelberg; Orthopedic Surgery; Downey, CA Tamorah Hunt, Ph.D.; Economics; Santa Ana, CA

ATTORNEYS:

Plaintiff: **Richard B. Koskoff**; Law Offices of Booth and Koskoff; Torrance, CA David M. Schaffer; Shaffer and Gam; Los Angeles, CA

Defendant: Counsel not disclosed; Law Offices of Ronald M. Pappell; Los Angeles, CA

JUDGE: Richard Adler

RANGE AMOUNT: \$1,000,000-1,999,999

STATE: California

COUNTY: Los Angeles County

INJURIES: The guardrail cut off Lechuga's left leg below the knee and his right foot was sliced above the ankle through bone, only hanging on by flesh. The foot was successfully re-attached, and he uses a prosthetic for a left leg. Lechuga's medical bills exceeded \$500,000 and he was earning approximately \$20,000.00 a year at the time

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of the accident.

FACTS:

On March 30, 2002, plaintiffs Alina Dima, a 27-year-old mortgage representative, and Nick Malone, an 18-year-old student, were passengers in a car driven by plaintiff Scott Lechuga, a 31-year-old garage-door repairman. Lechuga lost control of the car on the southbound U.S. 101 Freeway in San Fernando Valley and collided with a guardrail.

The impact separated the metal guardrail from its wood posts, transforming it into a blade that sliced through the driver's-side door, resulting in serious injuries to two of the occupants and minor injuries to the third.

Claiming injuries, Lechuga, Dima and Malone sued the general contractor that constructed and installed the guardrail assembly, and the subcontractor that supplied the guardrail wood posts for creating a dangerous condition of public property, products liability and negligence. (Names of the defendants are being kept confidential as per the settlement.)

Plaintiffs' counsel asserted that when the guardrail broke away from its wood posts, tension on the metal beam increased, causing it to break into a blade that cut through the car. The guardrail posts should not have fractured, and that they did so was because the wood was unsound and of a low grade.

Although certificates of compliance indicated that the wood posts complied with the governing standard specifications in the CalTrans manuals, plaintiffs contended that the certificates were issued without adequate and thorough inspection of the wood.

Plaintiffs' counsel, who were substituted in after the guardrail was repaired and the deformed metal beam and fractured wood posts discarded by CalTrans, relied on their accident reconstruction expert and photographic evidence showing how the wood splintered to establish that the posts were constructed from unsound wood.

The defense maintained that Lechuga's reckless driving caused the crash and plaintiffs' injuries, citing the deposition of several witnesses who said he was going at least 80 mph and weaving in and out of traffic. Lechuga did not dispute that he was speeding and weaving dangerously, but claimed that his driving was not the reason he crashed into the guardrail but an unidentified vehicle that struck the rear end of his car and caused it to spin out of control.

The defense disputed Lechuga's claim of a phantom vehicle, noting that none of the witnesses observed another vehicle strike Lechuga's car. The witnesses did, however, state that Lechuga, while changing lanes, struck a BMW, which caused him to spin out of control and careen into the guardrail.

Dima's was also struck by the broken guardrail and her left tibia was fractured and her right knee was injured. She claimed that she suffers ongoing problems of weakness and pain in her knee. Dima's medical bills exceeded \$100,000, and she suffered a loss of earnings of approximately \$15,000.

Malone, who was in the back seat, was not struck by the guardrail and suffered minimal physical injuries.

Malone's medical bills were minimal. He was treated for cuts and bruises at the emergency room, and did not suffer any loss of earnings.

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