

**S99-07-11****Dangerous Roadway: Car Goes Out of Control After Striking Pothole Settlement: \$1,185,000**

**Plaintiff Attorney:** Richard B. Koskoff  
(Booth & Koskoff), Torrance (310) 515-1361

**Defendant Attorney:** J.D. Holmes  
(Thomson & Colgate), Riverside (909) 682-5550

**Court:** Riverside **Judge:** Richard G. Van Frank **Date:** 4/2/99

**Insurance Co:** Self-Insured

**Case:** Maria Garcia, et al. v. County of Riverside 247 024

**Facts:** 4/29/93: Plaintiff, a 25-year-old sales clerk, was southbound on Warren Road in Riverside County with her children, 5 and 2, as passengers. The road was marred with potholes, a number of which were several feet wide and four inches deep. Plaintiffs' vehicle struck one of the potholes causing Plaintiff driver to lose control of the car. Her vehicle veered into the opposing lane of traffic, struck another pothole and crashed into the limb of a pepper tree that overhung the shoulder of the road. Plaintiff mother was wearing her seat belt. Her 2-year-old son was restrained in a child car seat. However, her older son, Danny Garcia, Jr., 5, was not wearing a seat belt. The overhanging branch crashed through the windshield and entered the passenger compartment, striking Danny on the head, causing an open head injury. Plaintiff mother and her children were trapped in the car for 15-20 minutes before they were extricated by the Jaws of Life.

Plaintiff mother worked minimally and for minimum wages at the time of the accident and, according to the defense, was able to return to her usual occupation within six months following the accident.

**Injuries:** Death of a 5-year-old boy; survived by mother and brother. Mother: Minor orthopedic injuries; emotional distress. Andrew (age 2): Brain damage.

**Medical Costs:** Mother: \$25,000; Brother: \$17,500

**Contentions:** Plaintiffs claimed that the roadway was in a dangerous condition because of the numerous potholes. One or more potholes caused Plaintiff driver to lose control of her car, which was a substantial factor in causing the accident.

Defendant argued that the roadway was not in a dangerous condition. The 4-inch deep potholes could not, and did not, cause the accident. Defense conducted numerous road tests with the same type vehicle that Plaintiff mother was driving, under the same conditions, and videotaped the results. The results showed that when the car struck the more substantial potholes, the vehicle did not leave the roadway, did not veer into the opposing lane of traffic, and did not deviate from its own path of travel. Defendant asserted that there were no prior similar accidents.

**Negotiations:** 1st Offer: None 1st Demand: \$1,500,000

**Settlement:** \$1,185,000 total; \$750,000 to Plaintiff mother and \$430,000 to Plaintiff brother

**Note:** Case filed 3/7/94. Because there was no insurance for either the driver or owner of the Plaintiff vehicle, Plaintiff was precluded from recovering noneconomic damages, and there was no wrongful death recovery because there were noneconomic damages as well.

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**S99-07-12****Solo Auto: Driver Loses Control Crossing RR Track Settlement: \$1,000,000**

**Plaintiff Attorney:** Kenneth Meyer  
(Wylie, Heath, Spoeri & Mendoza), Los Angeles (213) 385-2716

**Plaintiff Attorney:** Thomas McGreal  
(Bentley & McGreal), San Marino

**Defendant Attorneys:**  
**for City:** Stephen Harber  
(Lynberg & Watkins), Los Angeles (213) 624-8700

**for Union:** Joseph Arias  
(Lewis, D'Amato, Brisbois & Bisgaard), San Bernardino (909) 387-1130

**Court:** Rancho Cucamonga **Judge:** Barry L. Plotkin **Date:** 1/29/99

**Insurance Co:** Confidential

**Case:** Conservatorship of Estate of Tammy Johnson v. Union Pacific Railroad, City of Ontario, et al.  
RCV 22457