

01-34-01

Negligence: Broken Manhole Cover Causes Accident/Bifurcated**\$2,027,356**

Pif Attorney: Johnna J. Hansen
(Booth & Koskoff) Torrance (310) 515-1361

Def Attorney: Henry Patrick Nelson
(Nelson & Fulton) Los Angeles (213) 365-2703

Ins. Co.: Self-Insured

Trial Judge: Hon. Alban I. Niles (Los Angeles—Central) 8/14/01

Trial Time: 9 Days **Deliberation Time:** 1 1/2 Days

Case: Carlos Todd v. County of Los Angeles BC 198 729

Facts: 12/6/97, at 7:37 a.m., the plaintiff, a 51-year-old transit bus driver for the city of Torrance, was driving his bus on Western Avenue. The bus drove over a manhole cover that broke into two pieces. One piece came up under the bus, causing damage to the undercarriage. The plaintiff lost control of the steering and his left shoulder hit the window. His knees then hit the dashboard as he attempted to bring the bus to a stop. The plaintiff sued defendant County of Los Angeles for dangerous condition of public property.

Contentions: **Plaintiff claimed** that a pre-existing crack in the manhole cover was at least 1 year old and should have been discovered during a scheduled July 1997 inspection. The defendant disposed of the manhole cover pieces and had no record of any prior inspection of the manhole cover.

Defendant argued that no crack in the manhole cover was visible to inspection. No dangerous condition existed, and there was no causation as to the plaintiff's shoulder and knee injuries.

Injuries: Dislocated left shoulder, torn meniscus in left knee. **Treatment:** Emergency room treatment, surgery on left shoulder (during surgical repair, the plaintiff had embolytic complications and spent four days in ICU), brace for left knee. **Residuals:** Knee condition is permanent and stationary (plaintiff cannot have surgery due to possibility of another embolism), unable to work and on total disability.

Specials: Medical to date \$61,500. Future medical None. Wage loss \$1,012,178.

Settlement: **Demand:** \$500,000
Offer: None

Verdict: \$2,027,356 total; \$1,013,678 economic, \$1,013,678 noneconomic
Jury Poll: 12-0 liability, 9-3 damages

Note: The plaintiff reports that an extensive Evidence Code § 402 hearing was held before trial regarding the plaintiff's metallurgy expert, Dr. Lawrence Kashar's ability to testify as to the time the crack most likely existed based on post-accident photos of the broken manhole cover. The defense claimed that this testimony was "junk science" and that there was no consensus on this approach in scientific community. The plaintiff claimed Dr. Kashar's scientific approach was appropriate. The court held that Dr. Kashar's testimony was admissible. The case was bifurcated with liability heard first.

Pif Experts:	Robert Hunt, M.D.	Orthopedic Surgery	Long Beach
	Lawrence Kashar, Ph.D.	Metallurgy	Culver City
	Tamorah Hunt	Forensic Economics	Santa Ana
Def Experts:	John Howard, M.D.	Orthopedic Surgery	Los Angeles
	Donald O. Cox, Ph.D.	Metallurgy	Santa Monica

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