

Verdicts & Settlements

Wreck as cause of injuries disputed

Plaintiffs able to show basis in accident

\$326,300

In a third-party no-fault lawsuit filed in Wayne County Circuit Court, plaintiffs Marguerite and Karl Henderson sought compensatory damages from defendant Jalal Bazzi on claims of auto negligence.

Liability was the primary issue in this case, as both parties argued that they had a green light.

Defendant argued that plaintiffs had significant prior injuries to their spines and that Karl Henderson had prior complaints of radiculopathy in his left knee. Defendant also presented the theory that Karl Henderson fabricated

his claim that his injuries were caused by the accident, and alleged that Henderson switched positions with Marguerite Henderson (the driver) after the accident.

Plaintiffs were able to successfully meet their burden, showing that the injuries caused by this accident were in fact new injuries and the knee surgery that plaintiff underwent was a direct result of the motor vehicle accident.

The jury determined that defendant was fully at fault for the accident. The jury awarded Karl Henderson \$9,300 in past economic damages, \$125,000 in past noneconomic damages and \$130,000 in future noneconomic damages; and awarded Marguerite Henderson \$62,000 in past noneconomic damages.

Type of action: Third-party no-fault	Demand: \$196,800
Type of injuries: Left knee medial meniscal tear, lumbar and cervical herniations	Highest offer: \$5,000
Name of case: Henderson, et al. v. Bazzi	Verdict amount: \$326,300
Court/Case no./Date: Wayne County Circuit Court; 12-003766-NI; Feb. 14, 2014	Case evaluation: \$140,000
Tried before: Jury	Allocation of fault: 100 percent defendant
Name of judge: John H. Gillis Jr.	Insurance carrier: Farmers
	Attorneys for plaintiff: Danny C. Allen II, Brian Victor E. Boehne
	Attorney for defendant: David R. Dyki

Counsel negates defense fire origin theories

Settlement reached on subrogation claim

\$800,000

In 2009, Detroit-based Harbortown Foods sustained a \$1 million-plus fire loss. Plaintiff Admiral Insurance Co., Harbortown's carrier, paid the loss but pursued a subrogation claim against defendant Kay Logic Inc., dba Biologix of Southeast Michigan Inc.

Plaintiff alleged that defendant's employee, who had been working at but not for Harbortown, caused the fire negligently when he tried to clear drains. Plaintiff contended that

the employee left a box of combustibles too close to a water heater and that the fire resulted when the water heater cycled and ignited the box.

Defendant contended that the fire could not have been caused by its employee because he had left the property more than six hours before the fire. Defendant claimed that Harbortown

employees would have been more likely to create the conditions that led to the fire, in addition to claiming other possible scenarios.

Plaintiff's counsel focused on generating agreement as to the cause of the fire while aggressively pursuing motions to limit any unfavorable testimony by defendant's experts. Counsel "re-created" the alternative causes of the fire that defendant's experts suggested and negated each one in turn through testing.

In addition, plaintiff pursued intensive investigation to locate several former employees to testify. The former employees con-

firmed that defendant's employee had worked in and around the water heater and that they would not have entered the area near the water heater after he had left the property.

Plaintiff accepted the \$700,000 case evaluation but defendant rejected it. Shortly before trial, the case settled for \$800,000.

See related story on page 3.

Type of action: Subrogation	Settlement amount: \$800,000
Type of injuries: Fire loss	Case evaluation: \$700,000
Name of case: Admiral Insurance Co. v. Kay Logic Inc.	Most helpful experts: Jerry Hobson, HVAC and plumbing, Ortonville
Court/Case no./Date: Wayne County Circuit Court; 12-008126-NZ; Nov. 27, 2013	Insurance carrier: Liberty
Name of judge: Robert J. Colombo Jr.	Attorney for plaintiff: Debra A. Freid
Demand: \$1.1 million	Attorney for defendant: Gregory A. Light

Retirement systems trustees hit in suits

Type of action: Breach of fiduciary duty

Type of injuries: Financial damages, injunctive relief

Names of cases: Estes v. Clark, Foy v. Bandemer

Court/Case nos./Date: Wayne County Circuit Court; 09-010080-NZ, 09-024103-NZ; Feb. 26, 2014

Name of judge: Amy P. Hathaway

Settlement amount: \$7,999,000

Most helpful experts: Tom Frazee, liability and damages, Sterling Heights; Dr. Alan Reinstein, liability and damages, Detroit; Harry Dressler, liability, Miami

Attorneys for plaintiff: Gerard Mantese, John J. Conway, David Hansma

Attorney(s) for defendant: Withheld

Claims: Gross negligence, no due diligence

\$7,999,000

Participants in Detroit's two public employee retirement systems brought class-action lawsuits in 2009 against the retirement systems' trustees and their investment advisor. The classes claimed breach of fiduciary duty and gross negligence arising from several failed investments.

The plaintiffs alleged that the trustees breached their fiduciary duties by approving high-risk investments of fund money without adequate due diligence. Shortly after filing their complaints, plaintiffs obtained a temporary restraining order, which enjoined the trustees from destroying documents.

Defendants opposed class certification and moved for summary disposition, arguing that the defendants had immunity under the Government Tort Liability Act. Defendants also argued that plaintiffs did not have standing to sue derivatively on behalf of the retirement system for its incurred losses.

After extensive briefing and argument, the court granted class certification to the plaintiffs and denied the defendants' motions for summary disposition. On Nov. 15, 2012, the Michigan Court of Appeals affirmed.

During the subsequent discovery period, plaintiffs' counsel conducted more than 30 depositions and reviewed tens of thousands of documents. In August 2013, the plaintiffs moved for summary disposition in both cases on the issue of

gross negligence. The trial court granted summary disposition in plaintiffs' favor as to one of the principal investments, holding that it was grossly negligent as a matter of law.

The defendants agreed to pay \$7,999,000 in compensation to the two retirement systems. In addition, the defendants agreed to overhaul the funds' governing policies and procedures, and to implement a set of binding reforms and safeguards to protect against future misconduct.



MANTESE

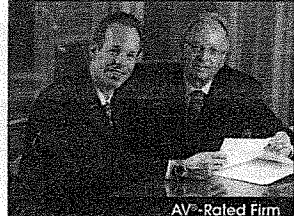


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- Robert Raft: Past President, MAJ

NOTABLE AUTO VERDICTS*

2012: \$2.55 million on \$250,000 offer, \$1.4 million on \$0 offer

2011: \$1.45 million on \$400,000 defense offer

2010: \$3.5 million on \$1 million defense offer

2009: \$2 million on \$0 defense offer

2008: \$5.6 million on \$1 million defense offer

More than 25 verdicts higher than \$1 million — 8 on defense offers of less than \$30,000

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