

The Trial Lawyer

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Noteworthy Wins for Deserving Plaintiffs

by Ryan H. Opgenorth

BRANTLEY, ET AL. V. ZURICH AMERICAN INSURANCE COMPANY

Case Type: Defamation and wrongful termination

Venue: Sacramento County Superior Court

Judge: Hon. Jeffrey Galvin

Date: February 27, 2024

Verdict: \$80,252,412 total damages to three plaintiffs, including \$75,000,000 in punitive damages.

Plaintiff's Attorneys: Lawrance A. Bohm and Kelsey K. Ciarimboli of Bohm Law Group.

Defense Attorneys: Jessica Pliner and Marcus J. Lee of O'Hagan Meyer.

Plaintiff's Expert Witnesses: Brad Abbott (economics)

Defense Expert Witnesses: Erik Volk (economics)

Facts & Allegations: Plaintiff Daniel Koos started working at Zurich 17 years ago as a claims examiner in San Francisco and was promoted to team manager. Plaintiff Nicholas Lardie was a 12-year employee of Zurich who started as a team manager. Plaintiff Melinda Brantley was also a 12-year employee of Zurich who started as a senior claims examiner and was later promoted to team manager. All of three plaintiffs were regarded as outstanding employees during their time at Zurich.

Christopher Omen worked for Zurich as a vice president supervising 50-70 employees, including the plaintiffs. Mr. Omen utilized off the record paid time off ("PTO") as an employment perk for those who put in exceptional effort, and for recruiting purposes. Mr. Omen's boss knew about the

PTO and supported it as a way of offering better compensation to employees without increased operational expense. Mr. Omen was subsequently terminated by Zurich, and in December 2017, all three Plaintiffs were terminated.

Plaintiffs claimed that they were maliciously defamed by certain managers at Zurich who claimed that they "stole" off the record PTO from the company, which resulted in their termination. Zurich claimed that despite Mr. Omen's authorization of off the record PTO, Plaintiffs should have known that it was wrong to take time off and not record it as PTO. The trial lasted for three and a half weeks and the jury deliberated for one and a half days before returning a verdict in favor of Plaintiffs.

and Emily L. Dahm of Mirador Law

Defense Attorneys: Marina B. Pitts of Leone Alberts & Duus

Plaintiff's Expert Witnesses: Dr. Ninad Karandikar, M.D. (Life Care planning), Dr. Edgar Angelone, Ph.D. (Neuropsychology), Dr. Elizabeth Marlow, Ph.D. (Ophthalmology), Dr. Murray Solomon, M.D. (Neuroradiology), Dr. Sudhanva Rajogopal, Psy. D. (Neuropsychology), Dr. Suzanne Rodriguez, Ed.D. (School Administration).

Defense Expert Witnesses: Dr. Jason Peplinski, Ph.D. (School Administration)

Facts & Allegations: On January 7, 2020, plaintiffs Esmeralda Gonzalez and her mother Maria Jimenez went to James Logan High School, part of the New Haven Unified School District, where Esmeralda was a sophomore student at the time. They were there to speak with school officials because Esmeralda had been threatened and bullied for the better part of a year, including that morning before school, by another James Logan High School student, T.S. Once they arrived at the school parking lot and exited their car, Plaintiffs were immediately approached and attacked by T.S. and

GONZALEZ V. NEW HAVEN UNIFIED SCHOOL DISTRICT

Case Type: Case Type: School Bullying / Assault

Venue: Alameda County Superior Court

Judge: Hon. Jenna Whitman

Date: May 2, 2024

Verdict: \$9,573,616 to Plaintiffs.

Plaintiffs' Attorneys: Megan T. Burns



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D.S., a teenager from a different high school. T.S. and D.S. were accompanied by a school security guard who failed to prevent or intervene in the attack.

As a result of the attack, Esmeralda suffered minor physical injuries and significant emotional and psychological injuries. Maria suffered a bilaterally broken nose, a mild traumatic brain injury, and severe emotional and psychological injuries.

Plaintiffs argued that the school district was negligent in failing to intervene in the ongoing bullying of Esmeralda by T.S., preventing the violent attack on the school campus that day, and protecting its student, Esmeralda, and her mother, Maria, while they were on campus.

Defendant denied liability. It claimed it had properly supervised its employees and that the attack by T.S. and D. S. was sudden and unforeseeable. It further argued that it had no notice of the ongoing bullying of Esmeralda by T.S.

Notes and Pre-Trial Offers:

Plaintiffs issued CCP 998 offers prior to trial in the amount of \$750,000 for plaintiff Esmeralda Gonzalez and \$1,650,000 for plaintiff Maria Jimenez.

Defendant issued CCP § 998 offers prior to trial in the amount of \$50,000 for plaintiff Esmeralda Gonzalez and \$115,000 for plaintiff Maria Jimenez.

DURAI PANDIAN V. MILLER

Case Type: Automobile Personal Injury

Venue: Santa Clara County Superior Court

Judge: Hon. Carol Overton

Date: May 21, 2024

Verdict: \$1,213,147 in total damages for Plaintiff.

Plaintiff's Attorneys: Tanya Gomeran and Robert Hester of Gomeran Bourn & Associates.

Defense Attorneys: Ed Hawkyard and Deborah Bjonerud of Jeanette N. Little & Associates.

Plaintiff's Expert Witnesses: Dr. Steven Feinberg (PM&R), Dr. Kenneth Light (orthopedic spine surgeon), Dr. Basil Besh (orthopedic upper extremity sur-

geon), Dr. Myron Marx (radiologist), Tracy Albee (life care planner), Dr. Robert Cottle (vocational rehabilitation), Dr. Phil Allman (economist)

Defense Expert Witnesses: Dr. Dimi-triy Kondrashov (orthopedic spine surgeon), Dr. Eric Stuffmanm (orthopedic upper extremity surgeon), Dr. William Hoddick (radiologist), Stephanie Engler (life care planner), Maria Brady (vocational rehabilitation), Dr. Eric Drabkin (economist).

Facts & Allegations: On July 3, 2018, Plaintiff Gayathri Duraipandian was a passenger in a car that was T-boned by a van driven by Defendant who ran a red light. Despite the fact that Defendant admitted to running the red light on police bodycam footage, the defense refused to stipulate to liability until a month before trial.

Plaintiff's main injuries were L5-S1 disc herniation and right elbow nerve impingement of the ulnar nerve. Approximately a half year after the crash, Plaintiff was offered a microdiscectomy and cubital tunnel release surgery, but declined, opting for more conservative treatment including injections, ayurvedic treatment in India, and home exercises. Plaintiff is a Physical Therapist who completed her Doctor of Physical Therapy after the crash and relied on her knowledge as well as help from family for her own home exercise program. Over time, her L5-S1 disc collapsed, impinging her S1 nerve, and possibly caused permanent nerve damage. Four and a half years after the crash,

Plaintiff underwent cubital tunnel release surgery with mixed results. Right before trial, her spine surgeon recommended a 2-level fusion surgery. Plaintiff's expert recommended a 2-level disc replacement surgery.

The defense claimed that Plaintiff was the cause of her condition by failing to mitigate her damages. They argued that Plaintiff was non-compliant with medical advice because she left the trauma center after the accident against medical advice, she refused the two surgeries that were initially recommended by her doctors, and she did not receive formal physical therapy as recommended by her doctors. The defense also argued that Plaintiff should have returned to work at full capacity within ten months after the crash, which is when their experts said she would have made a full recovery following the microdiscectomy recommended to her. Plaintiff instead went to India to receive medical treatment.

Ultimately, the jury deliberated and found for Plaintiff. The jury awarded \$1,213,147 in total damages to Plaintiff for her injuries.

Notes and Pre-Trial Offers: Just before trial, three and a half years after filing, the defense served a CCP § 998 offer for \$500,000, which was rejected. Plaintiff made a CCP § 998 offer for \$1,299,999 including costs, which Plaintiff beat at trial. The cost motions are currently pending.

