

Court of Common Pleas of Ohio.

EUGENE BIOLAN v. RENITA GALLAGHER

CV-06-592498

DATE OF VERDICT/SETTLEMENT: January 9, 2008

TOPIC: MOTOR VEHICLE AUTO ACCIDENT - DISABLED VEHICLE - MECHANIC INJURED

SUMMARY:

Result: Verdict: \$22,575 less 40% comparative negligence for a net award of \$13,545. Breakdown: \$9,000 for pain and suffering and \$13,575 for past medicals.

EXPERT WITNESSES:

Plaintiff's: [Rod W. Durgin](#), Ph.D. - Vocational Rehabilitation - Toledo, OH; [Charles F. Lanzieri](#), M.D. - Radiologist - Cleveland, OH; [Richard Sabransky](#), M.D. - Physiatrist - Cleveland, OH; [Henry P. Lipian](#) - Accident Reconstruction - Grafton, OH

Defendant's: [Mark A. Anderson](#) - Vocational Rehabilitation - Rocky River, OH

ATTORNEY:

Plaintiff's: [Steven M. Weiss](#), Cleveland

Defendant's: [Terrence J. Kenneally](#), Fairview Park

JUDGE: [Brian J. Corrigan](#)

RANGE AMOUNT: \$1-49,999

STATE: Ohio

COUNTY: Cuyahoga

ALLEGED INJURY: Herniated discs at L4-L5 which permanently disabled plaintiff from returning to work as a mechanic. He also sustained a contusion/abrasion to the lower leg. Plaintiff claimed \$18,847 in past medicals, \$27,000 in past wage loss and \$106,000 in future wage loss.

SUMMARY:

Plaintiff Information:

Age: 57

Sex: M

Occupation: Auto mechanic

Marital Status: Divorced

Insurance Carrier: Allstate

Jury Deliberations: 5 hours

FACTS:

A Cuyahoga County jury awarded \$22,575 to an auto mechanic who was injured while attempting to assist a motorist in starting her car. However, the jury found the plaintiff 40% comparatively negligent and reduced the verdict accordingly.

Defendant Renita Gallagher had run out of gas and/or was unable to restart her car. Plaintiff Eugene Biolan, a mechanic, was attempting to start the vehicle. He was standing at the front of the car looking under the hood of the vehicle. When the vehicle started, defendant pulled the car forward and the right

front tire struck plaintiff and knocked him to the ground.

Plaintiff alleged defendant was negligent and/or reckless in attempting to drive the car with its hood still up in the air. Plaintiff claimed he sustained a herniated lumbar disc that rendered him unable to return to work as an auto mechanic. Plaintiff's accident reconstruction expert testified that defendant was negligent. The vocational rehabilitation expert testified that plaintiff was unemployable as a result of his injuries. A physiatrist testifying on plaintiff's behalf stated that the herniated disc was likely caused by the motor vehicle accident. Plaintiff's radiology expert testified that the herniation was not due to degenerative disc disease and was fairly recent in origin.

Defendant contended plaintiff was comparatively negligent in telling her to move the car forward. Defendant's vocational rehabilitation expert stated that plaintiff was employable.

EDITOR'S NOTE:

Per defendant's counsel, surveillance film depicted plaintiff setting up and then climbing scaffolding, which impacted the outcome of the case.

JAS Publications, Inc.

Court of Common Pleas

PUBLISHED IN: Vol. 22, No. 9

JAS OH Ref. No. 236246WL (Ohio Com.Pl.), 2008 WL 598269

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