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Tri-Service

GREENE, BROILLET, et al

JANUARY 15, 1996

WEEKLY JURY VERDICT REPORTS

VOL 96, NO. 2

Injury	Offer/Demand	Court/Judge		
Police Pursuit: Transit Police Chasing			\$22,000,000 gross ..	4
Multiple Serious Injuries	\$500,000/\$7,000,000	L.A. Central/Baker	\$13,000,000 net	
Plf: Brian J. Panish & Browne Greene (Greene, Broillet, et al.), Santa Monica Robert Scott Shtofman (Law Offices of Robert Scott Shtofman), Los Angeles Dfs: Carol Ann Rohr & Spencer C. Krieger (Francell, Strickland, et al.), Pasadena				
Product Liability: Hydraulic Ship Loader			\$791,943	5
Compression Fx	\$100,000/\$750,000	Long Beach/Gordon		
Plf: Richard Devirian (Devirian, Utley & Detrick), Wilmington Dfs: James M. Fraser (Law Offices of Patrick E. Whalen), Costa Mesa Peter Arnold (Company President, In Pro Per), San Dimas				
Breach of Contract: Lease/Purchase of Commercial Property			\$583,863	5
\$2,497,863	None/\$1,000,000	San Diego/Roberts		
Plf: Stuart M. Eppsteiner & Robert C. Maxie (Gibbs, Eppsteiner & Stagg), San Diego Dfs: Joseph H. Bockock (McAfee & Taft), Oklahoma City, OK Carrie Battilega (Sheppard, Mullin, Richter & Hampton), San Diego				
Garbage Truck vs. Auto: Rearenders/Disputed Lane Change			\$418,000	6
Herniated Disc	\$80,000/\$250,000	San Bernardino/Mandabach		
Plf: Herbert L. Michel, Jr., Los Angeles Dfs: Gregory F. Stannard, Santa Monica				
Conversion/Conspiracy: Bookkeeper Embezzled Money			\$233,000	7
\$167,000	\$102,000/\$125,000	San Diego/O'Rourke		
Plf: Michael H. Riney (Seltzer, Caplan, Wilkins & McMahon), San Diego Dfs: David R. Thompson, Carlsbad				
Solo Motorcycle: Sprinkler Spraying on Freeway			\$150,000 gross	7
Fx Tibia/Fibula	\$5,000/\$25,000	L.A. Central/Huss	\$112,500 net	
Plf: Robert Tobias, Santa Monica Dfs: Charles M. Belenky (Ruffolo, Vidor, Danielson & Harrel), Los Angeles				
Sexual Battery: Waitress (Minor) Assaulted by Boss			\$80,000	8
Emotional Distress	None/\$50,000	San Diego/McIntyre		
Plf: Susan Graham (Perona, Langer & Beck), Long Beach Dfs: In Pro Per				
Wrongful Termination: Major Account Manager			\$79,185	8
Lost Earnings	None/\$30,000	L.A. Central/Kalustian		
Plf: Lisa L. Maki (Law Offices of Lisa L. Maki), Los Angeles Dfs: Dominic Surprenant and Scott B. Kidman (Quinn, Emanuel, et al.), Los Angeles				
Wrongful Eviction: Man on Welfare			\$70,500	9
Emotional Distress	None/\$250,000	U.S. Los Angeles/Kenyon		
Plf: David R. Cadwell, Beverly Hills Dfs: Robert E. Levine and Jody Steinberg (Stein, Hanger, Levine & Young), Encino				
Auto vs. Auto: Disputed Green Light			\$52,000	10
Torn Meniscus	None/\$40,000	Santa Ana/Thrasher		
Plf: Jonathan Goldstein (Goldstein & Ward), La Habra Dfs: Scott A. Whitcomb (William Cole & Associates), Santa Ana				
Breach of Written Contract: Commercial Lease			\$44,554	10
\$30,000	\$30,000/\$40,000	L.A. Central/Cappai		
Plf: David Allen (Allen & Allen), Encino Dfs: Elli Azhang (Azhang & Associates), Irvine				
Malicious Prosecution: Sale of Business			\$37,677	11
\$22,677 in Fees	\$10,000/\$30,000	L.A. Central/Jaeger		
Plf: Drew Pomerance (Pomerance & Associates), Los Angeles Dfs: G. Cresswell Templeton II (Hills, Farrer & Burrill), Los Angeles				

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Discrimination: Engineer Laid Off Defense 19
 \$150,000 LOE \$10,000/\$100,000 San Diego/Gamer
 Plf: Harold Thompson, San Diego
 Dfs: Gregg C. Sindici (Littler, Mendelson, Pastiff, Tichy & Mathiason), San Diego

Interference With Contractual Relations: Car Sale Defense 20
 \$20,000 Lost Profits \$7,500/\$200,000 San Diego/Hayes
 Plf: Bob Iafe (Potter & Taylor), San Diego
 Dfs: Kevin R. Graham (Royce, Grimm, Vranjes, McCormick & Graham), San Diego

Auto vs. Motorcycle: Yellow Light Out on Signal Defense 20
 Facial Scars \$5,000/\$50,000 Van Nuys/Mayor
 Plf: Leonard Black, Encino
 Dfs: James A. Birmingham (L.A. City Attorney), Sherman Oaks

Truck vs. Auto: Rearend at Light Defense 21
 Soft Tissue \$3,201/\$8,000 Huntington Park Muni/Lopez
 Plf: Sonia Perez-Chasen (Law Offices of Jian Torkan), Los Angeles
 Dfs: Deborah K. Peterson (Barry Bartholomew & Associates), Glendale

Auto vs. Auto: Intersection/Admitted Liability Defense 21
 Bulging Disc \$2,000/\$12,500 Ventura/Jones
 Plf: Michael L. Muirhead (Blueul & Muirhead), Ventura
 Dfs: Gerald B. Velasco (McCarthy & Associates), Santa Barbara

Assault & Battery/Conspiracy: Hit By Baseball Bat Defense 22
 Death/age 18 None/\$1,000,000 Pomona/Mortimor
 Plf: Thomas Barham (Barham & Ostrow), Los Alamitos
 Dfs: Joseph Howington (Law Offices of Joseph Howington), Claremont
 David Mazurer (Law Offices of David Mazurer), Claremont

Police Negligence: Excessive Force During Arrest. Defense 23
 Fx Leg/Knee Cap None/\$5,000,000 San Fernando/MacLaughlin
 Plf: William Lorden, Inglewood
 Dfs: Richard L. James (Deputy City Attorney), Los Angeles

Premises Liability: Fell Off Seat on Disneyland Ride Defense 23
 Herniated Disc None/\$250,000 Santa Ana/Cook
 Plf: Lawrence Young & Chulk Walker (Law Office of Lawrence Young), Manhattan Beach
 Dfs: Richard McCain (McCain & Ragsdale), Tustin

Medical Malpractice: Failed to Diagnose Hemothorax Defense 24
 Death/age 59 None/\$29,999 San Diego/Prager
 Plf: James McElroy (Law Offices of James E. McElroy), San Diego
 Dfs: Richard D. Barton (McInnis, Fitzgerald, Rees & Sharkey), San Diego

Civil Rights: Forced Entry Into Home Defense 25
 Death/age 56 None/\$3,000,000 U.S. Northern/Jensen
 Plf: Peter Kagel & Monti Stegan (Kagel & Stegan), San Francisco
 Dfs: Patrick J. Mahoney & Andrew C. McCullough (Office of the City Attorney), San Francisco

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Attorneys Index 29

96-02-01

Police Pursuit: Transit Police Chasing

Verdict:

\$22,000,000 gross
\$13,000,000 net

Plaintiff Attorneys:	Brian J. Panish & Browne Greene (Greene, Broillet, Taylor & Wheeler), Santa Monica	(310) 576-1200
	Robert Scott Shtofman (Law Offices of Robert Scott Shtofman), Los Angeles	(213) 623-0800
Defendant Attorneys:	Carol Ann Rohr & Spencer C. Krieger (Francell, Strickland, Roberts & Lawrence), Pasadena	(818) 304-7830
Trial Judge:	Valerie Baker	L.A. Central 12/15/95
Trial Time:	30 Days	Deliberation Time: 2 1/2 Days
Insurance Co:	Self-Insured	
Case:	Lusik Pogosyan and Konstantin Aktsiklou vs. Southern California Rapid Transit District BC 070 359	

Facts: Trifurcated Trial, Immunity, Liability, Damages
12/16/91 at 1:00 p.m.: Plaintiff, a 45 year-old student, was entering her car after completing classes at Los Angeles City College. She was struck by a vehicle driven by Mr. Elgharor (an Egyptian Immigrant) who was heading to his bank. Plaintiffs alleged that his vehicle was fleeing from the RTD police and a vehicle driven by two women with whom he had been involved in a minor fender bender at a gas station located at Vermont and Melrose, one half mile from this accident scene.

Injuries: Traumatic left leg amputation above the knee, degloving of skin on remaining stump, sever crushing injuries with multiple fractures, degloving of skin to right leg, massive internal injuries including ruptured bladder and crushed pelvis. Husband in for loss of consortium. **Treatment:** Multiple surgeries.

Medical Costs: \$157,000 past, \$2,700,000 future
Loss of Earnings: \$40,000 past, \$500,000 future

Contentions: **Plaintiff claimed** the RTD were in pursuit in violation of their pursuit policy and were the cause of the fleeing vehicle striking Plaintiff in front of a college during school hours with heavy pedestrian foot traffic. The RTD Police were in pursuit without authority and using lights and sirens which was below the District's Policy. The Officers were severely impeached by eye witnesses and police documents and their deposition testimony.

Defendant argued they were not in pursuit. They arrived 5 minutes after the accident. They never used lights or sirens. Mr. Elgharor nor the two women chasing Mr. Elgahror's vehicle, had seen a black-and-white vehicle or flashing lights or heard sirens. The Plaintiff's claimed damages were excessive.

Settlement: **Offer:** \$500,000
Demand: \$500,000 CCP 998 increased to \$1,000,000 before immunity phase increased to \$2,000,000 at start of liability phase increased to \$7,000,000

Verdict: \$22,000,000 gross, \$13,000,000 net; \$3,250,000 economic, \$17,000,000 non-economic for Lucy Pogosyan and \$1,250,000 non-economic for Konstantin Akstiglou for loss of consortium
The jury found RTD 52% negligent, the fleeing vehicle 34% negligent and the vehicle which was chasing t fleeing vehicle and had been involved in the traffic collision at gas station 14% negligent.

Jury Poll: 10-2 liability, 12-0 and 11-1 on damages

Note: This case was trifurcated on Defendants motion and set to be tried in three phases: Immunity, Liability ar Damages. Plaintiff's counsel served a 998 offer to compromise in the amount of \$435,000 for the wife ar \$65,000 for the husband. The 998 demand was accepted contingent upon Board approval which was not receive prior to Plaintiffs withdrawing their demand. Motion to enforce settlement was opposed by RTD and denie. Francell, Strickland et al were substituted in as trial counsel. Greene, Broillet associated as trial counsel.
The immunity phase was tried and Plaintiffs prevailed. The court held that the policy did not meet the criteri set forth in Vehicle Code 17004.7. Liability was tried and then damages.

Plaintiff Experts:	Knapp, Thomas Bochner, Bernard Matheson, Leonard Roughan, Jan Ganz, G. Thomas Johnson, Robert Spivack, Mitchell J.	Orthopedic Surgeon Urologist Rehabilitation Life Care Plan Accident Reconstruction Economist Bankruptcy/Bank Collections	Santa Monica Los Angeles Santa Ana Pasadena Huntington Beach Los Altos San Clemente
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Defense Experts:	Morris, G. Michael Bruno, Gene Pabst, Wes Callanan, Joseph	Rehabilitation Life Care Plan Accident Reconstruction Police Practices	San Clemente Los Angeles Los Alamitos Morro Bay
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96-02-02

Product Liability: Hydraulic Ship Loader **Verdict:** **\$791,943**

Plaintiff Attorney:	Richard Devirian (Devirian, Utley & Detrick), Wilmington		(310) 830-2323
Defendant Attorney: for Rucker, Inc.:	James M. Fraser (Law Offices of Patrick E. Whalen), Costa Mesa		(714) 435-6600
for M.T.I.:	Peter Arnold (Company President, In Pro Per), San Dimas		
Trial Judge:	Norman Gordon	Long Beach	11/13/95
Trial Time:	15 Days	Deliberation Time:	3 1/2 Days
Insurance Co:	Paul-Munroe Rucher: AIG		
Case:	Nicholas Ramos vs. Paul-Munroe Rucker, Inc. and Mechanical Technologies International NC 006 878		

Facts: 8/13/91: Plaintiff, a 57 year-old ship utility welder, was injured when he fell 25-30 feet after a hydraulic line ruptured. Plaintiff's employer had installed a hydraulically actuated ship loader for scrap metal. It did not have a counter-balance valve. Defendant Paul-Munroe Rucker, Inc. is the manufacturer and seller of the hydraulic system. Mechanical Technologies International is the designer and preparer of initial design drawings.

Injuries: T-12 compression fracture, fracture of shoulder and elbow. **Treatment:** Open reduction and pin fixation. **Residuals:** Walking on crutches and/or a cane at time of trial and limitation in elbow.

Medical Costs: \$92,664 past, \$57,399 future

Loss of Earnings: \$163,064 past, \$350,000 -\$499,392 future

Contentions: **Plaintiff claimed** the hydraulic system was defective in its design and manufacture.

Defendants argued that they just followed Mechanical Technologies International design. The ship loader was not designed for workmen to stand upon.

Settlement: **Offer:** \$100,000 **Demand:** \$650,000 CCP 998 increased to \$750,000

Verdict: \$791,943 total; \$416,943.70 economic and \$375,000 non-economic plus CCP 998 interest of \$128,000 against Paul-Munroe Rucker, Inc.
Defense for MTI.

Jury Poll: 12-0

Note: Compensation lien of \$200,000 was purchased by Defendant Paul-Munroe Rucker, Inc.

Plaintiff Experts:	Capen, Daniel Siegel, Martin Guzman, Conrad	Orthopedic Surgeon Mechanical Engineer Marine	Downey Los Angeles San Pedro
Defense Experts:	Steiger, Ralph St. Martin, Manuel Kar, Mamesh J.	Orthopedic Surgeon Psychiatrist Engineer	Covina Los Angeles Garden Grove

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96-02-03

Breach of Contract: Lease/Purchase of Commercial Property **Verdict:** **\$583,863**

Plaintiff Attorneys:	Stuart M. Eppsteiner & Robert C. Maxie (Gibbs, Eppsteiner & Stagg), San Diego		(619) 234-1760
Defendant Attorneys: for Fleming Co.'s:	Joseph H. Bocoek (McAfee & Taft), Oklahoma City, OK Carrie Battilega (Sheppard, Mullin, Richter & Hampton), San Diego		(619) 338-6616