

**CLAIMED INJURIES**

According to defendant: Death after four days in hospital.

**CLAIMED DAMAGES**

According to defendant: \$80,000 medical lien.

**SETTLEMENT DISCUSSIONS**

According to defendant: Demand: \$50,000 arbitration award.  
Offer: \$15,000 prior to litigation; \$10,000 (CCP 998).  
Arbitration award: \$50,000.

**TRIAL EXPERTS**

Plaintiff: Marlowe Eldridge, pediatrician, UC Davis, Davis.  
Defendant: Curtis Rollins, pathologist, Sacramento.  
Louis Vismara, cardiologist, Sacramento.

**EXPERT TESTIMONY**

According to defendant: The plaintiff's doctor stated that the decedent was without oxygen for four or more minutes, evidenced by his condition upon admission. The doctor did not know of the heart condition until just before the trial. He was unable to comment as to the correlation between the heart condition and the death.

Defense expert Rollins performed the autopsy. He opined that the cause of death was underwater submersion but that the submersion was most likely due to the enlarged heart, causing an arrhythmia. During the autopsy it was discovered that the decedent's heart was approximately three times the normal size. Defense expert Vismara stated that the enlarged heart was the cause of decedent's sudden death. He would have lost consciousness from an arrhythmia caused by the enlarged heart muscle and at that point his lungs filled with fluid and he was no longer getting oxygen, even with immediate CPR. The expert concluded that the episode could have occurred at any time or location. The fact that decedent was in the pool had no effect on the enlarged heart or arrhythmia.

**COMMENTS**

According to defendant: Plaintiff father resided in the United States but the son lived with an aunt. Plaintiff mother resided in the Philippines and had little contact with her son. No figure was stated to the jury by plaintiffs' counsel. The defense attorney asked the jury to award a defense verdict. The insurance carrier was SAFECO.

**14 TD 78**

## Van rolls over onto ejected passenger after a tire blowout

**NEGLIGENCE**

Miscellaneous

**PRODUCT LIABILITY**

Motor Vehicles : Tire/Wheel

**LOS ANGELES COUNTY SUPERIOR COURT**

*Fuller v. Greater Bethany Community Church*, No. BC109995, Downtown. Henry W. Shatford. Jury trial: 7 weeks.  
Verdict/judgment: 8/25/98.

**VERDICT/JUDGMENT: \$12,858,000**

\$3,595,414 economic and \$6,500,000 non-economic damages awarded to plaintiff Shirlee Fuller as against defendants Greater Bethany Community Church and Geoffrey Hunte. Plus prejudgment interest of \$2,563,958. \$14,500 economic and \$50,000 non-economic damages awarded to plaintiff Josephine Hunte as against defendants Greater Bethany Community Church and Geoffrey Hunte. \$35,000 economic and \$100,000 non-economic damages awarded to plaintiff Geoffrey Hunte. Defense verdict for Fairmont Tire and Rubber. Defendant church was held 97 percent liable and defendant Geoffrey Hunte was held 3 percent liable. Vote: Not reported. Deliberations: 14 hours.

**TRIAL COUNSEL**

Plaintiff: Brian J. Panish, Greene, Broillet, Taylor, Wheeler & Panish, Santa Monica. H. Neil Margolin, Lipton & Margolin, North Hollywood.

Defendant: A. Bennett Combs Jr., Law Offices of A. Bennett Combs Jr., Mission Viejo. Jack C. Tannenbaum, Staitman, Snyder & Tannenbaum, Encino. R. Wesley Beavers, Koester & Gelman, Anaheim.

**FACTS/CONTENTIONS**

According to plaintiff: Plaintiffs claimed that negligent failure to maintain and repair a van resulted in a tire blowout and a rollover by the van in which plaintiffs were passengers. The plaintiffs were Shirlee Fuller, Geoffrey Hunte and Josephine Hunte. The defendants were Greater Bethany Community Church, Geoffrey Hunte and Fairmont Tire and Rubber. Plaintiffs were members of defendant church located in South Central Los Angeles. The church's Praise Ministry was responsible for the sale of tapes, books and other items used to spread the gospel. It participated in national and local gatherings of the Pentecostal churches. The pastor was in charge of the western United States congregations of the Pentecostal churches.

The church owned three vans and one bus which were used to transport parishioners to and from church and to attend church meetings and conventions. They also had a busing ministry which was responsible for maintenance of the vehicles and training the drivers. In August 1993, prior to church members leaving for an annual convention at which they intended to sell tapes and books, the church mechanic inspected their van and made repairs. He recommended that all four tires be replaced. The church administrator, who later said he did not recall being told how many of the tires needed replacement, took the van to defendant Fairmont Tire and Rubber. He allegedly told Fairmont employees that the van was being readied for a long trip and the employees allegedly told the administrator that only three tires needed

to be replaced and that the remaining tire was "roadworthy" for the trip. Based upon that advice, he purchased only three tires.

On the morning of August 4, 1993 the van left the church for Cleveland, Ohio. Plaintiff Geoffrey Hunte and his wife planned to drive straight through to Cleveland without stopping to sleep. At 2:00 p.m., on a highway east of Albuquerque, New Mexico, the left rear tire (the one that was not replaced) blew out and the van rolled over. Plaintiff Shirlee Fuller who was sleeping in the front seat of the van, was ejected and the van rolled over on top of her. Plaintiff Josephine Hunte was sleeping in the back of the van and was thrown about during the rollover but was not ejected.

Plaintiffs alleged that defendant church negligently failed to properly maintain/repair the van, thereby placing an unsafe vehicle on the road by failing to replace the worn tire. Plaintiffs also alleged that it failed to provide a properly trained driver for the van and that it overloaded the van, making it more difficult to control during a blowout. Plaintiffs further alleged that defendant Geoffrey Hunte failed to operate the van in a safe manner and that he lost control and was driving without proper rest.

Defendant church contended that it was not negligent and that the administrator relied on the expertise of the tire company and, therefore, did not replace the tire that failed. Defendant church further contended that Hunte was a qualified driver who had driven on many occasions for the church and that he reacted properly. Defendant church argued that if the church were held liable, the tire company should bear the majority of the responsibility. Defendant tire company contended that it did not make "trip" recommendations and that it would not have made the representations claimed by the church. Further, its standard practice was to sell tires in pairs and that they would not have suggested that the customer buy only three tires.

As to damages, defendants contended that plaintiff Fuller did not suffer a severe head injury and that all objective tests for brain damage were normal. Further, defendants contended that Fuller would fully recover from all her injuries and that her claim for future medical care and assisted living were not necessary.

#### CLAIMED INJURIES

According to plaintiff: Shirlee Fuller: Crushed pelvis with chronic pain syndrome; inability to walk without assistance; pneumothorax; closed head injury; chondromalacia of left knee. Geoffrey Hunte: Broken right arm. Josephine Hunte: Soft tissue injuries to back/neck.

#### CLAIMED DAMAGES

According to plaintiff: Fuller: \$116,000 past medical; \$3,434,788 future medical; \$81,747 past income; \$333,562 future income. Josephine Hunte: \$5,169 past medical; \$9,000 past income. Geoffrey Hunte: \$15,814 past medical; \$10,000 future medical; \$9,000 past income.

#### SETTLEMENT DISCUSSIONS

According to plaintiff: Demand: \$5,000,000 total before trial by plaintiff Fuller increased to \$8,000,000 during trial; \$975,000 (CCP 998) by Fuller; \$99,000 (CCP 998) by Geoffrey Hunte; \$29,000 (CCP 998) by Josephine Hunte. Offer: \$1,000,000 during trial by defendant church and \$200,000 from defendant tire company.

#### TRIAL EXPERTS

Plaintiff: Lawrence S. Miller, physiatrist, St. Joseph's Medical Center, Burbank (818) 840-7903. William P. Jennings, Ph.D., economist, Northridge. Keith Feder, orthopedic surgeon, West Coast Center for Orthopaedic Surgery, Manhattan Beach (310) 416-9700. Thomas DeCoster, orthopedist, Albuquerque, NM. Castoria Seymore, pain management physician, Inglewood. Lorraine Gilberto, chiropractor, Riverside. Rama Chandra, orthopedist, Los Angeles.

Defendant: N. Paul Rosenthal, neurologist, Sherman Oaks (818) 995-1174. Anthony C. Stein, human factors consultant, Safety Research Associates, La Canada (818) 952-1500.

#### COMMENTS

According to plaintiff: Church Mutual was the insurance carrier for defendant church and Hunte; Nationwide was the carrier for Fairmont. Plaintiff trial counsel, Brian J. Panish, was brought in two months before trial. Brian J. Panish represented plaintiff Shirlee Fuller and provided the information in this report. H. Neil Margolin represented plaintiffs Hunte. Jack J. Tannenbaum represented defendant Greater Bethany Community Church. A. Bennett Combs represented defendant Geoffrey Hunte. R. Wesley Beavers represented defendant Fairmont Tire and Rubber.

### POLICE MISCONDUCT

14 TD 79

#### Breach of promise of confidentiality and failure to warn result in gang retaliation and death

#### POLICE MISCONDUCT

Miscellaneous

NEGLIGENCE

Miscellaneous

WRONGFUL DEATH

Minor

#### SAN BERNARDINO COUNTY SUPERIOR COURT

*Mancha v. City of Ontario*, No. SCV12184, Central. Cynthia Ludvigson. Jury trial: 10 days. Verdict/judgment: 12/2/98.