

## \$17.4 million to 27-year-old filmmaker after crash; defense claims no objective evidence of brain injury. San Diego County.

### Summary

Ph.D. candidate who had already produced several movies claims his life/career will never be the same after brain injury and head pain following auto accident. Defense says brain damage claims are unfounded.

### The Case

**Case Name:** Sheaffer v. NuCO2  
**Court and Case Number:** : San Diego Superior Court / 201200058735  
**Date of Jury Verdict:** Wednesday, June 03, 2015  
**Date Action was Filed:** Wednesday, November 21, 2012  
**Type of Action:** Vehicles - Truck vs. Auto (/recent-verdicts/category/vehicles-truck-vs-auto), Highlighted Verdicts (/)  
**Judge or Arbitrator(s):** Hon. Timothy Casserly  
**Plaintiffs:**  
Russell Sheaffer, 27, filmmaker and graduate student  
**Defendants:**  
NuCO2, Inc.  
Thomas J. Mose (defendant driver)  
**Type of Result:** Jury Verdict

### The Result

**Gross Verdict or Award:** \$17,393,480  
**Net Verdict or Award:** \$17,393,480  
**Economic Damages:**  
Past medical expenses from 11/3/12 to 5/7/15: \$112,227.87  
Past medical expenses from 5/7/15 to 6/3/15: \$29,675  
Future medical: \$2,746,470  
Past loss of earnings: \$5,107  
Future loss of earning capacity: \$2,000,000  
**Non-Economic Damages:**  
Past Non-Economic: \$7,000,000  
Future Non-Economic: \$5,500,000  
**Trial or Arbitration Time:** 4 weeks.  
**Jury Deliberation Time:** 2 days.  
**Post Trial Motions & Post-Verdict Settlements:** Confidential settlement.

### The Attorneys

**Attorney for the Plaintiff:**  
Panish Shea & Boyle LLP by Brian Panish, Deborah Chang and Tom Schultz, Los Angeles.  
Law Office of Carla DeDominicis by Carla DeDominicis, Escondido.  
**Attorney for the Defendant:**  
Yukevich | Cavanaugh by James Yukevich and Cristina Ciminelli, Los Angeles.

### The Experts

**Plaintiff's Medical Expert(s):**  
Christopher Brown, DDS, (non-retained treating dentist/TMJ specialist/pain management specialist), Versailles, IN.  
John Hesselink, M.D., neuroradiologist, San Diego.  
Dean Delis, Ph.D., neuropsychologist, San Diego.  
James Brewer, M.D., Ph.D., neurologist, San Diego.  
**Defendant's Medical Expert(s):**  
Kyle Boone, Ph.D., neuropsychologist, Los Angeles.  
Michael Brant-Zawadzki, M.D., neuroradiologist, San Diego.  
Lester Machado, M.D., DDS, oral and maxillofacial surgeon, San Diego.

### Facts and Background

**Facts and Background:**  
On Nov. 3, 2012, plaintiff Russell Sheaffer, 24, a Ph.D. student at Indiana University who was in California working on a documentary film, was the driver of the number three vehicle stopped in a line of five vehicles on Interstate 15 South in Escondido. A 35,000-pound Freightliner tanker truck operated by Thomas J. Mose for NuCO2, Inc. crashed into the rear vehicle in the line of vehicles, causing a chain-reaction. Mr. Sheaffer's Toyota Solara was struck from behind, causing his driver's seat to break. He was thereafter propelled into the larger SUV in front of him.

#### Plaintiff's Contentions:

That defendant driver was negligent and was the sole cause of plaintiff's injuries; further that plaintiff sustained multiple head injuries, including multiple fractures to his jaw and face and a concussion. The head injury resulted in traumatic brain injury (TBI) which will affect him for the rest of his life; that his promising film career would be impacted. Future surgical procedures and continued care and therapies will be required in the future for his jaw and chronic pain.

#### Defendant's Contentions:

The defendants admitted liability, but disputed the nature and extent of the injuries. Defendants disputed plaintiff's claim of a permanent traumatic brain injury, arguing instead that he suffered from a somatoform disorder that caused him to believe he was injured when he was not. Defendants also argued that plaintiff continued to be successful after the incident, and that his injuries did not impair his earning capacity or greatly affect his life. Defendant claimed that plaintiff's CT scan was negative and he had a perfect GCS of 15. He was a 4.0 graduate student at Indiana University and received numerous awards without ever missing a class.

### Injuries and Other Damages

#### Physical Injuries claimed by Plaintiff:

Multiple fractures, trauma leading to ischemic bone disease/osteoarthritis of the jaw, deterioration and degeneration of the condyles and mandible, traumatic brain injury (mild complex). After the incident, plaintiff was hospitalized for three days and was discharged after surgery and his jaw was wired shut for eight weeks. He required subsequent surgical interventions for pain and malocclusion, including a modified condylotomy. His treatment thereafter included pain medication, the use of a pain stimulator, physical therapy, craniofacial massage therapy, splint therapy, and psychotherapy. Future surgical procedures and continued care and therapies will be required in the future for his jaw and chronic pain.

### Demands and Offers

**Plaintiff \$998 Demand:** \$7,310,000  
**Defendant \$998 Offer:** \$1,000,000

Defendant Offer during Trial: \$5,000,000

### Additional Notes

Defendant's insurer: AIG Excess in New York.

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