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The defendant ophthalmologist, G. Richard Keskey, M.D., delayed the appropriate steroid treatment for shingles affecting the eye of plaintiff, Mary Borawski, when she was 65 years old. The delay resulted in uncontrolled secondary glaucoma, and plaintiff, after surgeries for repairs, has vision which is correctable to 20/40.

The plaintiff's experts in this case were John Hope, M.D., and Philip Shelton, M.D.

The case was mediated for \$35,000. The jury returned a verdict of \$105,000 for the plaintiff and the parties settled after the verdict for \$147,500.

Plaintiff was represented by Stephen N. Leuctman of Southfield.

PAUL RUFF

vs.

**GRAND TRUNK WESTERN RAILROAD
COMPANY, GENERAL MOTORS COMPANY
and**

CONTROL ENGINEERING CORPORATION.

OAKLAND COUNTY CIRCUIT COURT

HON. JOHN N. O'BRIEN

Case No. 87-333995 NO

The plaintiff, a railroad brakeman for Grand Trunk Railroad, brought an action against the railroad under the Federal Employers' Liability Act, and against the other defendants for their negligent maintenance and operation of the General Motors' Pontiac Motors facility, and its equipment.

On September 8, 1986, plaintiff, Paul Ruff, was assigned to switching railroad cars in and out of the GM facility. Entering the facility was done by pushing a button to activate a garage-type door, which was electronically connected to a "derail" interlock and a yellow light to indicate when the inside track is clear. In addition, a pedestrian drawbridge was set up electronically to be in a raised position before the yellow light came on.

While plaintiff and his crew were performing their switching operations, suddenly and without warning, the pedestrian bridge, being operated by employees of defendant Control Engineering Corp., came into the train's path. Mr. Ruff attempted to jump free of the slowly moving train, landed on a cement stairwell, coming down violently on his right knee.

Plaintiff, who is now age 40, underwent surgery to repair a comminuted fracture of his right patella, extensive physical therapy after spending months in a leg cast, and a patellar chondroplasty. James Huebner, M.D., one of his treating orthopedic doctors, has diagnosed Grade II chondromalacia and Grand Trunk's chief medical officer has found him unable to return to his job. At the time of his injury, plaintiff was earning about \$35,000 per year.

Mr. Ruff settled his case with all parties on a structured basis with a cost to defendants of \$450,000. This included \$175,000 in immediate cash, \$1,500 per month for fifteen years, then \$1,333 per month for the rest of his life. He will also receive lump sums over time amounting to \$243,500.

Plaintiff was represented by James A. Brescoll of Birmingham.

**BRUCE KOHLMAN and
STELLA KOHLMAN, personal representatives
of the estate of
BRADLEY KOHLMAN, deceased**
vs.

**AMERICAN HONDA MOTOR CO, INC,
HONDA MOTOR CO, LTD,
HONDA RESEARCH &
DEVELOPMENT CO, LTD, and
FARMINGTON CYCLE WORLD, INC.
OAKLAND COUNTY CIRCUIT COURT
HON. GENE SCHNELZ
Case No. 89-374788 NP**

This case illustrates the value of an early court ordered special mediation in complex product liability litigation.

A 1986 Honda four-wheeled all-terrain vehicle flipped over on top of a 16-year-old high school student fatally severing his spinal cord on September 2, 1986. Almost three years later, after seeing a "60 Minutes" broadcast on injuries caused by ATV's, plaintiffs contacted a lawyer.

A complaint was filed in August 1989 against the designer, manufacturer, distributor, and retailer of the Honda all-terrain vehicle (ATV).

Before filing the suit, plaintiffs' attorney amassed several thousand pages of documents and advertising videotapes through independent investigation. These documents and videotapes showed that the defendants had advertised their product as being capable of traversing "all terrains" and even showed stunt riders leaving the ground, and would overcome defendant's claims that young Bradley "misused" the ATV by jumping a series of small bumps at a public park.

Although plaintiffs were prepared for a long and expensive discovery battle, the trial court at an early pretrial ordered the case to undergo an early and special mediation.

The case was mediated in April 1990 by three seasoned Oakland County attorneys, one of whom was a retired judge. The case was settled by mutual acceptance of the mediation evaluation of \$450,000 as to the Honda defendants and \$50,000 as to the dealership. Only a fraction of the anticipated costs were spent and the matter was resolved with two court appearances and within ten months of filing.

Plaintiffs were represented by George Constantine and Steven J. Pitzer of Novi.

JOHN CROSS

vs.

**STATE FARM MUTUAL AUTOMOBILE
INSURANCE CO.**

61st DISTRICT COURT

HON. PAUL SULLIVAN

Case No.: 89 GC 1070

State Farm's archaic policy of only paying 9 cents per mile for no-fault medical mileage reimbursement resulted in a jury verdict of \$350.12 plus an award of \$7,526.77 in attorney's fees and costs. Other no-fault carriers voluntarily pay their no-fault medical mileage claimants somewhere

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between 20 and 25 cents per mile.

Prior to commencing his lawsuit, plaintiff sent State Farm a chart of his mileage for various physician appointments, and requested reimbursement at the State of Michigan travel reimbursement rates. Thirteen months later, plaintiff received a reimbursement check for mileage calculated at 9 cents per mile.

During discovery, State Farm representatives admitted cars depreciate when driven but refused to pay for depreciation costs. Additionally, State Farm admitted their rate had been set some 16 years earlier when the no-fault law was enacted. Lee Czarapata of Runzheimer International, Rochester, Wisconsin, a nationally recognized expert in transportation reimbursement costs testified as to plaintiff's actual travel costs for the vehicles plaintiff used, including depreciation and other ownership costs.

Plaintiff was represented by R. Kevin Thieme of Grand Rapids.

KARINE GRAE RASMUSSEN,
personal representative of the estate of
PATRICK RASMUSSEN, deceased, and
STEVE BOYER and SHARON BOYER
vs.
EMERSON ELECTRIC CO. and
LAKE SHORE, INC.
DICKINSON COUNTY DISTRICT COURT
HON. FRANCIS BROUILLETTE
Case Nos. D83 4297-NO & D84 4486-NO

These consolidated cases challenged the plaintiffs' lawyers to prove that construction using scaffolding was "inherently dangerous activity" and to explain the lack of risk recognition on the part of iron workers hoisted on the ball while involved in rigging.

In 1983, Defendant Lake Shore undertook to erect an 85 foot high building of metal column and beam construction on its premises in Kingsford, Michigan, contracting for the services of Roy Ness Contracting. Rasmussen and Boyer were iron workers employed by Roy Ness Contracting who were attaching metal siding to the building on February 21, 1983, when the scaffolding from which they were working collapsed, pitching them 30 feet to the ground. Patrick Rasmussen was fatally injured and Steve Boyer's back and right foot were fractured.

The multi-tiered scaffolding manufactured by Louisville Ladder Company, a division of Defendant Emerson Electric Co., collapsed when a rope holding the scaffolding broke while plaintiffs were attempting to re-rig the lifting motors to increase their lifting capacity.

Plaintiffs claimed that Defendant Lake Shore was negligent as the principal conducting an inherently dangerous activity without sufficient safety precautions and that Defendant Emerson negligently failed to instruct in the safe use of the scaffolding and failed to warn of the dangers in use.

Because of the mediation evaluation of "no cause", the cases which had been filed in Circuit Court were remanded to District Court for trial. A jury returned verdicts of \$3,500,000 for the Rasmussen Estate (with 5% comparative

negligence), and \$1,250,000 for Steve Boyer and \$75,000 for his wife, Sharon Boyer. The jury assigned 60% liability to Defendant Lake Shore and 40% to Defendant Emerson.

Plaintiffs' expert witnesses were Lindsay Hayes, of Southfield, Charles Haines of Manchester, Missouri, and George Bombyk of Grand Blanc.

The Rasmussen Estate was represented by Andrew Wisti of Hancock and the Boyers were represented by John R. Beauchamp of Escanaba and Daniel Jaspens of Iron Mountain.

LARRY MOTT, SHARON MOTT, LIZA
MOTT, and GINGER MOTT

vs.

SHELLING & COMPANY
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
HON. WENDELL MILES
Case No. G 84-4132

This case is reported to be the largest jury verdict for a personal injury in the Western District of Michigan.

Larry Mott was severely injured at his place of employment, Modar, Inc., when a pressure beam suddenly and unexpectedly came down on his head while he was performing the "saw blade change operation" on an industrial panel saw manufactured by Schelling & Company, an Austrian company.

As a result, he sustained several skull fractures, and has suffered irreversible and permanent brain damage.

Plaintiffs, Larry Mott, his wife, Sharon, and their daughters, claimed that Schelling & Company manufactured and distributed a saw that was defective because it did not have any redundant or back-up safety devices. In addition, the manufacturer failed to warn the purchaser of the equipment that a safety brace should not be used, or, if used, in what way it should be used, and that shutting off the main power during blade changes may affect some of the other safety features designed into the saw.

The case was defended by Schelling & Company on the theory that a safety brace designed and made by Mr. Mott's employer was the only cause of his injuries.

The jury found that the Defendant negligently designed the saw and failed to give adequate warnings, with a verdict of \$2,335,000 for the Mott family.

Plaintiffs were represented by Thomas R. Rensberry of Cadillac.

Expert Witnesses Specializing in Recreation, Parks, Natural Resources and Tourism

All expert witnesses are experienced university faculty or professional practitioners with backgrounds in management, operations, planning and design; including water and winter recreation, swimming and camping, playgrounds, parks, forests, sports and golf, resorts, travel and tours.

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