

the T20G policies were entitled to dividends each year and that MassMutual actually owed the class a total of \$717,000 in dividends.

Defense counsel disputed the calculations of the class' actuarial expert, arguing that the expert had unfairly manipulated the numbers to make it appear that the T20G policies had contributed to divisible surplus, when, in actuality, the policies failed to hit their minimum 5 percent profit targets, let alone earn over that amount, as required to pay dividends.

**INJURIES/DAMAGES** The class of policyholders sought recovery of \$717,000 in dividends, which allegedly should have been paid to the class.

**RESULT** The jury rendered a defense verdict. It found that the policies failed to generate divisible surplus and that, therefore, no dividends were owed.

**PLAINTIFF  
EXPERT(S)** Tom Bakos, F.S.A., actuary, Ridgway, CO

**DEFENSE  
EXPERT(S)** Steven I. Schreiber, F.S.A., actuary,  
New York, NY

**EDITOR'S NOTE** This report is based on information that was provided by defense counsel. The class' counsel did not respond to the reporter's phone calls. Counsel for Michel Financial Group Inc. was not asked to contribute.

—Priya Idiculla

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### WORKPLACE

Workplace Safety — Admiralty/Maritime — Unseaworthiness — Jones Act

## Deckhand claimed wrist injury from unsafe vessel conditions

**VERDICT** \$2,249,082  
**ACTUAL** \$1,911,720

**CASE** David Lacy v. Manson Construction  
Company and Does 1-20,  
No. BC621066

**COURT** Superior Court of Los Angeles County,  
Chatsworth

**JUDGE** Randy Rhodes  
**DATE** 2/16/2018

**PLAINTIFF  
ATTORNEY(S)** Joel Krissman, Krissman and Silver LLP,  
Long Beach, CA

**DEFENSE  
ATTORNEY(S)** Max L. Kelley, Cox Wootton Lerner Griffin  
Hansen & Poulos LLP, San Francisco, CA  
Richard C. Wootton, Cox Wootton Lerner  
Griffin Hansen & Poulos LLP,  
San Francisco, CA

**FACTS & ALLEGATIONS** On March 6, 2014, plaintiff David Lacy, 42, a deckhand for Manson Construction Co., was performing a maintenance operation of the crane's clam bucket connections while dredging in the port of Long Beach. He claimed that while he was performing his assigned task, he sustained injuries to his right wrist.

Lacy sued Manson Construction Co., alleging that the company's actions constituted negligence under the federal Jones Act. He also alleged that Manson Construction was negligent for the unseaworthy conditions of the derrick barge vessel he was working on.

Lacy claimed that the vessel's decking lacked a proper non-skid surface and that the equipment, which retained the cable wire for the clam bucket, was overly worn. He contended that, together, the two conditions made it very difficult for him to safely perform the assigned task, resulting in his injuries.

Defense counsel denied all of Lacy's contentions and denied that Manson Construction was negligent. Counsel asserted that the vessel's deck surface and equipment were entirely proper and safe for use as intended and that Lacy was not truthful in his allegations. Defense counsel also asserted that if any unsafe or improper work conditions existed, which Manson Construction specifically denied, it was the responsibility of Lacy, the deckhand, to use his "Stop Work" authority and seek help or guidance from his superiors and crew.

**INJURIES/DAMAGES** *subluxation; tendon, severed/torn; triangular fibrocartilage complex, torn*

Lacy claimed that he sustained tears of the radial and ulnar tendon attachments to the right, dominant wrist's triangular fibrocartilage complex, which is a cartilage structure located on the small finger side of the wrist that cushions and supports the small carpal bones in the wrist. He also claimed he sustained a laceration/tear of the extensor carpi ulnaris (ECU) tendon, which plays a key role in the active movements of wrist extension and ulnar deviation, but also in providing stability to the ulnar side of the wrist. Lacy subsequently presented to the physician at the industrial clinic that Manson Construction sent him to at the end of his shift that same day. He ultimately underwent three surgical repairs to repair the TFCC tendon attachments and to repair a subluxation of the tendon.

The plaintiff's treating physician imposed work restrictions of no heavy work, no lifting any significant weight above the waist, and no twisting of the right wrist. However, Lacy claimed that, on two occasions, Manson Construction negligently assigned him to work that exceeded his medical restrictions, resulting in a further aggravation of his wrist injuries. He alleged that as a result, a fourth surgery will likely be required within the next 15 years.

Lacy was ultimately able to obtain light work as a dispatcher, earning \$20 per hour, or approximately \$41,000 a year.

Thus, Lacy sought recovery of \$68,882 in future medical costs, \$170,033 in past lost earnings, and \$1,510,167 in future lost earnings. He also sought recovery of non-economic damages for his past and future pain and suffering. (Lacy's past medical costs were paid by Manson Construction.)

Defense counsel asserted that Lacy only sustained a sprain of the right wrist with some tendonitis, which Lacy sustained doing the normal heavy work of a deckhand. Counsel also asserted that Lacy did not require surgery, and disputed the nature and extent of Lacy's alleged damages.

**RESULT** The jury apportioned 15 percent liability to Lacy and 85 percent liability to Manson Construction. It also determined that Lacy's damages totaled \$2,249,082.

After apportionment, Lacy's recovery would total \$1,911,719.70.

**DAVID LACY** \$1,749,082 economic damages  
\$500,000 noneconomic damages  
\$2,249,082

**TRIAL DETAILS** Trial Length: 15 days  
Trial Deliberations: 2 days

**PLAINTIFF EXPERT(S)** John R. Brault, M.S., safety, Mission Viejo, CA  
Michael J. Feldman, M.D., hand surgery, Beverly Hills, CA  
Keith Kidwell, marine construction, Bakersfield, CA

**DEFENSE**

**EXPERT(S)** Frank A. Mainzer, M.D., radiology, San Francisco, CA  
Ross Nathan, M.D., hand surgery, Long Beach, CA

**EDITOR'S NOTE** This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls.

—Priya Idiculla

**MOTOR VEHICLE**

Pedestrian — Reversing Vehicle — Parking Lot

## Plaintiff claimed reversing vehicle struck him

**VERDICT** \$962,560

**CASE** Hernan Osorio v. Wesley T. Williams, Allegis Group Inc., and Does 1-20, No. BC597023

**COURT** Superior Court of Los Angeles County, Compton

**JUDGE** Maurice A. Leiter

**DATE** 2/8/2018

**PLAINTIFF**

**ATTORNEY(S)** Howard B. Kim, Law Offices of Howard B. Kim, Los Angeles, CA

**DEFENSE**

**ATTORNEY(S)** Ankur Tarneja, Lewis Brisbois Bisgaard & Smith LLP, Los Angeles, CA  
Cary L. Wood, Lewis Brisbois Bisgaard & Smith LLP, Los Angeles, CA

**FACTS & ALLEGATIONS** At approximately 9:45 a.m. on Oct. 10, 2013, plaintiff Hernan Osorio, 58, a driver for Golden Gate of Orlando, which contracts with automobile rental companies to transport vehicles from lot to lot, was walking across a parking lot at Enterprise Rent a Car, located near Los Angeles International Airport, when he was allegedly struck by a reversing vehicle operated by Wesley Williams. Osorio claimed injuries to his head, neck, shoulders, arms, legs, and upper and lower back.

Osorio sued Williams and Williams' employer, Allegis Group Inc. Aerotek Aviation, LLC, a subsidiary of Allegis Group, was later added as a defendant. Osorio alleged that Williams was negligent in the operation of his vehicle and that Allegis Group and Aerotek Aviation were vicariously liable as Williams' actions while in the course and scope of his employment.

During pre-litigation, the defendants' insurance carrier indicated that Allegis Group's policy was providing