

**EDITOR'S NOTE** This report is based on information that was provided by plaintiff's and defense counsel.

—Priya Idiculla

## WORKER/WORKPLACE NEGLIGENCE

Motor Vehicle — Pedestrian

### Plaintiff: Electric cart accident led to symptomatic arthritis

**VERDICT** \$996,717

**CASE** David Dawson v. Patina Restaurant Group LLC, Jeff Roter and Does 1 to 25, No. BC462615  
**COURT** Superior Court of Los Angeles County, Los Angeles  
**JUDGE** Alan S. Rosenfield  
**DATE** 4/19/2013

**PLAINTIFF ATTORNEY(S)** Joel Krissman, Stolpman, Krissman, Elber & Silver, LLP, Long Beach, CA

**DEFENSE ATTORNEY(S)** Mark S. Glazer, Glazer & Blinder, Calabasas, CA

**FACTS & ALLEGATIONS** On June 20, 2010, plaintiff David Dawson, 51, a stage hand, was working at the Hollywood Bowl in Los Angeles when his right leg was struck in the calf area by an out of control electric cart. As a result, his right leg's fibula was fractured.

Dawson sued Patina Restaurant Group LLC, which handled all the concessions for all of the catering service at the Hollywood Bowl, and Jeff Roter, who was in the electric cart. Dawson claimed that Roter was negligent in causing the cart to lunge forward and strike him.

Roter testified that he jumped in the electric cart, on the passenger side, and accidentally hit the accelerator pedal. Thus, the defendants admitted liability.

#### **INJURIES/DAMAGES** *ankle; foot; fracture, distal fibula*

Dawson claimed that his right leg was struck below the knee and above the ankle, in the calf area, causing contusions and a fracture of the distal fibula. He was subsequently taken to a hospital and released later that day with his foot and ankle in a soft shoe brace. A week later, Dawson presented to his employer's industrial clinic and was eventually referred to his treating orthopedics expert.

Dawson claimed that his fibula fracture healed after six weeks, but that he suffers from ongoing pain to his right foot and ankle joint. He alleged that pre-accident, he suffered from degenerative arthritis that was asymptomatic,

but that after the accident, he suffers from degenerative and post-traumatic arthritis in his foot and ankle, which cause him pain and disability. Thus, he claimed that he was able to return to work as a stage hand after six weeks, but that he now works fewer hours to reduce the stress on his foot and ankle joints.

The plaintiff's accident reconstruction expert calculated the force on Dawson's body from the collision and opined that it was substantial. The plaintiff's treating orthopedics expert opined that Dawson's ongoing ankle and foot problems were caused by the subject accident. The orthopedics expert also opined that in four to five years, Dawson will need a foot and ankle fusion, which will result in an inability to continue his profession as a stage hand.

Defense counsel disputed the nature and extent of Dawson's residual injuries, as well as his economic loss.

The defense's orthopedics expert testified that the subject accident caused Dawson's fibula fracture, which healed completely in six weeks, but that Dawson's foot and ankle joint pain problems are not related to the subject accident. Instead, the expert opined that Dawson's joint pain complaints are all due to his pre-existing, degenerative arthritis.

**RESULT** The jury found that Roter and Patina Restaurant were negligent, and that their negligence was a substantial factor in causing Dawson harm. The jury also determined that Dawson's damages totaled \$996,717.

**DAVID DAWSON** \$91,717 future medical cost  
 \$140,000 past lost earnings  
 \$550,000 future lost earnings  
 \$125,000 past pain and suffering  
\$90,000 future pain and suffering  
 \$996,717

**DEMAND** \$850,000 (C.C.P. § 998)  
**OFFER** \$160,000 (C.C.P. § 998)

**PLAINTIFF EXPERT(S)** Eric S. Deyerl, P.E., accident reconstruction, Culver City, CA  
 Peter Formuzis, Ph. D., economics, Santa Ana, CA  
 David Heskiaoff, M.D., orthopedic surgery, Sherman Oaks, CA (treating physician)  
 Carol R. Hyland, M.A., vocational rehabilitation, Lafayette, CA (vocational consultant and medical care costs)

**DEFENSE EXPERT(S)** Irwin L. Bliss, M.D., orthopedic surgery, Century City, CA  
 Barbara C. Luna, Ph.D., economics, Sherman Oaks, CA

**POST-TRIAL** Plaintiff's counsel will seek prejudgment interest and costs.

**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.

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## MOTOR VEHICLE

Pedestrian — Bicycle

# Bicyclist caused crash by riding against traffic, driver alleged

### VERDICT **Defense**

**CASE** Leanna Wilson v. Blake Sterling Peyrot, Hampton Place Townhomes LLC, and Does 1 through 50, No. BC453643  
**COURT** Superior Court of Los Angeles County, Los Angeles  
**JUDGE** David L. Minning  
**DATE** 4/17/2013

### PLAINTIFF

**ATTORNEY(S)** Jeffrey A. Kaiman, Kaiman, Greene & Associates, APC, Los Angeles, CA

### DEFENSE

**ATTORNEY(S)** Judith S. Lindner, Clasen, Raffalow & Rhoads, Los Angeles, CA  
 (Blake Sterling Peyrot)  
 None reported, Los Angeles, CA (Hampton Place Townhomes LLC)

**FACTS & ALLEGATIONS** On Feb. 21, 2009, plaintiff Leanna Wilson, 33, a cosmetologist, was in front of Hampton Place Townhomes on Highland Avenue in Hollywood when she was struck by a 2001 Volvo sedan operated by Blake Peyrot. Peyrot's vehicle was exiting an underground parking structure owned by Hampton Place Townhomes. Wilson sustained a facial laceration and she claimed injuries to her neck and back.

Wilson sued Peyrot, alleging that the driver was negligent in the operation of the sedan. Hampton Place Townhomes LLC was never served by Wilson, but Peyrot filed a cross-complaint against the townhome company, seeking indemnification. However, Hampton Place never appeared, and Peyrot was granted a default judgment against it.

Wilson claimed that she was pushing her bicycle on the sidewalk of Highland Avenue, against traffic, when she entered the roadway and was struck by Peyrot's vehicle. Thus, she claimed that Peyrot failed to yield to her as a pedestrian.

The plaintiff's accident reconstruction expert opined that Wilson was walking her bicycle at the time of the accident.

Defense counsel contended that Wilson was, instead, riding her bicycle on the sidewalk, against traffic, wearing headphones connected to her iPod, when she rode into

Peyrot's vehicle. Thus, counsel argued that Wilson caused the subject accident and was comparatively negligent by riding against the flow of traffic.

The defense's accident reconstruction expert opined that Wilson was riding her bicycle at the time of the collision.

**INJURIES/DAMAGES** *bulging disc, cervical; chiropractic; contusion; epidural injections; facial laceration; sprain, cervical; sprain, lumbar; strain, cervical; strain, lumbar*

Wilson sustained contusions, a laceration to her chin and was subsequently treated at the scene before being transported to an emergency room, where she received stitches for her facial laceration. She also claimed cervical and lumbar sprains and strains, as well as a bulging cervical disc at the C5-6 level.

Wilson began one year of chiropractic treatment and a few months after her last chiropractic visit, she treated with an orthopedic surgeon and had several consultations with him. The plaintiff's orthopedic surgery expert recommended cervical epidural injections to Wilson. As a result, Wilson underwent one round of epidural injections two weeks before trial, but she claimed the injections provided no relief. Thus, the plaintiff's expert orthopedist opined that Wilson's only option would be a spinal fusion at C5-6. The expert added that because of Wilson's age and life expectancy, the discs around the surgery point would likely break down, and Wilson would require another surgery 15 to 20 years later.

Though she continued to work, Wilson claimed that it was difficult for her, but that she continued because she needed the money. She alleged that she has range of motion problems with her stiff neck, which she demonstrated at trial. Wilson also claimed that she can no longer ride bicycles, go hiking or exercise.

Thus, Wilson sought recovery of \$28,172.75 in damages for her past medical costs, \$400,000 in damages for her past pain and suffering, \$107,000 in damages for each for the two future surgeries, \$100,000 per year in damages for her past general damages, and an unspecified amount of damages for her future general damages for the rest of her life.

Defense counsel argued that Wilson's neck problems were not due to the subject accident.

The defense's expert radiologist reviewed the MRIs of Wilson's neck and opined that the abnormal findings were degenerative, and not related to the subject accident.

**RESULT** The jury returned a defense verdict, finding that Peyrot was not negligent.

**DEMAND** \$100,000  
**OFFER** \$15,000

**INSURER(S)** Mercury Insurance Group for  
 Blake Sterling Peyrot

**TRIAL DETAILS** Trial Length: 6 days  
 Trial Deliberations: 75 minutes  
 Jury Vote: 11-1  
 Jury Composition: 4 male, 8 female