

Colorado

James Kibel, DC (treating chiropractor), Highlands Ranch, Colorado

Defendant's Expert Witness:

Brian Lashley, MD (physician), Denver, Colorado

Verdict: For the plaintiff

\$70,000 for economic losses

\$45,000 for non-economic losses

Total: \$115,000 plus statutory interest from the date of the accident, November 24, 2015.

Christopher Puschl v. Joe Padilla and Foundation Building Materials, LLC

Case No: 19 CV 2040

Judge: Christopher Zimick

Trial Dates: February 10 – 12, 2020

Plaintiff's Attorney: Pro Se

Note: The plaintiff's counsel withdrew before trial.

Defendant's Attorney: Adam Goldstein

(White & Steele, PC), Denver, Colorado

Type of Claim: Premises Liability. Christopher Puschl was working as a truck driver when he delivered a load of drywall to defendant Foundation Building Materials (FBM). FBM's employee, Joe Padilla, used a forklift to unload the drywall from the plaintiff's Ballbed truck. The plaintiff claimed he was injured on August 26, 2017, when four sheets of drywall fell during the unloading process. The plaintiff claimed that the defendants failed to use reasonable care and alleged that he is permanently disabled as a result of the injuries he sustained. The defendants admitted that four sheets of drywall fell, but they denied that the accident caused plaintiff's claimed injuries and damages. The defendants denied that Padilla failed to use reasonable care and claimed that the incident was merely an accident. The defendants denied that the plaintiff suffered permanent injuries and contended that the plaintiff was comparatively at fault and failed to mitigate his damages.

Injuries Alleged: Severe Traumatic Brain Injury (TBI) and a back injury. The plaintiff, who was 42 years old when the accident occurred, claimed he has been unable to work after he was injured. His past medical expenses were \$120,000. He claimed he would require future injections and nerve ablations for treatment of his back injury.

Final Demand Before Trial: \$175,000 according to the defendant's attorney.

Final Offer Before Trial: \$75,000 statutory offer of settlement according to the defendant's attorney.

Plaintiff's Expert Witness: None.

Defendant's Expert Witnesses:

Robert Seiber, MD (plaintiff's treating primary care

physician, by videot, Castle, Colorado)

Joe Burdick, MD, PhD (neurologist), Centennial, Colorado

Kyle Jacobson, CPA (regarding damages), Lakewood, Colorado

Verdict: For the defendants and against the plaintiff.

EL PASO COUNTY DISTRICT COURT

Bobbie Ward v. Darlene Cramon

Case No: 18 CV 32945

Judge: Eric Bentley

Trial Dates: January 13 – 16, 2020

Plaintiff's Attorney: Frederick Newell, Colorado Springs, Colorado

Defendant's Attorney: Michael A. Wain

(Katharine Miller Moore), Colorado Springs, Colorado

Type of Claim: Personal Injury – rear-end auto collision. **Admitted Liability:** Bobbie Ward alleged injuries as the result of a rear-end automobile collision. The defendant admitted liability and disputed the nature and extent of the plaintiff's claimed injuries and damages.

Injuries Alleged: Concussion and whiplash. Four years after the motor vehicle collision, the plaintiff was diagnosed with a Mild Traumatic Brain Injury (MTBI) and claimed cognitive deficits including vision problems. Her past medical expenses were \$1,200 and she claimed future medical expenses of \$7,500 to \$10,000. She was 72 years old when the collision occurred.

Final Demand Before Trial: \$21,000.

Final Offer Before Trial: \$7,000 provided by a \$5,000 statutory offer of settlement.

Plaintiff's Expert Witness:

Timothy Hall, MD (orthopedic surgeon), Colorado Springs, Colorado

Defendant's Expert Witness: None

Verdict: For the plaintiff

\$0 for non-economic losses

\$3,921.77 for economic losses

Total: \$3,921.77 plus statutory interest from the date of the collision, October 16, 2015.

Della Gallegos v. Patric LeHouillier and LeHouillier & Associates, P.C.

Case No: 13 CV 32156

Judge: David Prince

Trial Dates: January 14 – 21, 2020 (Second Trial)

Note: This case was tried in December 2014, and the jury found that the plaintiff's damages in the underlying medical malpractice case were \$1,658,172 (gross

amount) with 55% negligence charged to the physician and 45% negligence charged to the plaintiff, and in the legal malpractice case, the jury apportioned 60% negligence to the defendants and 40% negligence to the plaintiff. The defendants appealed and the Colorado Supreme Court remanded the case for a new trial. The case summary appeared in the March 16, 2015 issue of Jury Verdict Reporter of Colorado: V33N11.

Plaintiff's Attorneys: Chad Hemmat, Cameron Hunter and Jason Alleman (Anderson Hemmat, LLC), Greenwood Village, Colorado

Defendants' Attorneys: John Bolmer, II and Andrew Reitman (Hall & Evans, Denver, Colorado)

Type of Claim: Legal malpractice. Della Gallegos hired Patric LeHouillier on January 15, 2010 to represent her in a medical malpractice claim against a Colorado Springs neuroradiologist, Steven Hughes, MD. It was claimed that Dr. Hughes missed a clearly present small benign meningioma brain tumor in an MRI of October 4, 2006. The tumor was not detected until a follow up scan in 2009. The plaintiff claimed that by the time the tumor was finally detected it was too large and too encased in other vital nerves and arteries to be treated non-invasively. Had the tumor been detected as it should have been in 2006, plaintiff claimed that she could have undertaken non-invasive Gamma Knife therapy to stop the tumor's growth with a success rate of greater than 95%. The plaintiff alleged that because the tumor went undetected for three more years, the tumor required three subsequent open brain surgeries which resulted in side-effects including the plaintiff's loss of use of her left eye, hearing loss on the left side, left sided facial paralysis and memory loss sufficient to disable her from returning to work effective in January 2011. The plaintiff said that Patric LeHouillier had the claim reviewed by an expert neuroradiologist who confirmed in writing that Dr. Hughes had breached the standard of care in a letter written on December 8, 2009. Defendant was required to file suit on behalf of his client against Dr. Hughes on or before the two-year statute of limitations from the date of that expert report, December 8, 2011; however, by December 8, 2011, no lawsuit had been filed. Defendant claimed he had quit the case and had meetings with the client and her husband informing them of such decision long before the statute of limitations ran. Defendant admitted that he had no documentation to verify any such meetings and admitted writing no letter and having no calendar support for any such meetings. The plaintiff alleged that the defendants' file maintained on the plaintiff's case identified that defendants' legal staff continued to work on the case, issued

memos, updated medical bills and even had active case meetings about the case through the summer of 2011 which was long after defendant LeHouillier claimed he had quit the case. The defendants said they properly disengaged prior to the expiration of the statute of limitations. They denied they were negligent and claimed they explained to the plaintiff they would not represent her in her claim against the doctor and the reasons for that decision. The defendants also denied that the plaintiff would have won her case against the doctor.

Damages Alleged: Three brain surgeries with past medical expenses of \$566,400, future medical expenses of \$65,000, past lost earnings of \$234,000 and loss of future earnings of \$420,000.

Final Demand Before Trial: \$750,000 according to the plaintiff's attorneys.

Final Offer Before Trial: \$500,000.

Plaintiff's Expert Witnesses:

Richard Ofstein (neuroradiologist), Indianapolis, Indiana

Manuel Ferreira, MD, (neurosurgeon), Seattle, Washington

W. Ashley Ahrens (economist), Lyons, Colorado

Antony Viorst, Esq. (regarding standard of care), Denver, Colorado

Defendants' Expert Witnesses:

Scott Andersen (neuroradiologist), Lone Tree, Colorado

Paige Dorn (radiation oncologist), Denver, Colorado

Peter Goldstein, Esq. (regarding standard of care), Colorado Springs, Colorado

Verdict: For the plaintiff and against the defendants:

\$566,400 for past medical bills.

\$234,000 for past lost earnings

\$350,000 for past non-economic losses

\$65,000 for future medical and health care expenses

\$400,200 for future lost earnings and lost earning capacity

\$250,000 for future non-economic losses

85% negligence charged to Stephen Hughes, MD

15% negligence charged to the plaintiff Della Gallegos

The jury found that the amount of plaintiff's damages in the underlying medical malpractice case was \$1,585,760.

With respect to the legal malpractice claim, the jury charged 72% negligence to the defendants and 28% negligence to the plaintiff. The total comparative negligence resulted in a reduced verdict of \$1,153,863.84 plus statutory interest from December 9, 2009 to the present.

The parties' briefs regarding the amount of the judgment, and defendants' post-trial motions are pending.