

Confidential Report For Attorneys

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K-MART SHOPPER slips on puddle of milk in dairy aisle, tearing his knee ligaments and requiring reconstructive knee surgery. See page 27.

Aviation Related

Passenger's foot is struck by airline beverage cart; Female, 42, limp - **Defense** 47

Breach of Contract

Party stalls after matter is in escrow; \$126 million in lost profits are alleged - **Defense; Deft awarded \$75,000 + \$670,308 in costs/fees** 54

Investors are found but commission is not paid; 10% of stock promised - **Defense** 23

Company fails to pay former sales manager 10% of proceeds of business after sale as promised; \$2.3 million demanded - **\$1 million** 42

Attorney allegedly misadvises client regarding union dispute; \$2 million in economic damages - **Defense** 52

Breach of Good Faith

Real estate agent claims he is entitled to sales commissions; \$2.235 million owing - **Defense** 52

Bus Accident

Passenger is thrown out of the side door when bus rounds a corner; Female, 67, brain contusion - **\$2.121 million** 36

Civil Rights Violation

Inmate tries to kill himself after jail personnel take him off suicide watch; Male, quadriplegic - **\$1.5 million** 15

Passenger is restrained with her own dog leash by airline captain; Female, 53, disk herniation, fibromyalgia - **Defense** 21

Construction Site Accident

Apprentice electrician falls through opening in floor to basement below; Female, 42, knee injury - **\$175,000** 31

Laborer is hurt on construction site; Male, 22, fractured knee - **\$265,000+** 36

Dangerous Condition of Public Property

Marine clerk operating a small pickup runs into fire hydrant; Female, 42, fractured nose, concussion - **\$1.926 million** 32

Vehicle hydroplanes on I-10 and then rolls several times; Female, 58, C4-5 quadriplegic - **\$6.775 million** 5

Beverly Hills resident trips in pot hole in alley behind her home; Female, 69, ankle/knee injuries - **Defense** 44

Defective Construction

Condo complex owners complain of construction defects; \$5 million in repairs - **\$5.5 million** 32

Dental Malpractice

Toxic product used in root canal treatment causes problems; Female, 66, facial nerve injury - **\$700,000** 50

Discrimination - age

Professor is forced to retire pursuant to UCSD's mandatory retirement policy; Male, 76, L.E., emotional distress - **\$500,000** ... 2

Company terminates its oldest employees after the business suffers a downturn; Male, 60, emotional distress - **Defense** ... 51

Older employee is terminated for alleged poor performance and attitude; Male, 62, \$1.395 million in L.E. - **\$2.138 million** ... 22

Discrimination - race

African-American is discriminated against after he files a grievance; Male, 50, emotional distress - **\$250,000** 28

Dog Incident

Property owner unknowingly lets dogs into yard where telephone repairman is working; Male, 40, bites to hand - **\$405,000** ... 3

Continued Inside

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JUN 4 1999
Law Office
Howard A.



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leaving the battery in the aisle and were also negligent in failing to clean up the hazard the night before or the morning of the incident when K-Mart employees had the duty to inspect, clean up and remove the hazard. Pltf contended that Deft violated its own safety policies and procedures, which require all K-Mart managers to walk the floor of their stores before opening in the morning to check for any safety hazard, including spills.

INJURY:

Central and right-sided disk protrusion at L5-S1 with bilateral narrowing of the neural canal; hypertension which developed after the injury and depression as a result of chronic pain, the inability to work and a dramatic change in his lifestyle.

PER DEFT:

Contended that Deft had no notice of the hazard; that it was unknown who created it. Deft also contended that it was Pltf's responsibility to remove the battery; that Pltf or Pltf's employer failed in their responsibility to remove the battery; that Pltf, or his employer, should have observed the battery acid. Deft contended that the alleged injuries and damages were not related to the subject incident.

SPECIAL DAMAGES:

\$115,000 - \$200,000 past/future medical; \$380,000 past/future L.E.

VERDICT:

\$1,127,535 in this bifurcated case. Case is on appeal.

JURY POLL: 12-0 on liability; 9-3 on damages

TRIAL TIME: 10 days **JURY OUT:** 3 hours on each phase

RESOLVED: 12/02/98

JUDGE: Judson W. Morris, Jr.

COURT: L.A. County Superior Court, Pasadena

CRA # 10813

Dental Malpractice/Product Liability -

Toxic product used in root canal treatment causes problems; Female, 66, facial nerve injury

RESULT: \$700,000

TYPE: Settlement

COUNTY: Los Angeles

CASE No. VC 023 460

CASE NAME:

Susan Ferranti v. Darrell Dagdigian, D.D.S., Gold Cross Pharmacy, et al.

PLAINTIFF ATTY: Sherre C. Sturm, Novato

Howard A. Kapp, Beverly Hills

DEFENSE ATTY:

Wright, Robison, et al., By: Peter Hart, San Francisco for Bindi/Patel Ford, Walker, et al., By: William C. Haggerty, Long Beach for Dagdigian

SETTLEMENT DEMAND: \$100,000 per CCP §998 in 3/97.

FACTS:

On December 12, 1995 Pltf, age 66, presented to the office of Deft Dr. Dagdigian, a general dentist, to have an exam and to have her teeth cleaned. Dr. Dagdigian told Pltf that she needed a root canal treatment on an upper molar, which he performed that day. Within hours, Pltf had excruciating pain, burning and throbbing in her upper right cheek and eye area. Initially, the physicians who treated Pltf assumed she had a dental infection, which they treated empirically.

The compound used in the root canal treatment, called N2 or Sargenti paste or Gold Cross paste, was sold by Deft Gold Cross Pharmacy of La Habra, California. It is compounded from lawfully available ingredients by its owner/pharmacist, Deft Dashrath Patel, or other pharmacists in his employ. The theory of the use of this product

is that the paraformaldehyde in it will kill off any debris left in the canal of the tooth by the dentist when cleaning it out.

PER PLTF:

That there was no prescription for Pltf to have this product; that the Deft pharmacy requests the dentist's office to give some name in order to make it appear as though it is a valid prescription; that Deft pharmacy sells multiple orders at one time to each dentist; that Deft pharmacy has a separate phone number used just for the sale of the N2 product. Pltf contended that the N2 product has never been approved as safe and effective by the FDA; that it is specifically taught in every dental school in the U.S. not to use this product as it contains paraformaldehyde which causes severe nerve injury if even a millimeter of it escapes from the tooth due to an overflow of the tooth beyond the end of the root or a perforation of the tooth with an instrument by the dentist. Pltf further contended that this product is used by a small group of general dentists as a quick money making method of doing root canal treatment (RCT) since the use of this toxic product greatly reduces the time required to do a RCT; that endodontists, the specialty group recognized by the American Dental Association to perform RCTs, do not use or advocate the use of this product.

Pltf alleged fraud and battery against Deft dentist as well as negligence and malice against Deft pharmacy and its owner.

INJURY: Permanent and untreatable facial nerve injury.

PER DEFT:

Contended by Deft Gold Cross Pharmacy that it was not a manufacturer but rather simply a pharmacy lawfully permitted to dispense the product pursuant to prescriptions by dentists.

Deft dentist admitted that he knew of the toxicity of N2 and that it could cause serious problems, but claimed that he didn't know the product he used was N2 and didn't know the ingredients of the product he used.

SETTLEMENT:

\$700,000 (\$300,000 with Deft dentist; \$400,000 with Deft pharmacy within a day of dentist's settlement) prior to the scheduled trial date of 1/07/99: The court had permitted Pltf to proceed with a punitive damages case against Deft pharmacy and its owner, but denied a similar motion against Deft dentist.

RESOLVED: 12/98 **FILED:** 12/96

NOTES:

A VSC on 11/20/98 in San Francisco failed to resolve the matter.

COURT: L.A. County Superior Court

CRA # 10823

Labor Code Violation/Class Action -

Store managers are exempted from overtime pay; Lost earnings

RESULT: \$4.5 million

TYPE: Settlement

COUNTY: Los Angeles

CASE NAME:

Doe Employees v. Roe Company

PLAINTIFF ATTY:

• Kevin T. Barnes, Los Angeles
Joseph Antonelli, West Covina
Righetti Law Firm, By: Edward J. Wynne and Matthew Righetti, San Francisco

DEFENSE ATTY:

Paul, Hastings, Janofsky & Walker, By: William S. Waldo and Lisa Krakow, Los Angeles