

CTLA Law Reporter

JURY VERDICT:

Automobile accident;

rear-end collision;

two plaintiffs;

defendant's insurer: Allstate;

VERDICT OF \$75,000 FOR

PLAINTIFF #1;

VERDICT OF \$50,000 FOR

PLAINTIFF #2;

PLUS OFFER OF JUDGMENT

INTEREST.

In the case of Leslye Skyner, et al. v. Charles M. Visconti, Docket No. CV 97-0339765S, filed in the Superior Court for the Judicial District of Fairfield at Bridgeport, the jury returned verdicts in favor of Lesley Boyes in the amount of \$75,000.00 and Leslye Skyner in the amount of \$50,000.00, on April 4, 2000. Allstate insured the defendant.

The plaintiffs, Leslye Skyner, age 28, and Lesley Boyes, age 24, are both originally from Liverpool, England, and were working as nannies in Westport, Connecticut, at the time of the accident.

On September 8, 1996, the plaintiffs were stopped on Route 1 in Norwalk, Connecticut, with their left-hand signal on to make a left-hand turn into the Silver Star Diner. Their vehicle was rear-ended by a vehicle owned and operated by the defendant. Following the accident, the defendant admitted to both the plaintiffs and the Norwalk police officer that he was looking at a bus that was parked on the opposite side of the street and that he did not see the plaintiffs' vehicle until it was too late. The plaintiffs claim that the defendant was traveling between 35-40 m.p.h. when he struck their vehicle, which was pushed forward as a result of the collision. The defendant claimed that he was traveling less than 30 m.p.h. and he described the collision as "a bump". There was extensive damage to both vehicles, which were ultimately towed from the scene.

Later that evening, both plaintiffs began to experience headaches and neck pain. The following day, they sought treatment with Dr. Patrick Guerin, a chiropractor from Westport. Dr. Guerin subsequently referred both plaintiffs for lumbar MRIs at Norwalk Hospital. The MRI for Lesley Boyes, the passenger, showed that she had a fracture at the right L-5 pars. The MRI for Leslye Skyner was negative. Dr. Guerin subsequently referred both plaintiffs for physical therapy at the Wellness Center in Westport, Connecticut. On April 8, 1997, Dr. Guerin indicated in his final report that Lesley Boyes had sustained a 16% permanent partial impairment to her spine as a result of this accident. Dr. Guerin indicated that she had sustained a 6% disability due to the fracture of the lumbar vertebrae, a 7% disability to her cervical spine and a 3% disability to her lumbar spine. In addition, Dr. Guerin also found that Leslye Skyner had sustained a 7%

disability to the cervical spine and a 5% disability to the lumbar spine, for a total disability of 12% of the spine.

The plaintiffs' medical bills were all out of pocket, as there was no health insurance. Lesley Boyes' medical bills totaled \$7,341.00 and Leslye Skyner's medical bills totaled \$8,202.50.

After suit was filed, Allstate, which insured the defendant, arranged for Lesley Boyes to be examined by Dr. Tracy Schmidt, an orthopedic from Stamford. In his report, Dr. Schmidt opined that Ms. Boyes had sustained 4-5% disability to the lumbar spine and a 2-3% disability to the cervical spine as a result of the accident. Dr. Schmidt indicated that the L-5 pars fracture appeared to be an older injury because it did not have the appearance of an acute fracture.

During a pre-trial that was held before the Honorable William A. Mottolese in May, 1999, Allstate offered the sum of \$19,000.00 in Lesley Boyes' case and \$9,500.00 in Leslye Skyner's case. Both of these offers were rejected. Judge Mottolese then referred the parties to arbitration.

On July 15, 1999, the case proceeded to arbitration before Attorney James Gaston. Lesley Boyes did not appear for the arbitration, as she had returned to Liverpool shortly after she was examined by Dr. Schmidt. Her deposition was submitted at the arbitration. Attorney Gaston subsequently awarded Lesley Boyes damages in the amount of \$37,341.00 and awarded Leslye Skyner damages in the amount of \$27,281.00. the plaintiffs would have accepted both of these awards but counsel for the defendant immediately filed a Motion for Trial De Novo. Thereafter, counsel for the plaintiffs filed offers of judgment for the arbitrator's figures.

The trial was scheduled to commence during the week beginning March 20, 2000. After counsel were called in for the trial, the attorney for the defendant indicated that Allstate would not increase their settlement offers and that the file and been "Dolfed" (Defense of litigation files).

Lesley Boyes returned to Connecticut from Liverpool in order to testify at the trial, which was heard before the Honorable William B. Rush. The plaintiffs did not call Dr. Guerin as a witness and instead introduced all of the medical reports. The defense called Dr. Schmidt as an expert witness, who testified in accordance with his report. On April 4, 2000, following a two-day trial, the jury awarded Lesley Boyes the sum of \$75,000.00 and Leslye Skyner the sum of \$50,000.00, which were the figures that had been requested by counsel for the plaintiffs during final argument. With offer of judgment interest, these awards totaled \$80,720.56 for Lesley Boyes and \$53,813.71 for Leslye Skyner, plus costs.

Submitted by Michael P. Foley, Jr., Esquire, Cheshire, Connecticut, counsel for the plaintiffs.