

Federal Jury Verdict Reporter

The Most Current and Complete Summary of Federal Jury Verdicts

April 2006

Nationwide Federal Jury Verdict Coverage

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Notable Verdicts in The April 2006 Issue

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Verdict of the Month

PRODUCTS LIABILITY

South Carolina District - Greenville

An high school All-American soccer player, with professional ambitions, suffered multiple fractures and internal injuries in a roll-over crash

Caption: *Simo v. Mitsubishi Motors*, 7:04-22302

Plaintiff: Frank L. Branson, III and Debbie D. Branson, *Law Offices of Frank Branson*, Dallas, TX and Kenneth C. Anthony, Jr., *Anthony Law Firm*, Spartanburg, SC

Defense: Elbert S. Dorn and Nicholas W. Gladd, *Turner Padgett Graham & Laney*, Columbia, SC and D. Alan Thomas, *Huie Fernambucq & Stewart*, Birmingham, AL

Verdict: \$7,000,000 for plaintiff

Judge: Henry M. Herlong, Jr.

Date: March 15, 2006

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Featured in the April 2006 Issue

112 verdicts included

39 states represented

Comprehensive Federal Jury Verdict Coverage

New at the Federal Jury Verdict Reporter

The FedJVR Online

The Federal Jury Verdict Reporter has begun to link directly to significant documents from certain cases. Whenever you see the heading, **The FedJVR Online**, look for the web link to the particular document. There are over twenty linked documents in this issue.

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The FedJVR Online:

See <http://www.juryverdicts.net/SC-Swanson.pdf> for the court's order denying plaintiff's JNOV motion.

PRODUCTS LIABILITY

South Carolina District - Greenville

An high school All-American soccer player, with professional ambitions, suffered multiple fractures and internal injuries in a roll-over crash

Caption: *Simo v. Mitsubishi Motors*, 7:04-22302

Plaintiff: Frank L. Branson, III and Debbie D. Branson, *Law Offices of Frank Branson*, Dallas, TX and Kenneth C. Anthony, Jr., *Anthony Law Firm*, Spartanburg, SC

Defense: Elbert S. Dorn and Nicholas W. Gladd, *Turner Padgett Graham & Laney*, Columbia, SC and D. Alan Thomas, *Huie Fernambucq & Stewart*, Birmingham, AL

Verdict: \$7,000,000 for plaintiff

Judge: Henry M. Herlong, Jr.

Date: March 15, 2006

Facts: It was 10-11-02 and a group of Furman University soccer players were returning to campus from Charlotte, NC. [Furman was then a nationally ranked program.] They traveled on I-26 in Spartanburg County, SC in a 2000 Mitsubishi Montero Sport LS. Driving was Gary Griffin, the team's star and a freshman. [Griffin was also the star of the USA Under-20 team.] A passenger in the car and the plaintiff in this case was Chefik Simo, also a freshman. Simo came to Furman from Frisco, TX where he had been a high school All-American.

A vehicle encroached Griffin's lane. He swerved to avoid it and lost control of the Mitsubishi. It rolled over. Then disabled on the highway, it was struck by a passing tractor-trailer operated by Federal Express. Griffin was killed in the crash.

Simo was also badly hurt, sustaining a laundry list of fractures and internal injuries. [See the description below.] His soccer dreams were put on hold. Simo later transferred to the University of Virginia and returned to play in ten games in 2004. Despite that return, he discontinued playing because of a fear he would aggravate his injuries.

In this lawsuit, Simo's damages included not just for physical injuries, but also the diminution of his professional career. He introduced proof that he was a pro prospect with a more-likely-than-not chance of being highly paid in a professional league in either the U.S. or Europe. [Mitsubishi countered that while Simo was a good player, his professional potential was limited and speculative.]

Simo's theory against Mitsubishi alleged it was defective in that it had a high propensity to roll. Mitsubishi defended that its vehicle was safely designed and met federal standards. The

unfortunate wreck was blamed on the overcorrection by Griffin, Mitsubishi noting the combination of Griffin's tender age, alcohol, driving inexperience and that the crash occurred at 2:30 in the morning.

Simo had also sued Federal Express regarding the secondary collision. This claim was settled confidentially just as the trial was set to start.

Injury: Stomach puncture (life-threatening)
Broken pelvis
Fractured shoulder (also separated)
Nerve damage in foot
Severely dislocated knee

Experts:
Plaintiff David Bilek, Engineer, Littleton, CO
Micky Gilbert, Engineer, Golden, CO

Defense David Tandy, Engineer, Woodlands, TX
Geoffrey Germaine, Engineer, Provo, UT
Verne Roberts, Biomechanics, Wilmington, NC

Jury Instructions/Verdict: The verdict was for Simo on both negligent design and design defect. The plaintiff took a raw award of \$7,000,000, the jury rejecting comparative fault. Post-trial motions were just beginning when reviewed by the FedJVR.

SEXUAL HARASSMENT

South Dakota District - Rapid City

An assistant to a real estate developer alleged she was sexually harassed by him – that included advances, but also the exposure to especially racy pornography

Caption: *Klein-Cadotte v. Barker & Little et al*, 5:04-5084

Plaintiff: Veronica L. Duffy and Patrick K. Duffy, *Duffy & Duffy*, Rapid City, SD

Defense: Jeffrey C. Hurd and Eric J. Pickar, *Bangs McCullen Butler Foye & Simmons*, Rapid City, SD

Verdict: \$4,160,000 for plaintiff

Judge: Richard H. Battey

Date: March 24, 2006

Facts: Celisity Klein-Cadotte worked as a leasing agent for Barker & Little. The company is involved in the leasing of real estate in Rapid City, SD. [It has alternatively been described as a slumlord.] While a legitimate corporate entity, it is in effect an alter ego of its founder, Doug Hamilton.

Klein-Cadotte, who was employed from July of 2001 until May of 2003, was fired for purportedly stealing from the firm. From the perspective of Barker & Little, the discovery of the