

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

May, 2009

Statewide Jury Verdict Coverage

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Unbiased and Independently Researched Jury Verdict Results

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Indiana including court, division, presiding judge, parties, cause number, attorneys and results.

Assault - A Catholic priest was accused of sexually molesting his own nephew; the jury found for plaintiff and awarded punitive damages that were thirty times the compensatory damages

Doe v. Stewart, 49D10-0402-CT-443
Plaintiff: Eric Allan Koch, *The Koch Law Firm, P.C.*, Bloomington; and Patrick Noaker, *Jeff Anderson & Associates, P.A.*, St. Paul, MN
Defense: Michael A. Kiefer and Michael G. Shanley, *Baker Pittman & Page*, Indianapolis
Verdict: \$155,000 for plaintiff (comprised of \$5,000 compensatory and \$150,000 punitive)
County: **Marion**, Superior Court: J. Dreyer, 4-24-08

Following his ordination as a Catholic priest on 6-1-91, Father Jonathan Stewart became known affectionately within his own extended family as "Father Jon." From that moment onward, Father Jon took on a kind of leadership role within the family.

For example, Father Jon's half brother worked in the Navy and would often be away from home for extended periods. During those periods of absence, it was Father Jon's duty to look after his half brother's wife and children in Bloomfield. One of those children is identified in the record only as "John Doe."

Sometime in 1993 while the half brother was away, Father Jon spent some time staying with the family. During that visit, Doe, then age six or seven, engaged in a wrestling game with one of his own young siblings.

The rough and tumble of the wrestling game caused Doe to injure his back. When he went to his bedroom to lie down, he found Father Jon lying on his bed. Doe went around to the other

side of the bed and asked his uncle for a back rub.

According to Doe, Father Jon agreed to this request and began rubbing the boy's back. Doe claims that at some point during this process, Father Jon moved his hands around to Doe's genitals and began fondling his penis and scrotum.

On a second occasion in either 1997 or 1999 (the record is unclear which), Father Jon was again staying with the family. During that visit he and Doe, then aged either ten or twelve, spent some time watching television together in the living room.

Doe was lying across Father Jon's lap, and Father Jon was again giving him a back rub. According to Doe, Father Jon's hands began to wander down to Doe's underwear line. At that point, Doe became frightened and moved away.

Doe apparently tried at some point to tell his grandmother about these incidents, but he was not believed. After that, a considerable length of time passed before he could bring himself to divulge his secret to anyone else.

Finally, during a trip to Chicago in 2000, Doe told his father what had happened. The matter was eventually reported to Child Protective Services, and an investigation substantiated Doe's allegations.

Through his mother as his next friend, Doe filed suit against Father Jon and against the Roman Catholic Archdiocese of Indianapolis. Plaintiffs targeted the Archdiocese on a theory of *Respondeat Superior* as Father Jon's employer. Plaintiffs also claimed the Archdiocese engaged in a campaign to cover-up the incidents.

The Archdiocese defended the case and denied any responsibility for what

had happened. In particular, the Archdiocese argued that Father Jon was not acting in his role as a priest when the molestations occurred. Rather, Father Jon gained access to the boy simply in virtue of being the victim's uncle. Thus, the molestation had nothing to do with Father Jon's employment with the Archdiocese.

Plaintiffs eventually reached a settlement with the Archdiocese, the terms of which are unknown, and dismissed it from the case. The litigation proceeded thereafter solely against Father Jon with plaintiffs blaming him for molesting Doe. Father Jon defended the case and flatly denied the incidents ever occurred.

Although Doe was a minor when the case was originally filed, he reached the age of majority during the course of the litigation. At that point defendant filed a motion to substitute him as the real party in interest and to require him to proceed under his true name rather than under a pseudonym.

The court granted the motion to substitute Doe as the real party in interest. The matter of the pseudonym, however, was a different story. Doe argued that given the nature of the incidents about which he complained, requiring him to proceed under his true name would expose him to ridicule and embarrassment within his community.

Defendant discounted those concerns and minimized the likelihood of anyone in Bloomfield ever seeing the court record. Furthermore, Defendant noted that multiple pleadings contained in the court record openly state that Doe is named after defendant and that, indeed, the two have exactly the same name.

Based on those arguments, defendant argued there would be nothing to gain by not requiring Doe to proceed under his own name. Although the court's ruling on the issue is apparently not part of the court record, it is known that plaintiff continued to be identified only as John Doe.

The case was tried in Indianapolis and resulted in a verdict for Doe in the amount of \$155,000. Of that amount, \$5,000 was for compensatory damages, and the remaining \$150,000 was for

punitive damages. The court entered a judgment for the full amount.

Post-trial, Father Jon filed a motion to reduce the punitive component of the award on the ground that the award was excessive. The court denied the motion.

During the presentation of the evidence, the jury asked a number of interesting questions. Among the questions apparently directed to Father Jon are the following: (1) "Do you believe homosexuality is a sin?" (2) "Have you ever had a sexual relationship?" and (3) "Are the people in the audience today here in support of you? Who are they?"

The jury also asked a question of Doe's father: "Do you believe your son is telling the truth?" Another question the jury asked, though it is not clear to whom it was directed, was, "Do you think people are born gay?" The record does not reveal the answers to any of these questions.

Car Fire Negligence - The defendant's car was smoking and she pulled to the side of the road – her friend came to investigate and the car suddenly exploded, the friend suffering severe burns – friend sued and blamed the defendant for not stopping her smoking vehicle sooner
Standley v. Eckstein,

11D01-0507-CT-312

Plaintiff: Kaleel M. Ellis, III, *Ellis Law Firm*, Terre Haute and Eric A.

Frey, *Frey Law Firm*, Terre Haute

Defense: William W. Drummy,

Wilkinson Goeller Modesitt Wilkinson & Drummy, Terre Haute

Verdict: Defense verdict on liability

County: **Clay**, Superior

Court: J. Akers, 4-8-09

It was a hot July day in 2003 and Heather Eckstein, a teenager, had been at a swimming party with a friend. Following the party, she left in her 1993 Chrysler LeBaron. As Eckstein drove, the vehicle began to run rough and she could smell oil. Eckstein pulled over.

Her friend, Ronni Standley, also a teen, came up to the car to investigate. Both girls indicated they couldn't smell anything. While the car was still

running, an explosion suddenly erupted from under hood. Eckstein inside the car was protected. Standley outside it was not. She sustained significant burn injuries to her arms and legs.

In this lawsuit, Standley alleged negligence by Eckstein and her parents in both maintaining the vehicle and to the date in question, Eckstein was blamed for not turning the car off. Had she done so, the plaintiff suggested, there would have been no explosion event.

Eckstein defended the case that the car had been serviced some 18 months before. Then to the explosion itself, she postured that it was a sudden event, one that wasn't foreseen by anyone – just because a vehicle had been running poorly and smelled of oil did not trigger a fear the car would explode.

The jury's verdict was for Eckstein (and her parents) on liability and Standley took nothing. A defense judgment was entered.

Auto Negligence - A passenger was injured when his driver lost control on a curve in the dark, over-corrected, crossed the centerline, and collided with an approaching vehicle

Burnett v. Barden,

45D01-0412-CT-302

Plaintiff: Robert A. Montgomery, Chicago, IL

Defense: Harold G. Hagberg, *Hagberg LaTulip, P.A.*, Schererville

Verdict: \$12,000 for plaintiff

County: **Lake**, Superior

Court: J. Webber, 10-21-08

Late in the evening of 12-13-02, Joseph Burnett, an employee of Americal Corp., was riding as a passenger in a vehicle being driven by Cody Barden. The two were traveling north on Ripley Street in Hobart.

At a point near Old Hobart Road, Barden came upon a curve in the road that he had not known was there. Barden attempted to stay in his lane by turning his steering wheel sharply. In doing so, however, he over steered and caused his vehicle to slide to the right.

Barden responded to this situation but over-corrected, which caused his vehicle to spin to the left. He then crossed the

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