

ALACHUA COUNTY

MOTOR VEHICLE

Rear-ender — Truck

Substitute driver, loose toolbox contributed to collision: plaintiff

VERDICT \$1,106,206
ACTUAL \$774,344

CASE Deborah Kropp v. Coca-Cola Enterprises, Inc. and Gregory Miller, No. 01-2010-CA-000463
COURT Alachua County Circuit Court, 8th, FL
JUDGE Stanley H. Griffis
DATE 3/9/2012

PLAINTIFF
ATTORNEY(S) John M. Phillips, Law Offices of John M. Phillips, Jacksonville, FL

DEFENSE
ATTORNEY(S) Ellis T. Fernandez, III, Fernandez Trial Lawyers, PA, Jacksonville, FL

FACTS & ALLEGATIONS On June 20, 2007, at around 10:30 a.m., plaintiff Deborah Kropp, 51, a homemaker, was driving her sedan on CR-225 in Gainesville when her vehicle was struck from behind by a heavy duty pickup truck driven by Gregory Miller in the course of his employment for Coca-Cola Enterprises Inc. Kropp claimed wrist, back and neck injuries.

Kropp sued Miller and Coca Cola for motor vehicle negligence.

Kropp's counsel claimed that Miller was driving carelessly. He further argued that it was a clear day and there were no obstructions for Miller. He argued that Miller was traveling too fast for the conditions and not paying attention, leaving over 140 feet of skid marks. Additionally, he presented evidence that alleged that Coca-Cola had a warehouse worker substituted for a delivery driver because of understaffing and that Coca-Cola was also negligent because it had an improperly stored toolbox in the passenger compartment that slammed onto the accelerator, preventing a safe stop.

Kropp's counsel presented testimony from several independent witnesses who corroborated the plaintiff's version of the accident.

Defense counsel contended the accident was caused by Kropp abruptly cutting in front of Miller's vehicle.

Neither party presented an expert in accident reconstruction.

INJURIES/DAMAGES *ablation; carpal tunnel syndrome; decompression surgery; herniated disc, cervical; herniated disc, lumbar*

About a week after the accident, Kropp went to the emergency room where she was diagnosed with strains and muscle pain. She was given a CT scan, which was negative for a head injury.

Kropp asserted that she was scared of doctors and felt generally fine, so she did not go to a doctor for about 11 months.

She claimed she suffered herniated cervical and lumbar discs and bilateral carpal tunnel syndrome.

Kropp contended the accident was so severe that her vehicle was knocked into the air.

On March 14, 2011, Kropp underwent a laser ablation at L5-S1. She then underwent a laser ablation and decompression at C5-6 and then a cervical laser decompression at C6-7.

Kropp underwent cervical decompression and ablation surgery in late 2010. She underwent a lumbar decompression and ablation surgery a week after her initial surgery. She then underwent another cervical decompression and ablation surgery.

Kropp contended that she is in daily pain and suffers sleep interruption. She claimed that she can no longer enjoy favorite activities such as walking for long distances. She claimed that activities such as cooking and cleaning have become more difficult and painful because of her injuries. She is on a 15-pound weight lifting restriction.

Kropp contended that she is a candidate for future carpal tunnel syndrome surgery and additional lumbar surgery.

She claimed that she accumulated more than \$250,000 in medical bills.

Defense counsel contended that Kropp was suffering from pre-existing and degenerative changes based on her age. Defense expert in neurology opined that based on a reading of Kropp's MRIs, she did not suffer any traumatic changes.

RESULT The jury found the defendants 70 percent negligent and the plaintiff 30 percent negligent. The \$1,106,206 award was reduced to \$774,344.20.

DEBORAH KROPP \$206,206 past medical cost
 \$200,000 future medical cost
 \$200,000 past pain and suffering
\$500,000 future pain and suffering
 \$1,106,206

DEMAND OFFER \$500,000
 \$75,000

INSURER(S) Ace for Coca Cola Enterprises Inc. and Gregory Miller

TRIAL DETAILS Trial Length: 5 days
 Trial Deliberations: 3 hours
 Jury Vote: 6-0
 Jury Composition: 4 female, 2 male

**PLAINTIFF
EXPERT(S)** George G Feussner, M.D., neurology,
Gainesville, FL

**DEFENSE
EXPERT(S)** Harry Koslowski, M.D., neurology,
Jacksonville, FL

POST-TRIAL Plaintiff's counsel filed a motion to reconsider the liability decision.

Defense counsel filed a motion for a new trial.

EDITOR'S NOTE This report is based on information provided by plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls.

—Stephen DiPerte

COLLIER COUNTY

MOTOR VEHICLE

Multiple Impact — Multiple Vehicle — Truck — Broadside

Plaintiff claimed MVA crash left him with limp, back pain

VERDICT \$2,373,000

CASE Roy Allen v. Lifaite Absolu and Gilmise Joseph,
No. 2007CA0019940001

COURT Collier County Circuit Court, 20th, FL

JUDGE Hugh D. Hayes

DATE 3/22/2012

**PLAINTIFF
ATTORNEY(S)** Richard Lee Purtz, Goldstein, Buckley,
Cechman, Rice & Purtz, P.A., Fort Myers, FL

**DEFENSE
ATTORNEY(S)** Kelly Spillman Jablonski, Henderson,
Franklin, Starnes & Holt, P.A.,
Fort Myers, FL
John W. Lewis, Henderson, Franklin,
Starnes & Holt, P.A., Fort Myers, FL
Kendra B. Therrell, Kubicki Draper,
Fort Myers, FL

FACTS & ALLEGATIONS In January 2007, plaintiff Roy Allen, 45, a auto mechanic, was driving his pickup truck on U.S. 41 near North Pelican Bay Boulevard in Naples when his vehicle was broadsided by a sedan driven by Gilmise Joseph and owned by Lifaite Absolu. Joseph's vehicle crossed the median and struck the driver's side door of Allen's pickup truck. The truck was then struck by three other cars. Allen sustained leg and foot fractures.

Allen sued Joseph and Absolu for motor vehicle negligence.

The defendants conceded liability, thus the case proceeded on causation and damages.

INJURIES/DAMAGES *atrophy; crush injury, leg; fracture, femur; fracture, hip; hip replacement; pins and screws*

Allen was extracted from the pickup truck by emergency personnel who removed the top of the truck and used the "jaws of life" to free him. He was taken by ambulance to the emergency room.

Allen suffered severe crush injuries to his left leg, which doctors thought he might lose. He suffered a fractured patella, a shattered femoral head and five bone fractures to his foot.

Allen underwent seven surgical procedures, including the implantation of screws in his foot and a hip replacement.

As a result of the injuries, Allen contended that he walks with a limp and experiences back problems. He claimed that his left foot is suffering atrophy. He testified that he is in daily pain and that activities such as walking long distances and riding a bicycle have been curtailed. He testified that he has trouble walking on uneven surfaces.

Allen testified that he can no longer work as a mechanic as a result of his injuries. He was earning about \$55,000 a year as a mechanic. He asserted that being a mechanic was not just a job, as cars was a passion of his in his personal life as well.

Allen claimed that he will need future pain management and additional hip and knee replacements.

Defense counsel did not call an independent medical examiner.

Defense expert in vocational rehabilitation opined that Allen could find other automotive work, such as working in service writer diagnosis.

RESULT The jury determined that damages totaled \$2.373 million.

ROY ALLEN \$288,000 past medical cost
\$155,000 future medical cost
\$225,000 past lost earnings
\$705,000 future lost earnings
\$600,000 past pain and suffering
\$400,000 future pain and suffering
\$2,373,000

OFFER \$10,000 policy limits were tendered

INSURER(S) GEICO for Lifaite Absolu and Gilmise Joseph

TRIAL DETAILS Trial Length: 3 days
Trial Deliberations: 1.5 hours
Jury Vote: 6-0
Jury Composition: 5 female, 1 male