

**Connecticut Trial Lawyers Association  
Law Reporter**

**Jury Verdict: Motorcycle accident; 53-year-old male; lower leg amputation;  
VERDICT OF \$1,635,000.00.**

In the case of *Paul Joseph Marsala, Jr., et al v. Thomas Groonell, et al*, filed in the Superior Court for the Judicial District of New Haven at Meriden, Docket No. CV 96 0252959S, the jury returned a verdict in favor of the plaintiff in the amount of \$1,635,000.00. This case was tried to a jury before the late Honorable Donald Dorsey.

On June 10, 1995, the plaintiff and his friend, Mario Marro, met at Archie Moore's Restaurant in Fairfield, where the plaintiff consumed two beers with his supper. After leaving the restaurant, they were riding their motorcycles on Route 1. They stopped at a traffic light at the intersection of North Benson Road and Route 1. When the light turned green, they both proceeded east.

Route 1 is a four-lane roadway with two travel lanes in each direction. The left and right hand eastbound travel lanes are separated by a broken line. Both the plaintiff and Mario Marro were traveling in the right hand eastbound travel lane in a staggered formation. The plaintiff was traveling to the right of Marro, closest to the right hand curb, about six to ten feet ahead of Marro. The speed limit is 30 miles per hour.

As the two drivers proceeded east, the defendant, driving his wife's car, was traveling west on Route 1 after having a card game at a friend's house, which lasted from 7:00 p.m. to 12:00 midnight. He consumed two beers early in the night, according to him. He intended to take a left hand turn across the oncoming eastbound travel lanes onto Belmont Street. When his automobile was well

within the right-hand eastbound travel lane, it collided with the plaintiff's motorcycle.

At a point prior to the impact, the plaintiff realized that the defendant's vehicle would not stop for him. He applied his brakes, leaned left and swerved to avoid impact with the defendant's vehicle. His right lower leg caught the right rear bumper of the defendant's vehicle. The motorcycle wavered while the plaintiff tried to stabilize it. He was unable to gain control of it and it fell to the right, landing on the plaintiff's leg and dragging on top of it. He then became separated from his motorcycle, which continued to slide in an easterly direction. He got up and attempted to stand, tried to walk, but collapsed. An ambulance arrived and transported him to St. Vincent's Medical Center. He never lost consciousness.

At St. Vincent's Medical Center, Dr. Belkin, an orthopedic surgeon, Dr. Lettera, a vascular surgeon, and Dr. Manjoney, a general surgeon, were consulted to evaluate his injury. Examination revealed a mangled lower right leg, ankle and foot, with degloving, loss of pulse, smashed bones and devitalized muscle. The decision was made to amputate the leg below the knee. Dr. Manjoney performed a guillotine amputation followed by tissue closure and debridement.

The wound was left open to drain for five days. Dressing changes were excruciatingly painful. During this time the doctors were quite concerned about the viability of the skin in the area of the wound. Had the skin necrotized, Paul Marsala would have been forced to undergo an above-knee amputation. Another amputation, four inches below the knee, was performed on June 16, 1995 and the wound was closed completely. The plaintiff was discharged on June 28, 1995.

The plaintiff spent his recovery period at home and was confined to bed for most of July of 1995 except for necessities and doctor visits. He used a walker and eventually walked on crutches. He received physical therapy and was fitted for a prosthesis at Eastern Orthotics in Stamford, Connecticut. His medical bills totaled \$75,654,36. His life expectancy from the date of injury is 27.2 years.

The liability issues were vigorously contested by the defendant, who alleged the plaintiff had been speeding and thereby caused the accident. The accident was investigated by the Fairfield Police Department, who documented a 150 foot pre-collision skid mark, with a 10 foot post-collision skid mark. The motorcycle came to rest approximately 143 feet from the point of impact. Three policemen testified on behalf of the defendant, claiming that they saw this 150-foot skid mark. The police admitted that their measurements were taken with the aid of a flashlight, that no supplemental lighting was used in gathering the physical evidence, and that no photographs were taken of the road that night or the next day. The plaintiff refuted any connection between his motorcycle and the police observations of a skid mark.

Robert Mantho, an accident reconstructionist, testified on behalf of the plaintiff and considered three different possible scenarios to calculate the probable speed of the plaintiff prior to reacting to the defendant. He testified that the rear tire of the plaintiff's motorcycle, which was in evidence, showed no indication of a skid patch which would have corresponded to the skid patch that the policemen claimed was attributable to the plaintiff's motorcycle. His opinion was that the plaintiff's motorcycle was traveling between 49 and 51 miles per hour just before to the impact.

Michael Cei testified as an expert for the defendant, who believed the plaintiff was traveling at a minimum speed of 55 miles per hour before braking. One of the policemen performed a speed calculation, concluding that the plaintiff was traveling between 55 and 57 miles per hour as a minimum speed.

The plaintiff called an independent witness who was near the intersection of Belmont Street and Route 1, as well as Mario Marro, who, not believing that his friend put down 150 feet of skid marks as the police had informed him, videotaped the road surface eight days after the accident. This video was in evidence. The plaintiff also called prosthetist Nicholas Guarino, who educated the jury on the components and operation of the plaintiff's prosthesis. He testified to the cost of the same and the projected cost of prosthesis component replacement over the plaintiff's lifetime.

Dr. Manjoney explained the plaintiff's injury, the operative procedures, and the painful dressing changes that the plaintiff endured. He had taken photographs of the plaintiff's mangled leg in the emergency room, which were in evidence. Another photo of the draining limb prior to the second operation was also in evidence. He testified that the plaintiff had a 70% impairment of the right lower extremity resulting in an estimated whole person impairment of 28%.

During the plaintiff's testimony, he changed into exercise clothes to demonstrate to the jury how he functions with the prosthesis. He demonstrated how he takes a shower standing on one leg. He testified to the excruciating pain while in the hospital, his psychological state during the long recovery, and the continual pain caused by the pressure of his residual limb bearing down on the prosthesis socket. He occasionally suffers dermatological problems on the limb for

which he received medical attention. At the time of the trial he was working as a carpenter. No lost wage claim was made.

The jury returned a plaintiff's verdict of \$1,635,000.00. A timely offer judgment was filed in the amount of \$1,450,000.00. The defendant's insurance company was St. Paul Fire and Marine, but because of the sale of certain lines of insurance by St. Paul, Met Life was the carrier at the time of trial. At mediation St. Paul opined that the full value of the leg was \$500,000.00, and offered \$250,000.00 to settle, because of their belief in the plaintiff's negligence. It was rejected. During the trial, an offer of \$500,000.00 was made and rejected. Four days after the verdict, Met Life's adjuster offered a structure of \$700,000.00 to settle. It was rejected.

Shortly after the verdict but before a decision on the post-trial motions filed by the defendant, Judge Dorsey passed away. Connecticut General Statutes §51-183f provides that a judge shall have the power to proceed with the case as if it had been originally brought before him. Although no Connecticut cases have addressed this scenario in relation to a jury verdict, guidance was provided by *Stevens v. Hartford Accident & Indemnity Co.*, 29 Conn. App. 378 (1992).

The plaintiff filed an application for a successor judge to be appointed under §51-183f to decide the post-trial motions. The defendants objected, claiming essentially that only the original judge can decide post-trial motions. They moved for a new trial and mistrial. Oral argument was heard on this issue by Judge Angela Robinson.

Judge Robinson granted the plaintiff's application for appointment of a successor Judge, denied the defendants' motions for a new trial, and reserved the decision on the motion for mistrial for the successor judge. The post-trial motions were then heard by Judge Kevin Booth, who denied the defendants' motions but ordered a remittitur of \$58,145.64 in economic damages, as the jury apparently awarded more money for future prosthetic maintenance and replacement than Nicholas Guarino had forecasted in his testimony. Finally, in what had to be the longest period of time between the verdict and judgment in the history of Connecticut jurisprudence, Judge Kevin Booth entered judgment on October 16, 2001 in the amount of \$2,582,949.88, which included \$1,000,018.10 in offer of judgment interest.