



FALL 2007

Aitken ★ Aitken ★ Cohn

Wylie A. Aitken
Richard A. Cohn
Darren O. Aitken
Christopher R. Aitken
Casey R. Johnson
Michael A. Penn

MacArthur Place
3 Imperial Promenade
Suite 800, P.O. Box 2555
Santa Ana, CA 92707-0555
714-434-1424
FAX: 714-434-3600
email:
mailto:mailbox@aitkenlaw.com
Web site:
www.aitkenlaw.com

OFFICE HOURS
Monday-Friday
8:15 a.m.-5:15 p.m.

**CIVIL LITIGATION/
PERSONAL INJURY
SPECIALISTS**

- Free consultation
- No recovery. No fee.
- Martindale-Hubbell
AV rating
- "Best Lawyers in America"
- "The Top 100 Influential
California Lawyers"

Paralyzed nine-year-old girl and her mother receive a precedent-shattering \$55 million judgment against the United States government after a five-year ordeal!

Family represented by Aitken Aitken Cohn

Aitken Aitken Cohn client Leilani Gutierrez, a nine-year-old girl, was awarded over \$54 million following a trial against the United States government. The case stems from a vehicle collision that occurred on Mother's Day, May 12, 2002, when Leilani was four years old, in Costa Mesa, Calif., when a federal employee ran a red light and broadsided the car in which Leilani was riding. The horrific accident left Leilani a ventilator-dependent quadriplegic, with no feeling from her neck down. June Gutierrez, her mother, was awarded \$1,040,918 for the physical and emotional injuries she suffered in the collision.

"Despite this five-year ordeal, though lengthy and painful, this case shows that a citizen can stand up to the United States government and that the federal government is not immune from responsibility when it comes to the safety of its citizens," said **Wylie Aitken**, a Santa Ana attorney and former State President of California's Consumer Attorneys.

After riding a carousel at South Coast Plaza, the Gutierrez family was returning to their home in Costa Mesa, Calif., when the collision occurred. While proceeding through the intersection of Newport Boulevard and Wilson Street, their vehicle was broadsided by a vehicle driven by a federal employee (Department of the Army) on a business trip. The impact was so severe that the Gutierrez's car struck a utility pole and flipped onto its side.



Leilani, Wylie, and June

Following the collision, Leilani required CPR and mouth-to-mouth resuscitation and, although she was properly restrained in a child's booster seat, the impact severely damaged Leilani's cervical spinal cord and left her with a host of related major medical conditions. She is

now confined to either her wheelchair or bed, and requires 24-hour nursing care, supplemented by the efforts of her parents and other members of her family.

"Leilani's injuries were more devastating than you could imagine," said **Darren Aitken**, co-counsel and son. "This award can ease the millions in health-care costs that will be necessary over her lifetime."

The lawsuit, a five-year ordeal, was brought against



Leilani, Darren, Reporter

(continued on page 2)

Paralyzed nine-year-old girl and her mother receive a precedent-shattering \$55 million judgment

(continued from front page)

the United States federal government and, pursuant to the legal requirements governing such lawsuits, was tried in front of a Federal District Court Judge instead of a jury.



Press Conference

Research indicates that the judgment is believed to be:

- The largest compensatory damages award within the Federal Central District of California.

“We want to thank the many people, such as the Costa Mesa Fire Department, Costa Mesa Police Department, medical-care providers, and community members who came to our aid after our lives had been devastated by the horrible accident,” said June Gutierrez, adding, “We’re so happy that we will now have the funds to pursue the most advanced medical treatments available.” Leilani and her mother June have been heavily involved in aiding research efforts to find a cure for spinal-cord injuries.

- The largest personal injury judgment ever received in Orange County.
- One of the largest judgments rendered against the federal government in California and nationally.

“Fortunately, the judge recognized that the millions in past medical expenses, the total loss in earnings in her lifetime, and the millions necessary to provide 24-hour care for her remaining life and the permanent loss of her quality of life, support such a fair and just finding,” said Wylie Aitken.

CLIENT SERVICE Questions about handling cases

Q: What’s your firm’s goal when representing a client?

A: We have one goal: client understanding and satisfaction with case outcome. Our best referral sources are satisfied clients.

Q: Whom should I talk to if I have questions?

A: Our policy is that our clients should have open and full access to attorneys, legal assistants, paralegals, and support staff involved in case management. Phone, e-mail, or make an appointment to contact the lawyer working on your case. You will get answers right away.

Q: Will you handle my case if it goes to trial?

A: Yes. Experience tells us we cannot fully represent a client and obtain a fair outcome unless we are prepared to argue a plaintiff’s case before a judge and jury. While a fair settlement is always to a plaintiff’s advantage, experience tells us that settlements for comprehensive value may not be achieved unless defendants and their attorneys know we will take a case all the way to trial for our clients.



Keeping up with Aitken Aitken Cohn

It is our goal that this newsletter keeps our friends and clients up-to-date with what is happening at **Aitken Aitken Cohn**. For more detailed and timely updates, please check out our Web site at www.aitkenlaw.com.

SEMINAR SCHEDULE

October 25, 2007
Orange County Trial Lawyers Association
“Pre & Post Trial Motions”
Chris Aitken

October 25, 2007
Celtic Bar Seminar
“Preparing Plaintiff’s Case for Mediation, The Mediation Hearing”
Wylie Aitken

January 22, 2008
Lorman Education Services
“Real Evidence for the Trial Practitioner”
Aitken Aitken Cohn lawyers

RECENT CASE RESULTS

↪ **Auto vs. Auto**—The plaintiff, heading north, approached an intersection and went into the left turn lane. He moved into the intersection and waited for a southbound vehicle to pass through the intersection when suddenly, the defendant, heading eastbound, negligently ran a red light, colliding with the southbound vehicle, causing that vehicle to strike the plaintiff's vehicle. As a result of the impact, the plaintiff sustained severe and life-changing injuries. The case settled for policy limits. **SETTLEMENT:** \$250,000

↪ **Products liability**—The plaintiff sustained debilitating injuries as a result of a defective seat in his vehicle when it was struck head-on by another vehicle. **SETTLEMENT:** \$1,850,000

↪ **Auto vs. Auto**—The defendant (in course and scope of employment) ran a red light and collided with the plaintiff's vehicle (operated by a mother and occupied by three minor children), resulting in the wrongful death of the six-year-old daughter, catastrophic head injuries to the three-year-old daughter, injuries to the baby daughter, and physical and emotional injuries to the mother. **SETTLEMENT:** \$19,550,000

↪ **Medical malpractice**—The plaintiff, a nurse, wife, and mother of two, brought a claim for malpractice when one day after giving birth (cesarean) to her second child, she was prescribed medication and was overdosed, causing the plaintiff to sustain a hypoxic brain injury with disabling lifelong residual damages. **SETTLEMENT:** \$7,250,000

↪ **Medical malpractice**—The plaintiffs made a claim for medical malpractice when their son was born with an anoxic brain injury. As a result, he suffers a seizure disorder, uses a feeding tube, and has spastic quadriplegia, requiring lifelong attendant and nursing care. **SETTLEMENT:** \$4 million

↪ **Auto vs. Bicycle**—The plaintiff, a 51-year-old male, was riding his bicycle when he was struck by a vehicle negligently operated by the defendant, who was making an illegal left turn at an intersection. The plaintiff sustained serious and permanent injuries. **SETTLEMENT:** \$1,250,000

Our firm's areas of interest

Aitken Aitken Cohn has chosen to specialize its practice in a few precise areas of law. The practice of law has become increasingly complex, and the firm's sophisticated clientele expect and deserve legal representatives fully aware of the nuances of their particular situations. Members of the firm, however, are always willing to adapt to the changing legal environment and explore new opportunities that are consistent with the firm's mission and goals. The following is a brief list of our areas of practice.

- Wrongful death
- Personal injury
- Products liability
- Aviation
- Insurance bad faith
- Commercial vehicle/Trucking liability
- Medical/Legal malpractice
- Commercial torts/Wrongful termination

Please see our Web site at www.aitkenlaw.com for further details in regard to each of these practice areas and for descriptions of other representative matters.

Plaintiffs collect seven-figure settlement in automobile versus tractor trailer incident

The plaintiff, a 48-year-old tractor-trailer truck driver, was driving on the job when his truck flipped over after being hit by another vehicle in an intersection collision. The



plaintiff lost consciousness and suffered multiple injuries, including fractured ribs, a laceration to the head, and a deep laceration to his right calf. While in the hospital following the incident, the plaintiff developed pulmonary embolism wherein he was hospitalized on two occasions. Over two years after the subject incident, he continued to suffer chronic low back and neck pain, bilateral wrist pain, and cognitive limitations. On top of the plaintiff's claim, the plaintiff's wife of many years suffered the losses alongside her husband.

After accumulating nearly 30 years of experience as a tractor-trailer truck driver, the plaintiff was unable to return to his work in the same capacity. While UPS continued his employment, the plaintiff lost his seniority at his position and was reassigned to a clerical role. At the time of the incident, the plaintiff was two years away from retiring with a full pension. The plaintiff's plan was to relocate close to his family and begin a second career as a tractor-trailer truck driver with a new employer.

The defendant contended that she entered the intersection on a "yellow" signal and that the plaintiff, at minimum, should share in the

(continued on back page)



AITKEN * AITKEN * COHN

A Law Corporation

MacArthur Place

3 Imperial Promenade, Suite 800

P.O. Box 2555, Santa Ana, CA 92707-0555

Referrals

Thanks to all of you who have recommended our firm to your relatives, friends, and neighbors. We appreciate your vote of confidence and pledge to care for these "VIPs" as well as we care for you.

© Copyright 2007. Newsletters, Ink. Corp. All rights reserved. Printed in the U.S.A. www.newslettersink.com

The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

Plaintiffs collect seven-figure settlement in automobile versus tractor trailer incident

(continued from page 3)

liability for the incident. The defendant also contended that the plaintiff could return to his preemployment status and work until normal retirement age as a tractor-trailer truck driver for his employer, UPS.

The plaintiff came to **Aitken Aitken Cohn** for help. The Aitken Firm, through extensive investigation and accident reconstruction analysis, was able to establish that the defendant indeed did enter the intersection on a red turn signal. Further, the Aitken Firm, through extensive vocational rehabilitation expert testimony, demonstrated that, while the plaintiff could work, he would receive a significant reduction of wages if he was able to secure employment elsewhere. In addition, the plaintiff established through expert testimony that he would likely experience a reduced work-life expectancy in a sedentary transportation-related job.

The plaintiffs were able to collect \$1,160,000 in resolution of their rightful claims.



Gift-card SCAMS

More of us are purchasing gift cards from department stores and other retailers for holidays, birthdays, anniversaries, and gifts for other celebrations.

There's a new-gift card worry: fraud. Unscrupulous thieves may steal the value from gift cards—called "draining"—by activating cards illegally through inside help, Internet fraud, or retail theft.

When card recipients try to use them, there's no balance left.

Protect yourself and your money

- Never buy cards on display since they may have been tampered with.
- Select only cards with hidden security codes or protective sleeves, which are less likely to have been prescanned.
- Ask the retailer to immediately verify a card's balance on purchase.
- Retailers will replace a drained card if you keep the original sales receipt.
- Register cards at retailers' online Web sites.
- Cards purchased from auction Web sites may be particularly suspect.

The year 2006 was the biggest gift-card sales year ever: \$53 billion.

Resources for you...

During the course of our several years representing those who have been seriously injured due to the careless (and sometimes criminal) conduct of others, we have encountered various groups who have provided great assistance to our clients. Listed to the right are a few of these groups.

Please check them out:

- **CRASH**
(www.trucksafety.org)
- **High Hopes**
(www.highhopes.ws)
- **MADD**
(www.MADD.org)
- **Mothers of Miracles**
(www.mothersofmiracles.info)

