Aitken ★ Aitken ★ Cohn

THE VERDICT

Experience. Compassion. Resources. Results.

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Profiled Cases:

THE VERDICT IS IN!

Welcome to The Verdict!

Aitken★Aitken★Cohn is a nationally recognized boutique law firm dedicated exclusively to representing Plaintiffs – whether it be the most seriously injured individual or the business entity victimized by unfair and fraudulent business practices.

Established in 1976, the firm has made a major impact on the lives of their clients and the legal profession by producing multiple seven and eight figure victories against large insurance companies, multi-national corporations and media giants, while maintaining a high standard of ethical conduct.

By committing to work on a limited number of selected cases, the firm is able to assure each client that their matter will receive personal and aggressive dedication and attention by our attorneys.

Left to Right: Michael A. Penn, Richard A. Cohn, Darren O. Aitken, Casey R. Johnson, Christopher R. Aitken, Wylie A. Aitken

The Verdict features overviews of several of Aitken★Aitken★Cohn's noteworthy cases. Each of the featured matters includes a brief overview of the case, as well as the ultimate result obtained for our clients. We have also allocated a portion of this issue to share just a few of the pro bono projects with which our attorneys have been involved.★

SELECTED CASES AND RESULTS

Amusement Park – **Confidential**
Premises Liability – **$10,125,000**
Automobile – **$5,000,000**
Wrongful Death – **$4,127,000**
Product Liability – **$4,100,000**
Governmental Liability – **$3,850,000**
Insurance Bad Faith/Automobile v. Bicycle – **$3,500,000**
Wrongful Death – **$3,100,000**
Medical Malpractice – **$2,415,000**
Automobile v. Pedestrian – **$2,100,000**

AMUSEMENT PARK/PRODUCT LIABILITY

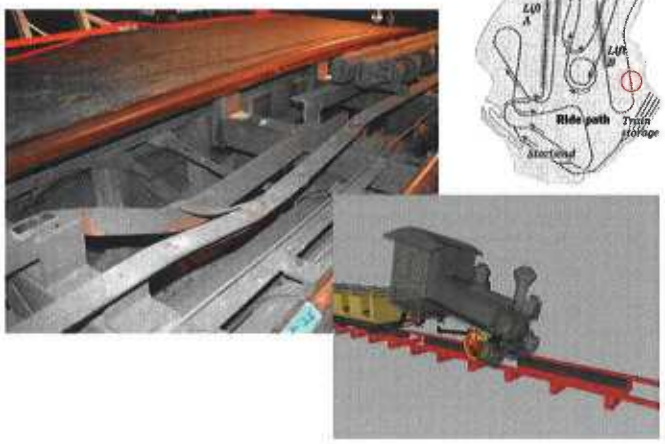
DEATH OF 22 YEAR OLD ON BIG THUNDER MOUNTAIN ROLLER COASTER AT DISNEYLAND

This matter involved the wrongful death of a 22-year-old graphic designer on the Big Thunder Mountain Railroad roller coaster at Disneyland, California. The decedent and his best friend and business partner were seated in the front passenger car just behind the locomotive section. The train had been experiencing numerous mechanical problems for weeks prior to the fatal incident.

As the locomotive entered the last turn before the tunnel, the train started to severely deteriorate. The derailed wheels slammed into the brakes attached to the floor between the rails. This impact forced the rear of the locomotive up and its nose down. When the front of the locomotive struck brake four, the back shot upwards toward the ceiling of the tunnel causing the locomotive to violently break away from the other cars as it pitched up, slammed into the tunnel roof, and crashed down on top of the first passenger car.

The derailment was in part the result of a mechanical failure, which occurred as a result of, among other things, omissions during a maintenance procedure of at least two required actions, the left side upstop/guide wheel on the floating axle of the locomotive was not tightened in accordance with specifications; and a safety wire was not installed pursuant to the necessary maintenance required by Disney's internal safety tagging system.

Area of Locomotive Pitch to Roof



RESULT : Disney settled the matter for a confidential amount prior to trial.★

PREMISES LIABILITY

TENANT FALLS THROUGH SKYLIGHT ON ROOF OF APARTMENT BUILDING – $10,125,000

Plaintiff, a 24-year-old production assistant for the television show "Will & Grace," went with his roommate to the roof of their Santa Monica apartment building to sunbathe.

On the roof, near the entrance door, leading from the stairwell from the second floor, was a roof opening covered by a sheet of corrugated fiberglass composite that was four feet wide and 11 feet long. Plaintiff stepped on the edge of the corrugated fiberglass, fell three stories (about 30 feet) through the roof opening and suffered traumatic injuries.

Aitken★Aitken★Cohn, contended that the apartment owners were negligent in that they failed to warn of a known concealed danger on the roof. Aitken★Aitken★Cohn further contended that the roof opening was not open and obvious but rather was flush to the roof and thus presented a hidden trap.

Aitken★Aitken★Cohn established through deposition that the owners considered the roof opening and the roof in general, a dangerous condition. Aitken★Aitken★Cohn further established through deposition that the property managers and owners knew of tenants using the roof of the building for sunbathing and watching fireworks, but provided no warning of the dangerous condition of the roof to the tenants.

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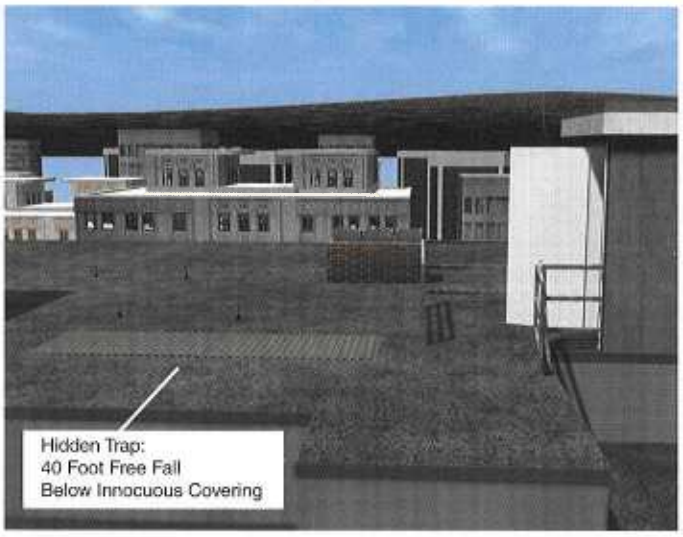
Continued from Page 2.

Through expert testimony Aitken*Aitken*Cohn established that the roof opening was below the standard of care of the construction industry, that such a roof opening required a guard rail and that such roof covering needed to be able to support 200 lbs.

The defense argued that Plaintiff was responsible for his injuries as the apartment property managers verbally warned tenants not to go on the roof. The defendants further argued that the roof opening was open and obvious and that Plaintiff was negligent for stepping on corrugated fiberglass. The builder argued that they could not be liable for a latent defect which was installed more than 35 years prior to the incident.

RESULT: The parties settled for $10,125,000. The building owners contributed $10 million ($7 million in excess of the insurance limits), the builders contributed $125,000.

Aitken*Aitken*Cohn argued that Plaintiff's damages could reach almost $20 million if the case went to trial. In the first mediation, the building owners offered the policy limits of $3,000,000 (after failing to do so during informal negotiations prior to Plaintiff's guardians retaining counsel).



Aitken*Aitken*Cohn argued that the insurance policy should have been tendered prior to Plaintiff retaining counsel. Instead, the building owner offered only $1.5 million initially, citing comparative negligence issues. The defendant owner's insurer (Sequoia Insurance) ultimately paid $7 million in excess of the policy limits to settle the matter.★

AUTO/WRONGFUL DEATH

DEATH OF PHYSICIAN – $19,422,080

The action sprang from an automobile collision in which Plaintiffs' decedent, a physician, was killed. The action was brought on behalf of the doctor's surviving spouse and three children, whose ages were 23, 21 and 14 at the time of the doctor's death. The cause of the collision was an unsafe passing maneuver by the defendant driver on a two lane highway which led to a head-on collision in the doctor's lane of travel. The defendant driver ultimately pled no contest to a criminal charge of vehicular manslaughter as a result of this collision and the doctor's death.

The primary liability issue contested during the litigation was whether the defendant driver was acting within the course and scope of her employment at the time the collision occurred. The defendant driver was an "outside sales agent" with her employer, and was required to have and to use an automobile for purposes of making sales calls.

Aitken*Aitken*Cohn, argued that due to the nature of her employment duties, the defendant driver remained within the course and scope of employment even during her evening commute home.

The defendant driver's employer contended that she was outside the course and scope of employment, either because she was heading home or was on a personal errand at the time.

Both Plaintiffs and the defendant driver's employer filed motions for summary judgment on the issue of the defendant driver's employment. This matter was settled one week prior to the date scheduled for the motions to be heard.

RESULT:
The defendant driver's employer settled the matter for $14,000,0000. The defendant driver's personal insurer had previously tendered its policy limits. The total value of the settlement, including cash and structured payments totals $19,422,080.★

GOVERNMENTAL LIABILITY

TEN FOOT TALL HEDGES BLOCK DRIVER'S LINE OF SIGHT CREATING DANGEROUS CONDITION ON PUBLIC PROPERTY – $3,850,000

The 13-year-old Plaintiff was riding his bicycle westbound across Valley View, in Buena Park, within a crosswalk, and in accord with a green pedestrian signal in his direction. Adjacent to this stretch of Valley View is a service road that runs parallel to Valley View in a north-south direction. On the day of this incident, the hedges that ran between Valley View and the service road were approximately ten (10) feet in height. These hedges cut off the line of sight between pedestrians using the crosswalk and cars traveling on the service road. As Plaintiff proceeded across Valley View onto the service road, a vehicle was proceeding northbound on the service street. This vehicle and Plaintiff collided when Plaintiff entered onto the service road.

Plaintiff settled with the driver of the vehicle for the defendant driver's $100,000 policy limits prior to litigation. The action against Buena Park was premised upon Plaintiff's contention that the blocked line of sight created by the tall hedges constituted a dangerous condition of public property. The City contended that there was no dangerous condition, as proven by the lack of similar accidents in years preceding this incident. The City further contended that the intersection did not present a danger to a person acting reasonably since oncoming traffic could be observed if one stops at the curb edge before proceeding into the street. The City contended that the sole cause of the incident was the Plaintiff's failure to look for oncoming traffic prior to entering the roadway from the sidewalk. Ultimately, the City brought a motion for summary judgment contending that the intersection did not present a dangerous condition of public property as a matter of law. Aitken★Aitken★Cohn successfully opposed that motion and the matter settled shortly thereafter.

Aitken★Aitken★Cohn negotiated a $3,750,000 settlement with the City.

The expected lifetime payout of the settlement is $17,988,772

Plaintiff sustained severe injuries which included multiple brain injuries including diffuse axonal injury (DAI), cerebellar hemorrhage, and intracerebral shearing of the brain; a left clavicle fracture; right pulmonary laceration; a splenic hematoma; liver laceration and free fluid in the pelvis; broken collar bone and broken ribs. He now suffers from slowed speech, inhibited motions, and impaired walking ability. He also has some cognitive difficulties.

The City contended that Plaintiff was a special education student prior to the incident, and his tested abilities did not decline measurably following this incident. The City contended that Plaintiff's earning capacity was not markedly reduced, and that Plaintiff would not require significant future medical care.

RESULT: Plaintiff claimed past medical expenses of $440,000 lost future earnings of $ 1,600,000 and substantial future costs for assisted living services. Defendant disputed all except for the past incurred expenses. Aitken★Aitken★Cohn negotiated a $3,750,000 settlement with the City. The expected lifetime payout of the settlement is $17,988,771.90.★

INSURANCE BAD FAITH/AUTOMOBILE VS. BICYCLIST

INSURER'S FAILURE TO SETTLE FOR $50,000 POLICY LIMITS LEADS TO SETTLEMENT OVER $3,000,000 IN EXCESS OF POLICY LIMITS – $3,500,000

Plaintiff was riding his bicycle northbound on Seapoint at Doral in Huntington Beach, California, when defendant's vehicle entered the bike lane and struck Plaintiff from behind at a high rate of speed. Plaintiff sustained severe injuries, and endured a lengthy hospitalization and recovery period.

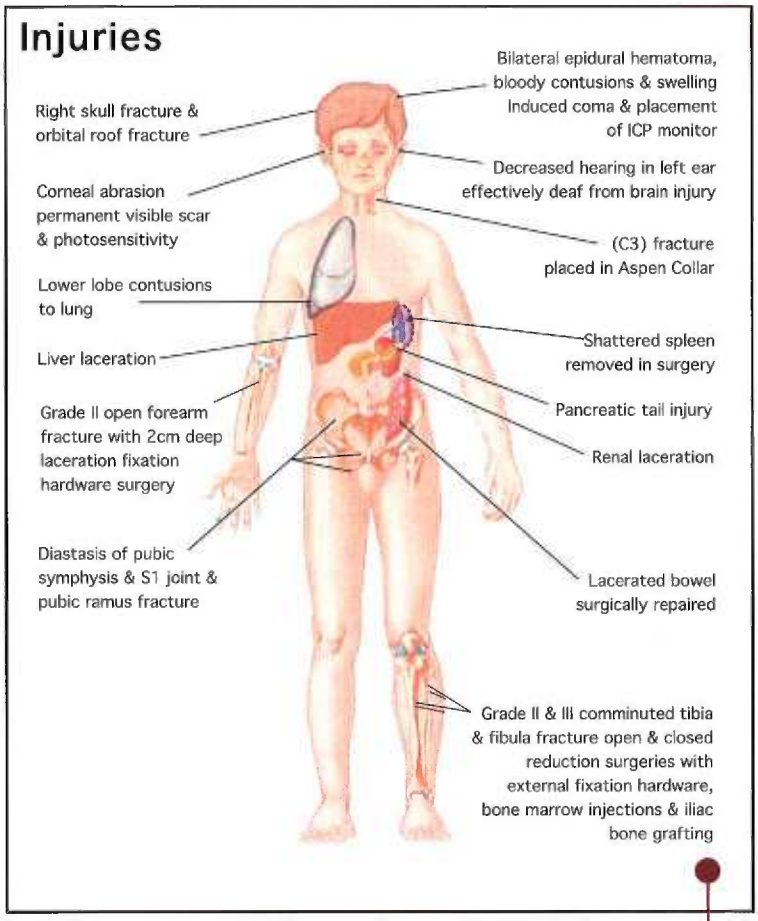
Plaintiff received severe injuries to his skull, pelvis, leg and arm. He received a lacerated spleen, injury to his colon, lung, pancreas, and was rendered in a coma state at the time of the incident. He has suffered hearing loss as well as photosensitivity. As a result of his brain injury he now has severe mood swings and other behavioral issues that are being treated by medication.

Prior to filing suit, Aitken★Aitken★Cohn demanded information regarding policy limits. Shortly prior to filing, the defendant driver's insurer, Farmers, revealed that the applicable limits were $50,000. Aitken★Aitken★Cohn then filed suit and demanded the policy limits. After Farmers failed to accept the policy limits demand during the time given for acceptance, Aitken★Aitken★Cohn counsel refused all later tenders of the policy limits, and demanded the full value of Plaintiff's injuries. Aitken★Aitken★Cohn indicated its intent to obtain a judgment in excess of the policy limits at trial, and then proceed against Farmers on a bad faith action by way of assignment from the Defendants.

The defense disputed the degree of loss of future earnings suffered by the plaintiff. The defense claimed that Plaintiff's high level of academic achievement and testing post-incident indicated that future lost earnings would be minimal at most.

The defense further tried to limit their liability by contending that any settlement value should be reduced to reflect the added expense and risk of initiating a second bad faith suit following the initial trial of the action by Plaintiff's counsel.

RESULT: Aitken★Aitken★Cohn settled for $3,500,000 during a second mediation session, in which Farmers ultimately agreed to pay seventy (70) times more than the policy limits insuring the defendant driver.★



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