



Defense Lawyers  
Association

## August 2011 Verdicts

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**Submitted By** Daniel J. O'Brien  
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**Court** State Court

**County** Bernalillo

**Judge** Hon. Nann Nash

**Defense Counsel** Daniel J. O'Brien

**Plaintiff Counsel** Greg Pelton

**Trier** 12-Person Jury

**Style** *ROBERT E. STAUB v. GEORGE W. BOOTES*, NO. CV 2009-07315

**Statement of Facts** The accident occurred on August 25, 2008 in Rio Rancho, New Mexico. Plaintiff slowed down to make a left-hand turn and Defendant rear-ended Plaintiff's truck. Neither party complained of injuries at the scene, so an ambulance was not called. The Defendant's car sustained heavy damage to the front end and was towed from the scene. Plaintiff was able to drive his truck.

Plaintiff sought no treatment for a period of five months post accident. On February 3, 2009, Plaintiff went to Dr. Garcia (Los Alamos Surgical Associates) complaining of left shoulder weakness. He told the doctor that he had been rear-ended in August, 2008 and since that time the shoulder had not felt the same. Plaintiff was a competitive archer and hunter, and he stated that he could no longer hold the bow out as necessary. An MRI indicated a tear of the rotator cuff. Surgery was successful and Plaintiff underwent several months of physical therapy. However, Plaintiff claimed his employment opportunities were diminished because he could no longer use ladders to perform his duties as a safety inspector.

Plaintiff's medical bills were approximately \$34,000. He claimed lost income of approximately \$8,600 for time off attending doctors' appointments and therapy. Through the testimony of Brian McDonald, plaintiff claimed future loss of earning of capacity of between \$90,000 and \$180,000, loss of household services and loss of enjoyment of life.

Plaintiff's last settlement demand was \$310,000. Defendant filed an offer of settlement in the amount of \$100,000.

At trial, Defendant admitted he was negligent and the cause of the accident.

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**Verdict** The jury awarded \$55,000 to the Plaintiff

**Experts:** Plaintiff: Brian McDonald, economist, Dr. John Garcia, Los Alamos Surgical Associates  
Defendant: None

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**Submitted By** T. A. Sandenaw, Jr.  
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**Court** State Court

**County** Hidalgo

**Judge** Hon. J. C. Robinson

**Defense Counsel** T. A. Sandenaw, Jr.

**Plaintiff Counsel** Lawrence Pickett and Mark Pickett

**Trier** 12-Person Jury

**Style** *Bill Cavaliere, Plaintiff v. New Mexico Institute of Mining & Technology, through its Board of Regents*,  
Defendant; Cause No. 2008-25.

**Statement of Facts** Breach of contract claim by Plaintiff who had been hired as a town site police officer for Playas, New Mexico, but insisted that he had been verbally promised the job of chief of police and/or assistant chief of police of the Playas Campus of New Mexico Tech. Plaintiff relied upon the New Mexico Tech Employee Manual as a writing to satisfy the provisions of Section 37-1-23. Prior to trial the Court, in ruling on summary judgment motions, found there were factual issues to be resolved. A motion for judgment as a matter of law at the conclusion of the Plaintiff's case was taken under advisement. The motion was renewed at the conclusion of Defendant's case-in-chief and the motion was granted.

**Verdict** Defense

**Experts:** None.

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