



Defense Lawyers
Association

November 2012 Verdicts

Submitted By Rudy Lucero
Miller Stratvert P.A.
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(505) 842-1950

Court State Court

County Bernalillo

Judge Hon. Beatrice Brickhouse

Defense Counsel Tom Mack and Tom Bunting

Plaintiff Counsel Paul Maestas

Trier 12 Person Jury

Style State of New Mexico
County of Bernalillo
Second Judicial District Court No. CV 2010-08004

Aubra Padilla, Plaintiff
v.
Robert A. Gordon, M.D.,
Albuquerque Women's Health, P.C. and
Presbyterian Healthcare Services, Defendants.

Statement of Facts The firm of Miller Stratvert P.A. had success in a case earlier this summer with a defense verdict for a physician and his practice. In Padilla v. Gordon, the Plaintiff alleged negligence by the gynecologist in the performance of a transvaginal hysterectomy for benign disease. The jury entered a unanimous verdict, finding no negligence by the gynecologist. The surgery was uncomplicated and went smoothly and the alleged injury – a recto-vaginal fistula – is a rare, but recognized, complication of pelvic surgery, which arose weeks after the surgery as a consequence, likely, of some underlying disease in combination with the body's natural healing process and related inflammatory processes.

Verdict Defense



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November Continued 2012 Verdicts

Submitted By

Rudy Lucero
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Court

State Court
Federal Court

County

El Paso County, Texas

Judge

Hon. Bill Hicks

Defense Counsel

Brook Laskey and Todd Schwarz, Miller Stratvert P.A., for Heritage Operating, L.P.

Plaintiff Counsel

Jim Scherr, Scherr & Legate

Trier

12 Person Jury

Style

District Court of El Paso County, Texas,
243rd Judicial District, Case 2009-4360

Rita Porter, Individually and as Mother and Next Friend of Dawone Porter, a Minor, Armando and Yvonne Gutierrez, Individually and as Next Friends of Armando and Amanda Gutierrez, Minor Children, Plaintiffs, Patty Gordon, as Next Friend of Dylon Gordon, a Minor, Intervenors,
vs.

Catholic Diocese of El Paso (San Lorenzo Church),
Brian Dillar, K. Danelle Ivey, Francis Paneral,
Denman Propane, Ltd. a/k/a Denco Parters, Ltd. and Heritage Operating, L.P. a/k/a Servi Gas-Ikard & Newson and Denman Propane, Defendants,

San Lorenzo Church,
Counter-Claimant, Cross Claimant and Third-Party Plaintiff,
v.
El Paso County 4H Adult Leaders Association, Third Party Defendants.

Statement of Facts

September 17, 2012 (El Paso County, Texas). Brook Laskey and Todd Schwarz successfully defended a propane company in a four-week jury trial in El Paso County, Texas. The client is one of America’s largest propane retailers with a presence from coast-to-coast. The case involved a fire that occurred in a 4-H Club fundraising booth at a church festival in August 2009. Four teenagers suffered burns as a result of the fire. “While we certainly feel great sympathy for the children who were burned in this tragic accident, we were confident that our client had not been negligent nor even had anything to do with this situation. Nevertheless, we knew that we needed to prepare a strong defense to prove that the company played no part in the cause of the fire,” said Brook Laskey, a partner in the Albuquerque office of Miller Stratvert P.A. The jury heard testimony from upwards of forty witnesses, including eight experts, and was also presented with a gas dispersion model of the purported gas leak. Plaintiffs’ counsel asked the jury to award in excess of \$19,700,000 in damages to the victims and their families. Defense counsel argued that the fire was caused as a result of water or ice being inadvertently dropped into hot oil contained in a funnel cake fryer, rather than via a propane flash fire or explosion. After hearing testimony from all sides, the El Paso County jury of nine men and three women deliberated and returned a verdict for the defense (the church was also a party-defendant) on September 14, 2012. The plaintiffs motion for a new trial was denied by Judge Hicks.

Verdict

Defense