



Defense Lawyers
Association

February 2013 Verdicts

Submitted By**W. Mark Mowery**

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Court	State Court
County	Bernalillo
Judge	Hon. Carl Butkus
Defense Counsel	W. Mark Mowery
Plaintiff Counsel	Paul Dominguez
Trier	12 Person Jury
Style	Cheryl Haner, Plaintiff, vs. Presbyterian Healthcare Services d/b/a Kaseman Presbyterian Hospital, Defendant, Case No. CV-2008-07205

Statement of Facts

Plaintiff, who had recently attempted to commit suicide, was instructed to go to Kaseman Presbyterian Hospital after her counselor became concerned that she was again contemplating suicide. The hospital's records document that the plaintiff was uncooperative and hostile and would not answer certain questions regarding her medical and mental health history. A nurse practitioner attempted to complete an evaluation of the plaintiff so that she could be "medically cleared," after which she could be seen by a behavioral health specialist. However, due to the time of night when this evaluation occurred, the plaintiff was informed that she could not be seen by a behavioral health specialist until the next morning when these specialists returned to work. At this point the plaintiff became increasingly hostile and demanded that her clothes be returned to her. She also demanded that she either be discharged from the hospital or transferred to another facility. When these demands were refused, the plaintiff picked up a cup of water and threw it at the nurse practitioner, striking her on her leg. The plaintiff was then physically restrained and given a medication to calm her. The decision was then made to call the police to report a possible battery on a health care worker. After an APD officer arrived and completed an investigation, he determined that there was probable cause to believe that a battery had occurred. He then arrested the plaintiff and transferred her to the Bernalillo County Detention Center. The district attorney's office later decided not to continue the prosecution of the plaintiff. She thereafter brought suit against Presbyterian for medical negligence and malicious abuse of process.

Verdict	Defense
Comments	The trial of this case lasted five days.
Experts	Plaintiff: Dr. Gerald Fredman, psychiatrist from Albuquerque, NM. Defendant: Dr. William Howard Reid, psychiatrist from Horseshoe Bay, TX.



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March 2013 Verdicts

Submitted By

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Court

State Court

County

Grant

Judge

Honorable J.C. Robinson

Defense Counsel

Raul A. Carrillo, Jr. and Steven L. Lovett

Plaintiff Counsel

William Perkins

Trier

6 Person Jury

Style

Fawn Heidrick, Plaintiff vs. State of New Mexico, ex. Rel., Department of Transportation, Defendant;
Case No. D-608-CV-2011-37

Statement of Facts

The Plaintiff's claims arose from a single car accident on New Mexico State Highway 211 which occurred on August 19, 2009. The allegations against the State Highway Department were based on two theories: the first, that the chip seal crew which resealed the portion of the highway where the accident occurred, on the date of the accident, left loose gravel on the roadway (i.e., inappropriate maintenance) which contributed to the Plaintiff's loss of control of her vehicle as it rounded the curve, and caused her to flip into a ditch where she suffered severe injury. The second theory was that the crew operating that day, and in the days prior, failed to post adequate signage warning of road conditions and reducing the speed limit, post-chip sealing.

Verdict

Defense

Comments

The trial of this case lasted three days (1/16/13 - 1/18/13)

Experts

Plaintiff: Parker Bell, Transportation Safety Consulting Engineer
Ronald J. Feder, Accident reconstructionist
Defendant: Wendell C. Hull, Ph.D. Eng. Sci



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March Continued 2013 Verdicts

Submitted By

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Court

State Court

County

Santa Fe

Judge

Honorable Sarah Singleton

Defense Counsel

Brownstein Hyatt Farber Schreck, LLP

Plaintiff Counsel

Jones Snead Wertheim & Clifford

Trier

12 Person Jury

Style

University of New Mexico, an arm of the State of New Mexico ex rel the New Mexico Building and Construction Trades Council, the International Brotherhood of Electrical Workers Local 611 and Iron Workers Local 495 v. Flintco, LLC and Flintco West, Inc.,
First Judicial District Docket No. D-101-CV-2010-03625

Statement of Facts

Plaintiffs alleged multiple violations of the Fraud Against Taxpayers Act in the \$60 million renovation of The Pit basketball arena occurring between 2008 and 2011. Specifically, Plaintiffs alleged that Defendants used a pre-existing relationship with David Schmidly, then President of UNM, to have the project awarded to Defendants over their competitors. Plaintiffs further alleged that Defendants then hired Dr. Schmidly's son as a quid pro quo for having UNM approve some seven million dollars in change orders on the project and various other alleged frauds. Among the other alleged frauds were assertions that Defendants had failed to properly account for total expenditures on The Pit project and the alleged submission of various improper costs as reimbursable on the project, which were in fact for Defendants' benefit. Those alleged frauds amounted to some \$1.2 million in alleged improper accounting and some \$456,000 in improper invoices.

Verdict

Defense

Comments

This appears to be the first case in which a claim under a state equivalent to the federal False Claims Act has gone to trial. The trial lasted seven days (2/25 to 3/5).

Experts

Plaintiff: Janet McHard
Defendant: Sam Baca and Laura Beltran-Schmitz