

VERDICTS & SETTLEMENTS

PERSONAL INJURY

BICYCLE V. TRUCK
Negligence

VERDICT: Defense.

CASE/NUMBER: Marcos Barreras-Martinez v. Antonio Galicia, Los Angeles Unified School District, City of Los Angeles, Tomovich & Associates and Does 1 to 100 / BC497708.

COURT/DATE: Los Angeles Superior Torrance / April 18, 2016.

JUDGE: Hon. Laura C. Ellison.

ATTORNEYS: Plaintiff - Peter J. McNulty (McNulty Law Firm, Los Angeles).

Defendant - Yuk K. Law (Law Brandmeyer & Packer LLP, Pasadena) for Tomovich & Associates.

MEDICAL EXPERTS: Plaintiff - Brian Lugo, M.D., general surgery, Pasadena.

TECHNICAL EXPERTS: Plaintiff - Martin M. Balaban, Ph.D., safety, Encino; Jerry R. Ellison, civil and traffic engineering, Burbank.

Defendant - John Brault, M.S., biomechanics, Mission Viejo; William Kunzman, P.E., traffic engineering, Orange; Jon B. Landerville, P.E., accident reconstruction, Torrance.

FACTS: On April 17, 2012, plaintiff Marcos Barreras-Martinez was riding a bicycle going southbound on North Figueroa St. Defendant Tomovich & Associates, a construction contractor for the City of Los Angeles, was performing a repair of the sewerage pipes in the center and two lanes on North Figueroa. Tomovich & Associates had traffic controls set up to provide the No. 1 lane of traffic for both northbound and southbound traffic during the construction.

A collision occurred between plaintiff and a Los Angeles Unified School District food delivery truck. Plaintiff settled with LAUSD prior to trial.

PLAINTIFF'S CONTENTIONS:

Plaintiff contended that Tomovich & Associates failed to obtain an engineer-approved traffic control plan, and the traffic control on southbound North Figueroa was negligently set up such that it created a funnel effect and the lane was too narrow to allow a truck and a bicycle to be traveling toward the intersection of Sycamore Terrace. When the LAUSD truck turned right, it dragged plaintiff's bicycle into the intersection and crosswalk, and the momentum of the truck caused plaintiff and his bicycle to slide under and to be run over by the truck.

DEFENDANT'S CONTENTIONS:

Tomovich & Associates contended that the traffic control was properly set up in accordance with the Work Area Traffic Control Handbook Manual, allowing more than sufficient travel lane width for safe traffic. Further, it claimed that plaintiff was riding on the sidewalk of southbound North Figueroa at about 15 mph and broadsided the right-turning LAUSD truck that was in the crosswalk in the intersection of Sycamore Terrace, where Tomovich & Associates did not have any construction work. It was plaintiff who was inattentive and did not see the LAUSD truck that was turning and in the crosswalk.

INJURIES: Plaintiff and his bicycle were found underneath the LAUSD truck. He sustained a broken femur, fractured pelvis, and was hospitalized for 3 months while in a coma during which he received medical and surgical treatments for an injured spleen, liver, pancreas and bowel injuries, broken ribs, a hiatal hernia, and hemorrhagic shock.

DAMAGES: Plaintiff sought \$1.4 million for past and future physical pain and emotional suffering.

SPECIALS IN EVIDENCE: MEDS: \$93,000 (MediCal lien).

JURY TRIAL: Length, five days; Poll, 12-0 (no negligence); Deliberation, one hour.

SETTLEMENT DISCUSSIONS: Plaintiff demanded \$262,500. Defendant offered waiver of costs.

RESULT: Defense as to Tomovich & Associates.

OTHER INFORMATION: Plaintiff settled with LAUSD for \$340,000.

FILING DATE: Dec. 18, 2012.