

SOUTHEAST

INJURIES/DAMAGES The plaintiff sought actual and punitive damages. Defense counsel said the plaintiff had two actual-damages models. The defense argued that one of these models (the lesser of the two) had been rejected by the state Supreme Court.

RESULT Jury found breach of contract, fraud, defamation and negligence by defendants. The jury found civil theft by the defendants, which removed the statutory cap on punitives. It awarded \$27,531,493.64. The parties stipulated that attorney fees for the winner would be \$500,000.

The case settled after the verdict for a confidential amount.

**PARAMOUNT
INSURANCE
REPAIR
SERVICE INC.**

\$12,007,997 punitive damages
\$12,007,997 for fraud
\$500,000 for defamation
\$3,015,500 for civil theft
\$27,531,494

TRIAL DETAILS

Trial Length: 15 days
Trial Deliberations: 4 hours
Jury Vote: Unanimous

**PLAINTIFF
EXPERT(S)**

Bryne Liner, CPA, accounting,
Houston, TX

**DEFENSE
EXPERT(S)**

None reported

EDITOR'S NOTE This report is based on information that was provided by plaintiff's counsel and defense counsel.

—John Schneider

HARRIS COUNTY

VERDICT *of the* WEEK**WORKPLACE SAFETY****Slips, Trips & Falls — Fall from Height**

Worker burned in chemical flashfire on tanker truck

VERDICT **\$13,707,384**
ACTUAL **\$6,948,669**

CASE Carl Cotright and Tamekia Cotright v. G&C Hotshot Service LLC and Roadrunner Freight Corp., No. 2008-31419
COURT Harris County District Court, 61st, TX
JUDGE Al Bennett
DATE 11/16/2010

**PLAINTIFF
ATTORNEY(S)** Jason A. Gibson (lead), The Gibson Law Firm, Houston, TX
Paul Wesley Klinger, Jr., The Klinger Law Firm, Baytown, TX
Cliff D. Peel, The Gibson Law Firm, Houston, TX
Andrew C. Smith, The Gibson Law Firm, Houston, TX

**DEFENSE
ATTORNEY(S)** Steven E. Thompson (lead), Steven E. Thompson & Associates, Houston, TX
Kyle R. Sears, Martin, Disiere, Jefferson & Wisdom L.L.P., Houston, TX

FACTS & ALLEGATIONS On April 19, 2007, plaintiff Carl Cotright, 39, was employed by K-Solv, a chemical storage and transportation company, as a worker at its Houston yard. While xylene was being loaded into a tanker trailer under the control of C&G Hotshot Services, flammable vapors ignited into a flash fire, injuring Cotright. C&G ceased operations after the fire.

Cotright sued C&G and Roadrunner Freight Co., claiming negligence and gross negligence. He claimed that the tanker was not grounded during the loading operation, resulting in the static electrical discharge, which started the fire. He claimed C&G's top safety official, who was also a part owner of the company, was aware of the need for grounding but took no steps to insure it took place. He claimed that C&G had no written safety policies despite a history of accidents, and had offered the truck driver no training in safe loading

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procedures. Plaintiff's counsel argued that the tanker was attached to a C&G tractor at the time of the fire, making C&G responsible for safety procedures. Plaintiff's counsel argued that Roadrunner was an alter ego of C&G.

The defense argued that safety and safety training were K-Solv's responsibility as Cotright's employer, and named K-Solv as a responsible third party. Defense counsel argued that Cotright was negligent in failing to insure that the tanker was properly grounded.

Cotright denied negligence, claiming the loading procedure had been started by another employee.

INJURIES/DAMAGES *fracture, malleolus; second-degree burns; skin grafting; third-degree burns*

Cotright sustained burns to more than 25 percent of his body, including third-degree burns to his lower legs and second-degree burns to his back and forearms. He claimed that he was forced to jump 12 feet from the top of the tanker to escape the fire, resulting in bilateral medial malleolar avulsion fractures to both ankles. He was hospitalized for two weeks following the accident, and received skin grafts to his legs. He sought an unspecified amount for past and future pain and suffering, medical expenses, physical impairment, lost income, disfigurement and exemplary damages. His wife sought an unspecified amount for past and future loss of consortium.

RESULT The jury found both negligence and gross negligence, and found C&G 70 percent liable and K-Solv 30 percent. Cotright was awarded \$13,707,384. Actual damages were reduced to \$4,310,168.80 for comparative liability, exemplary damages were capped at \$2,339,768 and Judge Al Bennett awarded \$298,732.56 in prejudgment interest for a final award of \$6,948,669.36.

CARL COTRIGHT	\$50,000 past medical cost \$50,000 future medical cost \$750,000 past physical impairment \$750,000 future physical impairment \$161,301 past lost earnings \$583,583 future lost earnings \$2,500,000 past pain and suffering \$1,250,000 future pain and suffering \$75,000 past disfigurement \$37,500 future disfigurement <u>\$7,500,000 punitive damages</u> \$13,707,384
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DEMAND	\$1,000,000
OFFER	\$15,000

INSURER(S) AIG/Chartis

TRIAL DETAILS Trial Length: 5 days
Trial Deliberations: 2 days
Jury Vote: 10-2, 12-0 on exemplary damages

**PLAINTIFF
EXPERT(S)**

Daniel Freet, M.D., plastic surgery/
reconstructive surgery, Houston, TX
(Treating physician)
Don Huddle, Ph.D., economics,
Houston, TX

**DEFENSE
EXPERT(S)**

None reported

POST-TRIAL A defense motion for judgment notwithstanding the verdict was denied.

EDITOR'S NOTE This report is based on information that was gleaned from court documents and provided by plaintiff's and defense counsel.

—Rick Archer

MOTOR VEHICLE

Left Turn

Disc injury was degenerative in nature, defense argued

VERDICT Defense

CASE Adam Louviere v. Sheryl Yanga,
No. 2009-08659
COURT Harris County District Court, 234th, TX
JUDGE Reece Rondon
DATE 10/27/2010

**PLAINTIFF
ATTORNEY(S)** Michael A. Moriarty, Moriarty Law Firm,
Houston, TX

**DEFENSE
ATTORNEY(S)** Ed Wallison, Rathwell, De Ford &
Wallison, The Woodlands, TX

FACTS & ALLEGATIONS On Feb. 21, 2007, plaintiff Adam Louviere, 45, a trackhoe operator, was driving on Old Spanish trail in Houston. Sheryl Yanga made a left turn from the wrong lane and struck Louviere's vehicle. Louviere was in a compact car, and Yanga was in a mid-size sedan.

Louviere sued Yanga for making an improper left turn. Yanga stipulated to liability.

INJURIES/DAMAGES *chiropractic; disc protrusion, lumbar; lower back*

The impact was moderate. An MRI showed an L5-S1 disc protrusion, and Louviere claimed lower back pain. His first treatment was a month after the accident, when he chose