

THE **RECORDER**

TOP VERDICTS

April 25, 2011 | ESSENTIAL CALIFORNIA LEGAL CONTENT

California's Million Dollar Verdicts

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RANK	CASE	DATE	COURT	TYPE OF ACTION	HEADLINES	COUNSEL	AWARD
25	Travis v. Bison Builders Inc.	12/22/2010	Marin County	Construction: Scaffolds and Ladders	Worker alleged he hit his head on low scaffolding	P: Jeremy D. Cloyd, San Francisco, CA of The Veen Firm, P.C.; William L. Veen, San Francisco, CA of The Veen Firm, P.C.	\$11,732,637
26	PC Specialists Inc. v. Fusion-Storm	7/16/2010	San Francisco County	Intellectual Property: Trade Secrets	Pltf: Former employees disclosed trade secrets to competitor	P: Arturo J. Gonzalez, San Francisco, CA of Morrison & Foerster, L.L.P.; Craig A. Schloss, San Diego, CA of Morrison & Foerster, L.L.P.	\$10,885,000
27	Novak v. Pizza Hut Inc.	7/28/2010	San Diego County	Motor Vehicle	Suit: Pizza Hut was negligent in hiring dangerous driver	P: John H. Gomez, San Diego, CA of The Gomez Law Firm; John P. Fiske, San Diego, CA of Wertz, McDade, Wallace, Moot & Brower, APC; Joseph C. Lavelle, San Diego, CA of Wertz, McDade, Wallace, Moot & Brower, APC; John R. Wertz, San Diego, CA of Wertz, McDade, Wallace, Moot & Brower, APC	\$10,820,976
28	Lutz v. Mudford	10/23/2010	Fresno County	Motor Vehicle: Multiple Vehicle	Plaintiffs alleged van driver's inattention caused pile-up	P: Rene L. Sample, Fresno, CA of Cornwell & Sample, L.L.P.; Christopher T. Aumais, Los Angeles, CA of Girardi & Keese; David R. Lira, Los Angeles, CA of Girardi & Keese	\$9,349,252
29	Earley v. Chubb Custom Insurance Co.	7/2/2010	Imperial County	Contracts: Breach of Contract	Insurance agency mishandled coverage, hotel owner alleged	P: Steven M. Nuñez, Solana Beach, CA of Ward & Hagen LLP; Peter C. Ward, Solana Beach, CA of Ward & Hagen LLP	\$7,553,559
30	Bae v. First Transit Inc.	6/24/2010	Los Angeles County	Motor Vehicle: Pedestrian	Pedestrian hit by bus claimed traumatic brain injury	P: Daniel E. Hoffman, Los Angeles, CA of Lee & Associates; Jae Y. Lee, Los Angeles, CA of Lee & Associates;	\$7,000,000
31	Martin E. and Marion E. Scalzo Family Trust v. City of San Capistrano	6/1/2010	Orange County	Land Use: Inverse Condemnation	City placed unfair conditions on development project, plaintiff said	P: Carol Zaist, Newport Beach, CA of Newmeyer & Dillion; Charles S. Krolkowski, Newport Beach, CA of Newmeyer & Dillion LLP	\$6,768,000
32	Crenshaw v. Land O'Lakes Inc.	11/2/2010	Kings County	Motor Vehicle: Intersection	Corrections officer said crash caused career-ending injuries	P: Robert Glassman, Los Angeles, CA of Panish Shea & Boyle LLP; Brian J. Panish, Los Angeles, CA of Panish Shea & Boyle LLP	\$6,445,551
33	Avery v. MV Public Transportation Inc.	10/8/2010	Placer County	Products Liability: Design Defect	Lift system mishap caused rider in wheelchair to roll off bus	P: Roger A. Dreyer, Sacramento, CA of Dreyer, Babich, Buccola & Wood, L.L.P.; Christopher W. Wood, Sacramento, CA of Dreyer, Babich, Buccola & Wood, L.L.P.	\$6,396,697
34	McDonald v. Biggs	6/10/2010	Kern County	Motor Vehicle: Rear-ender	Mother alleged crash caused painful shoulder injuries	P: Stephen K. McElroy, Lancaster, CA of R. Rex Parris Law Firm; Ashley N. Parris, Lancaster, CA of R. Rex Parris Law Firm	\$6,158,083
35	McIntosh v. Northern California Universal Enterprises Co.	3/10/2010	Federal	Intellectual Property: Copyrights	Engineer said his copyrighted designs were used without permission	P: James J. Braze, Bakersfield, CA of Borton Petrini, LLP; Jeffrey A. Travis, Bakersfield, CA of Borton Petrini, LLP	\$5,389,000
36	Lee v. California Institute of Technology	7/23/2010	Federal	Products Liability: Design Defect	Professor paralyzed in rollover blamed van's roof design	P: Christine D. Spagnoli, Santa Monica, CA of Greene Broillet & Wheeler, LLP; Bruce A. Broillet, Santa Monica, CA of Greene, Broillet & Wheeler, LLP	\$4,697,347
37	DaSilva v. Ornelas	3/26/2010	San Mateo County	Motor Vehicle: Motorcycle	Motorcyclist alleged tanker crossed center line, struck him	P: George V. Choulos, San Francisco, CA of Choulos, Choulos & Wyle, LLP; Anna Dubrovsky, San Francisco, CA of Choulos, Choulos & Wyle, LLP	\$4,696,229
38	Johnson v. Kirk	12/1/2010	Los Angeles County	Intentional Torts: Slander	Retired pastor accused replacement of slander, conversion	P: William M. Crosby, Irvine, CA of Barnes, Crosby, FitzGerald & Zeman LLP	\$4,632,010

Asbestos / Mesothelioma

Benzene

Pharmaceutical

Commercial Law

Products Liability

Toxic Tort

Truck Accidents

Refinery Explosions

Anaplastic Large Cell Lymphoma

Nephrogenic Systemic Fibrosis



Jay B. Stuemke



Robert A. Green

Simon, Eddins & Greenstone, LLP proudly congratulates attorneys Jay B. Stuemke and Robert A. Green on their victory in obtaining a verdict of approximately \$22.7 million in compensatory and punitive damages on behalf of Bill and Anne Pfeifer and against John Crane, Inc. Plaintiffs sued John Crane, Inc. in products liability for the design, manufacture and sale of asbestos-containing products, on the grounds that Bill Pfeifer's exposure to asbestos from John Crane products contributed to cause his mesothelioma. The Los Angeles jury found John Crane liable for both design defect (on a "consumer expectations" theory) and failure to warn. The jury assigned 70% of the fault to John Crane, and found no contributory negligence as to Bill Pfeifer. The jury further found clear and convincing evidence that John Crane, Inc. acted with malice, and thereafter awarded plaintiffs \$14.5 million in punitive damages.

SIMON, EDDINS & GREENSTONE, LLP
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VERDICTS

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Ltd., a United Kingdom corporation; and Paul Smith, an individual v. The Walt Disney Co., a Delaware corporation; American Broadcasting Cos. Inc., a New York corporation; Buena Vista Television, a California corporation; Valleycrest Productions Ltd., a California corporation; Walt Disney World Co., a Florida corporation; and Does 2 through 20, inclusive, No. 2:04-cv-03541-VAP -RNB

Venue: United States District Court, Central District, Los Angeles, CA

Judge: Virginia A. Phillips

Date: 07-07-2010

Plaintiff Attorney: Bernice Conn; Robins, Kaplan, Miller & Ciresi L.L.P.; Los Angeles, CA, for Lusam Music Ltd., Celador International Ltd., Paul Smith

Marcia J. Harris; Robins, Kaplan, Miller & Ciresi L.L.P.; Los Angeles, CA, for Lusam Music Ltd., Celador International Ltd., Paul Smith

Roman M. Silberfeld; Robins, Kaplan, Miller & Ciresi L.L.P.; Los Angeles, CA, for Lusam Music Ltd., Celador International Ltd., Paul Smith

Bridgette M. Taylor; Robins, Kaplan, Miller & Ciresi L.L.P.; Los Angeles, CA, for Lusam Music Ltd., Celador International Ltd., Paul Smith

Plaintiff Expert: James Dertouzos Ph.D.; Statistical Analysis; Los Angeles, CA called by: Roman Silberfeld, Bernice Conn, Marcia Harris, Bridgette Taylor

Richard Marks; Television Industry; Los Angeles, CA called by: Roman Silberfeld, Bernice Conn, Marcia Harris, Bridgette Taylor

Stephen Sills; Accounting; Los Angeles, CA called by: Roman Silberfeld, Bernice Conn, Marcia Harris, Bridgette Taylor

Defendant Attorney:

Lisa N. Stutz; Sheppard Mullin Richter & Hampton LLP; Los Angeles, CA, for Buena Vista Television, Valleycrest Productions Ltd., Walt Disney World Co., The Walt Disney Co., American Broadcasting Cos. Inc.

Martin D. Katz; Sheppard Mullin Richter & Hampton LLP; Los Angeles, CA, for Buena Vista Television, Valleycrest Productions Ltd., Walt Disney World Co., The Walt Disney Co., American Broadcasting Cos. Inc.

Whitney Walters; Sheppard Mullin Richter & Hampton LLP; Los Angeles, CA, for Buena Vista Television, Valleycrest Productions Ltd., Walt Disney World Co., The Walt Disney Co., American Broadcasting Cos. Inc.

Defendant Expert:

Michael Intriligator Ph.D.; Statistical Analysis; Los Angeles, CA called by: Martin Katz, Lisa Stutz, Whitney Walters

Jeff Kinrich Ph.D.; Economics; Los Angeles, CA called by: Martin Katz, Lisa Stutz, Whitney Walters

Scuylar Moore; Television Industry; Los Angeles, CA called by: Martin Katz, Lisa Stutz, Whitney Walters

Facts: In 1999, plaintiff Celador International Ltd., the London-based studio which produced the original British version of the television game show, "Who Wants to Be a Millionaire?" entered into an agreement with Walt Disney Co. subsidiaries ABC and Buena Vista Television to license the show in North America. (Disney is the parent company for ABC and Buena Vista, and it is Disney's accounting department that issues the profit participation statements for "Who Wants to Be a Millionaire?")

Celador alleged that, pursuant to the agreement, Celador was entitled to 50 percent of the profits of the Americanized "Millionaire," which began airing in late summer 1999. But, based on accountings generated by Disney, not only did the show (which aired on ABC for three years and has been in syndication for 10 years) never

make a profit, it generated more than \$70 million in what Disney regarded as "losses."

As a result, Celador sued ABC, Buena Vista and Valleycrest Productions Ltd. (a wholly owned television production company owned by Disney) for breach of contract and breach of the implied covenant of good faith and fair dealing. Celador also sued Disney for interference with contract and unfair business practices pursuant to Business & Professions Code Section 17200. (Plaintiffs included Paul Smith, Celador's managing director, and Lusam Music Ltd., which provided music for "Millionaire.")

Plaintiffs' counsel argued that Disney, through its subsidiaries, deprived Celador a fair-market value network license fee which in turn deprived plaintiff of its fair share of profits for "Millionaire." Disney was further negligent for using accounting methods contrary to industry standards that cost Celador millions in receiving merchandising revenue ancillary products related to the show, maintained plaintiffs.

Defendants denied the allegations. Defense counsel asserted that the revenues of "Millionaire" were properly distributed pursuant to industry standards — specifically, ABC paid Buena Vista a license fee that covered the full costs of production. The defense blamed any perceived revenue allocation on Celador, maintaining that plaintiff agreed to a 10 percent overhead charge and interest that put the series in a negative position when it transitioned from its network run to syndication. Therefore, the profits generated by the series' syndication fell short in reversing "Millionaire's" negative position, even when the 35 percent distribution fee — as agreed upon by the parties — was applied. Celador's agents, who negotiated the original contract, were well aware of the arrangement between ABC and Buena Vista and the historical industry practice that ABC and Buena Vista followed, asserted the defense.

Prior to jury deliberations, Celador voluntarily dismissed its claims against Disney, and plaintiffs' claims against ABC, Buena Vista and Valleycrest remained.

Injury:

Celador sought to recover \$202 to \$395 million in damages — a range that represented its 50 percent share of a fair market license fee that should allegedly have been paid by ABC to Buena Vista for the network broadcast of the show. The range was presented by plaintiffs' entertainment industry account auditing expert who relied upon figures calculated by plaintiffs' entertainment industry and statistics/economics experts. The latter two experts said that the network license fee agreed to between ABC and Buena Vista was not fair market value given that "Millionaire" was one of ABC's most successful shows at the time. The experts also analyzed and compared the advertising spot rates of the other top 10 shows during the first season broadcast of "Millionaire." From that analysis, plaintiffs' accounting expert used both the smallest number of episodes and smallest license fee, minus production costs, and the largest number of shows and the highest license fee, minus production costs, to arrive at a range of \$202 to \$395 million in damages. Celador also claimed that it was owed \$10 million in revenue from the sale of games and other merchandise inspired by the show.

The defense experts criticized the methodology that the plaintiffs' experts employed to determine Celador's alleged sustained damages.

Verdict Information: The jury found in favor of Celador and against ABC, Buena Vista Television and Valleycrest Productions on plaintiff's claims of breach of contract and breach of the implied covenant of good faith and fair dealing. Jurors also found that Celador did not waive its right to

See **VERDICTS** page 14

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Panish Shea & Boyle LLP is honored to be included among the 2010 Top Verdicts for its record breaking verdict in *Robert Crenshaw v. Land O' Lakes* for injuries sustained by a correctional officer whose motorcycle was hit by a truck. The \$6,445,549.72 verdict is the largest in a personal injury case in Kings County history.

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Case	Actual Referral Fee Paid
Tractor Defect	\$7,000,000.00
Airplane Crash	\$4,970,338.32
Wrongful Death	\$2,134,203.54
Personal Injury against State of California	\$2,103,625.00
Auto Accident – Personal Injury	\$2,059,669.42
Truck Accident	\$1,800,000.00

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