



## **\$28.9 Million**

**Case:** *Mota v. City of Los Angeles*, Los Angeles Superior Court, BC 046580

**Type:** Personal injury

**Plaintiffs' Attorneys:** Richard Koskoff, above, of Booth & Koskoff, Torrance

**Defense Attorneys:** Victor A. Schulte, Los Angeles city attorney's office

**Trial Judge:** Martin Suits

**Date of Verdict:** Feb. 11, 1997

**Status:** On appeal

# Personal Injury

When a drunk driver swerved into a car on a Los Angeles street injuring two passengers, the city was found partially responsible for the accident.

**T**he biggest obstacle to Richard Koskoff winning a case for five plaintiffs was convincing a jury that blame for an auto accident did not fall entirely on a drunken driver.

The driver, Raymond Basped — who had a blood-alcohol level of .13 — drove over the center line on Alameda Street near Pacific Coast Highway and struck a car containing Christina Mota, Elsa Mota, Salvador Elizarraz, Isabel Alvarez and Ivy Michelle Birbragher. The Motas and Elizarraz escaped major injuries but Birbragher was rendered a paraplegic and Alvarez a partial paraplegic from their injuries.

As happens all too often in such cases, Basped was uninsured and had no assets. To fund a recovery for his clients, at trial Koskoff, a name partner at Torrance's Booth & Koskoff, went after the city of Los Angeles, which maintained the heavily traveled road.

"The most difficult part of the case was making the jury understand that the city had responsibilities even though a drunk driver was involved," says Koskoff. "I had to make sure the jury kept an open mind."

The facts Koskoff produced at trial showed that the city's negligence in maintaining the road could have led to the accident. The center line was obscured by gravel and dirt and was no longer reflective at night. There were no pavement markers or highway dots (the raised domes that serve as lane dividers) that could have alerted Basped that he was drifting into the other lane of traffic and thus prevented the accident.

"There was no weaving [by Basped]. He was driving in a straight line," says Koskoff. "There was nothing to show he was under the influence." The argument gradually won over the jury. "You could see in the jury's body language at key points that they understood," says Koskoff.

The city's defense at trial was simply to blame Basped for the accident, an argument that Koskoff says eroded its credibility during the four-week trial. "There was no explanation of why the road was in such bad repair," says Koskoff.

After four days of deliberations, the jury returned a verdict of \$28.9 million and proportioned 65 percent of the liability to Basped and 35 percent of the liability to the city. Under California law, the city is responsible for 100 percent of the plaintiffs' economic damages and 35 percent of the noneconomic damages for a total of \$16.53 million.

Basped is judgment proof and was not a defendant in the suit.

The trial judge ruled against the standard post-trial motions by the defense in May.

The city of Los Angeles had a chance to settle the claim for \$7 million before trial, but the City Council nixed a deal reached between Koskoff and the Los Angeles city attorney's office. Koskoff says that negotiations are again under way and that he is hopeful a deal can be reached soon.

Victor Schulte, a deputy Los Angeles city attorney who represented the city in the case, could not be reached for comment.

— Anthony Aarons