

## Settlements

S90-34-01

**Auto vs. Bicycle: Dart Out**

**Settlement:**

**\$1,500,000**  
partially structured

**Plaintiff Attorney:** Richard B. Koskoff (Booth & Koskoff)

(213) 515-1361

**Facts:**

Plaintiff, 7 year-old, was riding his bicycle, darted out from an alley onto a through street and was struck by a vehicle owned by Defendant, a governmental entity, and operated by an employee of the entity in the course and scope of his employment. Liability was initially denied and the case was turned down completely by other prior attorneys even though Plaintiff suffered serious injuries including probable brain damage with some residual functional loss. One witness gave a statement that Plaintiff was riding his bicycle down the alley as fast as he could and entered the street at top speed. Other facts and an accident reconstructionist indicated that Defendant was driving below the speed limit.

**Injuries:** Partial memory loss and partial dysfunction.

**Loss of Earnings:** Plaintiff will be able to be gainfully employed in the future and amount of loss of earnings is disputed.

**Contentions:**

Defense contended that the young child bicycled out of the alley without any warning and rode directly into the path of the on-coming vehicle. Defendant driver stated that he never saw the child except for a moment prior to impact.

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S90-34-02

**Construction Accident: Bulldozer Accident**

**Settlement:**

**\$725,000**

**Plaintiff Attorney:** Michael J. Bidart & Frank N. Darras (Shernoff, Bidart & Darras) (714) 625-6915

**Facts:**

10/24/85: Plaintiff, 35 year-old heavy equipment mechanic, was on job site in course and scope of his employment. He was standing between two vehicles getting his work assignment for that shift when Defendant's employee, an inexperienced heavy equipment operator, moving a 834 Caterpillar rubber-tired bulldozer to an area of the job site designated for equipment repair (new brakes to be installed the following day) lost control of the bulldozer, striking one vehicle and shoving it into the other, pinning the Plaintiff between the two.

**Injuries:** Fractures - 1) left femur mid-shaft, 2) left fibula head and proximal shaft, 3) inferior tip of left patella, 4) left superior pubic ramus and inferior pubic ramus, 5) internal derangement left knee with post-traumatic osteoarthritis.

**Medical Costs:** \$127,000 total comp lien including medical, temporary total disability and vocational rehabilitation.

**Loss of Earnings:** \$100,000 without offset for worker's comp benefits.

**Contentions:**

Plaintiff contended Defendant, with full knowledge, permitted an inexperienced heavy equipment operator to move a Caterpillar with no brakes. The accident could have been avoided if he had dropped the blade. Defense claimed no negligence based on a phantom VW causing the Defendant to lose control of the bulldozer.

**Note:**

Plaintiff minimized his loss of earnings by returning to his employment as soon as possible but was forced to resume temporary total disability due to a worker's compensation examination. After being rehabilitated as a grade checker, he returned to the work force until problems developed with his left knee, which required surgical intervention. He has subsequently undergone additional rehabilitation to become a licensed concrete inspector and is presently attempting to reenter the work force.

**Settlement:**

Offer: \$450,000

Demand: \$750,000 CCP 998

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