

Westlaw

2004 WL 1784672

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For Dockets See KC040895

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Superior Court, Los Angeles County, California

TANYA BONILLA; MITONNA TEP, A MINOR; AND CALIFORNIA TEP, A MINOR, BY AND THROUGH  
THEIR GUARDIAN AD LITEM, CONNOR TEP V. STUBBEN NORTH AMERICA AND CHARLES WILLI-  
AM BECK

No. KC040895

DATE OF VERDICT/SETTLEMENT: April 15, 2004

TOPIC: MOTOR VEHICLE - SINGLE VEHICLE - MOTOR VEHICLE - PASSENGER SPEEDING DRIVER  
SWERVED TO AVOID COLLISION, STRUCK MEDIAN

SUMMARY:

AWARD: \$1,275,000

RESULT: Settlement

The case was settled for \$1,275,000, which was paid by Stubben.

EXPERT WITNESSES:

Plaintiff: Alfredo A. Sadun, M.D.; Neuro-ophthalmology; Los Angeles, CA Barry D. Pressman, M.D.; Neuro-  
radiology; Los Angeles, CA Edwin C. Amos, M.D.; Neurology; Santa Monica, CA F. David Rudnick, M.D.;  
Neuropsychiatry; Santa Monica, CA Gary Wyatt, DDS; TMJ; Newport Beach, CA Gene Brody, M.D.; Plastic  
Surgery/Reconstructive Surgery; Los Angeles, CA Harry J. Krueper, P.E.; Traffic; San Bernardino, CA  
Lawrence Majovski, PhD; Neuropsychology; Tacoma, WA Tamorah G. Hunt, PhD; Economics; Santa Ana, CA  
Defendant: Howard R. Krauss, M.D.; Ophthalmology; Los Angeles, CA Jeffrey L. Rosenberg, M.D.; Plastic  
Surgery/Reconstructive Surgery; Los Angeles, CA Jon A. Landerville; Accident Reconstruction; Los Angeles,  
CA Jubin Merati, PhD; Economics; Los Angeles, CA Kendall S. Wagner, M.D.; Orthopedic Surgery; Fullerton,  
CA Kyle Boone, PhD; Neuropsychology; Torrance, CA Robert D. Thompson, D.D.S.; Oral Surgery; Los  
Angeles, CA

ATTORNEYS:

Plaintiff: Lawrence R. Booth; Booth and Koskoff; Torrance, CA **Richard B. Koskoff**; Booth and Koskoff; Tor-  
rance, CA Juan J. Dominguez; Law Offices of Juan J. Dominguez A.P.L.C.; Los Angeles, CA  
Defendant: David T. McCann; Yoka and Smith; Los Angeles, CA Desiree E. Sagray; Law Offices of Owen L.  
McIntosh; Hacienda Heights, CA

JUDGE: Bruce Minto

RANGE AMOUNT: \$1,000,000-1,999,999

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STATE: California  
COUNTY: Los Angeles County

INJURIES: Bonilla suffered blunt head trauma with amnesia. She was hospitalized for six days. She claimed that she suffered brain damage, which the defense disputed, arguing that she had already been a poor student with markedly low grades prior to the accident. She claimed approximately \$50,000 in medical specials.

**SUMMARY:**

Insurance Carrier: Montgomery Insurance for Stubben

**FACTS:**

On Feb. 6, 2002, non-party Kumphak Tep drove with plaintiff Tanya Bonilla, 20, to Pomona High School to pick up his brothers, plaintiffs California Tep and Mitonna Tep, after school.

On their way home, Tep drove southbound on White Avenue in the No. 1 lane. There was light traffic at the time. Although the speed limit was 45 mph, he was driving between 70 and 80 mph as he approached the intersection of White Avenue and Gate 8 of the Pomona Fairgrounds (Fairplex).

At the same time, Charles William Beck IV was driving northbound on White in a Ryder truck filled with equestrian goods, which he intended to deliver to the Stubben North America booth in the Fairplex.

As Beck began to negotiate a left turn at Gate 8, Tep's vehicle was over 200 yards away. Witnesses testified that, as the truck began entering the driveway to the Fairplex, they heard the sound of screeching tires and saw the Tep vehicle swerve from the No. 1 lane into the median area where it struck the raised divider and then careened off to the left, rolled over and struck a stone wall.

Bonilla and California and Mitonna Tep sued Beck and Stubben North America, Troy, Va., alleging vehicular negligence. They contended that this was a case of shared responsibility, and that the bulk of the responsibility rested with the defendants who violated Tep's right of way. Although there was no collision between the Ryder truck and the Tep vehicle, they contended that Beck made an unsafe left turn when he was required to yield to oncoming traffic. They further claimed that if Beck had paid attention to oncoming traffic and yielded the right of way, there would have been no need for Tep to have taken evasive action and there would have been no accident at all. Lastly, they argued that Beck was in the course and scope of his employment with Stubben at the time of the accident.

The defendants contended that Tep was traveling between 70 and 80 mph, and that as he proceeded south on White, it was difficult for Beck to discern Tep's speed. They argued that if Tep had been traveling at the speed limit, there would have been no need for him to swerve or take any type of evasive action at all. Additionally, they argued that other witnesses who worked at the Fairplex, and who were familiar with the speed limit and traffic patterns on White Avenue, testified that Tep was traveling at a high rate of speed, well in excess of the 45 mph limit. Lastly, the defense argued that Beck was an independent contractor for Stubben, but not an employee.

Mitonna Tep suffered a skull fracture and blindness in his right eye, which he alleged affects his depth perception and peripheral vision. He claimed over \$75,000 in medical specials.

California Tep suffered a facial scar stretching between his lip and chin. He claimed that he also suffered minor

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jaw injuries and depression. Like his brother, he was a high school student and did not suffer any economic loss.

ALM Properties, Inc.

Superior Court of California, Los Angeles County, at Pomona

PUBLISHED IN: VerdictSearch California Reporter Vol. 3

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