

VERDICTSEARCH

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MOTOR VEHICLE

Red Light Motor Vehicle Intersection

Wreck contributed to mental decline, plaintiff claimed

Verdict Defense

Case Brenda Lee Gutman v. Coastal Chemical Company and Rosario Vela, No. 03-60560-1

Court Nueces County Court at Law No. 1, TX

Judge Robert J. Vargas

Date 4/27/2005

Plaintiff Attorney(s) David L. Perry, Perry & Haas, LLP, Corpus Christi, TX

Patricia A. Shackelford, Perry & Haas, Corpus Christi, TX

Danny W. Tower, Perry & Haas, LLP, Corpus Christi, TX

Defense Attorney(s) John **Engvall**, Jr., **Engvall & Hlavinka**, LLP, Houston, TX

Brian C. Lopez, **Engvall & Hlavinka**, LLP, Houston, TX

Jacob Munoz, Hilliard & Munoz, Corpus Christi, TX

Facts & Allegations On Nov. 25, 2001, around 9:30 a.m., plaintiff Brenda Lee Gutman, 44, owner of a construction company, was in her pickup driving her friends to a nearby lake when she was involved in an accident at the intersection of Everhart and Cedar Pass in Corpus Christi. Rosario Vela, who was purportedly driving her husband to church in his company's sedan, drove the other car involved.

Gutman sued Vela and Coastal Chemical Co., the owner of the vehicle and employer of Vela's husband, for negligent vehicle operation.

She claimed that she had the green light and that Vela ran a red light to cause the accident. The police officer who reported to the scene of the accident testified that four witnesses indicated Gutman's light was green.

Vela disputed the claim and argued that she had the green light. None of the actual witnesses of the accident were called as witnesses at trial.

Injuries/Damages

Gutman claimed that she sustained a head and back injury as experiencing chronic pain. She was carried to the emergency room by EMS after the accident and was treated and released the same day. About 18 months later, she alleged that she had developed cognitive disorders, and she underwent psychological testing with local neuropsychologists. She was also hospitalized for suicidal tendencies.

Plaintiff's counsel claimed that Gutman was too mentally unstable to testify in the case, and when the defense counsel subpoenaed her, her psychiatrist testified that the subpoena rendered her even more unstable. She maintained that the accident caused her to plunge into a severe depression for which she was medicated.

Gutman sought about \$81,000 in damages for incurred medical expenses, which included ER costs, rehabilitation, and psychologist and psychiatrist visits, among other medical-related costs. In addition, she claimed that the accident caused a past decline in her business income of \$500,000 and would cause a future decline of \$5.5 million. Her psychiatrist testified that she would no longer be able to generate construction estimates for her business, which previously brought in from \$200,000 to \$400,000 per year. She also sought an unspecified amount in

damages for past and future pain and suffering and for mental anguish. The entire amount asked of the jury for Gutman's injuries was \$17.5 million.

The defendants claimed that the depression Gutman allegedly experienced was not due entirely to the accident but could have been attributed to other areas. They also contended that her business decline was due to a decline in mold claims, which they alleged made up about 90% of her work, and unpaid construction invoices that led her to file suit against some of her customers. Result The jury rendered a defense verdict for Vela and Coastal Chemical. Defense counsel indicated that the firm of **Engvall** and Hlavinka assumed responsibility for this case 21 days prior to the trial date and decided not to file a Motion for Continuance.

Demand \$5 million Offer \$250,000

Insurer(s) CNA Insurance Company for Coastal Chemical Company and Rosario Vela

Trial Details Trial Length: 3 weeks Trial Deliberations: 2 days

Jury Composition: 6 women

Plaintiff Expert(s) Carlos Estrada, M.D., psychiatry, Corpus Christi, TX

Walter Harrell, Ph.D., neuropsychology, Austin, TX (Called as adverse witness, retained by Defendant)

Stephen M. Horner, Ph.D., economics, Corpus Christi, TX

Ann M. Jaime, R.N., life care planning, Corpus Christi, TX

Donald E. Weiner, Ph.D., neuropsychology, Corpus Christi, TX

Defense Expert(s) Erin David Bigler, Ph.D., neuropsychology, Provo, UT (Called as an adverse witness, retained by Plaintiff)

Post-Trial Plaintiff counsel filed a motion for a new trial, which was heard June 22, but the judge has not returned a ruling.

Monte Holman