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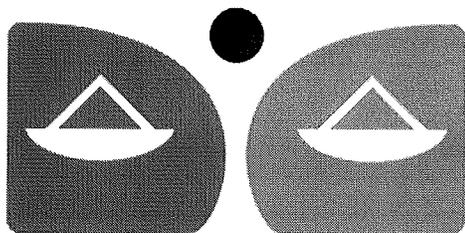


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# JURY VERDICTS NORTHWEST

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**NORTHWEST PERSONAL INJURY LITIGATION REPORTS**

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SEPTEMBER 2015

KING COUNTY

ADEIL ABDELRAHMAN v. MICHAEL VANDERBIE AND JANE DOE VANDERBIE

**Number:** 13-2-30648-4KNT

**Trial Date:** 4/7/15 (3-day trial)

**Plff Atty:** Larry Landry, The Landry Law Group (Seattle)

**Def. Atty:** James Bulthuis of Clement & Drotz (Seattle)

**Insurance Co.:** Mutual of Enumclaw

**Plff Med.:** Gary Schuster MD (Internal Medicine) Seattle

**Def. Med.:** Karl Goler MD (Neurosurgeon) Seattle

**Trial Judge:** Hon. Mariane Spearman

**REAR END COLLISION--ADMITTED LIABILITY**

**BACK INJURY**

10/7/10 - Plff, male age 53. Plff contended he was stopped at an intersection when his vehicle was struck from the rear by the Def.'s vehicle.

**Injuries:** Back injury; L5-S1 disc herniation and aggravation. Shoulder, neck and back sprains/strains. Plff developed stiffness, pains, and headaches a few hours after the collision, but did not seek treatment for 15 days. Plff had a previous disc herniation at L5-S1, which he claimed was asymptomatic and aggravated by the collision to a degree requiring surgery. The Def. disputed that the accident caused any injury to Plff and/or the need for surgery.

**Specials:** Med. \$23,647 (past), \$50,000 (futures).

**Settlement:** Demand: \$100,000. Plff asked the jury for \$500,000+.  
Offer: \$20,000. The Def. asked the jury for \$2,202.

**Result:** PLAINTIFF VERDICT for \$30,000. (The verdict included \$15,000 in specials and \$15,000 in non-economic damages. No new trial presently pending.)

SEPTEMBER 2015

KING COUNTY

CHRISTOPHER CHAN v. HEATHER RODGERS

**Number:** 13-2-35553-1SEA

**Trial Date:** 3/30/15 (5-day trial)

**Plff Atty:** Lee Burdette & Kelly Burdette of Burkett & Burdette  
(Seattle)

**Def. Atty:** Riley Lovejoy, Law Offices of Sweeney Heit & Dietzler  
(Seattle)

**Insurance Co.:** Liberty Mutual/Safeco

**Plff Med.:** Laura Denniston DC (Chiropractor) Issaquah

**Def. Med.:** Patrick Bays MD (Orthopedic Surgeon) Seattle

**Plff Exp.:** Theodore Becker Ph.D. (Physical Capacities) Everett;  
Laura Zanieski L.Ac. (Acupuncturist); Ingrid Sparrow  
PT (Physical Therapist), both Seattle

**Def. Exp.:** William Partin CPA (Economist) Bellevue

**Trial Judge:** Hon. Veronica Galvan

**FAILURE TO YIELD RIGHT-OF-WAY--ADMITTED LIABILITY**

**NECK & BACK INJURIES**

8/21/13 - Plff, male age 49, sommelier. Plff contended the Def. failed to yield the right-of-way, striking his vehicle in a "T-bone" collision, causing it to roll over.

**Injuries:** Soft tissue neck and back injuries. Permanency claimed. Plff was taken by ambulance to the emergency room, then treated with physicians, chiropractic care, massage therapy and acupuncture.

**Specials:** Med. \$17,622 (stipulated prior to trial); Lost Wages \$40,000; Days Work Lost - 6 months; Days in Hosp. - 1 day; General Damages \$190,000+ (claimed).

**Settlement:** Demand: \$90,000. Plff asked the jury for \$22,530 in medical specials, \$40,000 in lost wages and \$190,000 in non-economic damages. Offer: \$35,131. The Def. asked the jury for \$17,622 in medical specials, no lost wages, and \$6,000 to \$10,000 in non-economic damages.

**Result:** PLAINTIFF VERDICT for \$25,622. (The verdict included \$17,622 in past medical specials and \$8,000 in non-economic damages.)

SEPTEMBER 2015

KING COUNTY

DUC DU v. ANACLETA WOOD

Number: 14-2-02398-7KNT

Trial Date: 3/30/15 (2-day trial)

Plff Atty: Gary Grotz, Gary Grotz Law Firm (Seattle)

Def. Atty: Kyle Turner, Law Offices of Todd A. Bowers & Associates  
(Seattle)

Insurance Co.: Geico

Plff Med.: Andy Chiem DC (Chiropractor); Gary Schuster MD  
(Internal Medicine/expert), both live testimony,  
both Seattle

Def. Med.: Marvin Brooke MD (Physiatrist/expert-live testimony)  
Seattle

Trial Judge: Hon. Roger Rogoff

**FAILURE TO YIELD RIGHT-OF-WAY--ADMITTED LIABILITY**

**KNEE, WRIST, NECK & BACK INJURIES**

5/23/13 - Plff was traveling southbound on 1st Avenue South in Seattle, Washington. The Def. was traveling northbound on 1st Avenue South. Plff contended the Def. failed to yield the right-of-way and made a left turn into a gas station, resulting in a collision.

**Injuries:** Knee, bilateral wrist, neck and back injuries. Permanency claimed. Plff alleged that his wrist, neck and back injuries were still symptomatic at the time of trial.

**Specials:** Med. \$9,173.

**Settlement:** Plff asked the jury for approximately \$100,000. The Def. asked the jury for \$13,200.

**Result:** PLAINTIFF VERDICT for \$13,200.

SEPTEMBER 2015

KING COUNTY

DEEP RAWAT, MANOJ RAWAT AND LEENA RAWAT v. COMCAST BROADBAND SECURITY, LLC D/B/A XFINITY HOME AND PIONEER CABLE CONTRACTORS, INC.

**Number:** 14-2-05344-4SEA

**Trial Date:** 5/18/15 (7-day non-jury trial)

**Plff Atty:** Kenneth Friedman & Roger Davidheiser of Friedman Rubin (Seattle)

**Def. Atty:** Timothy Pastore of Duval & Stachenfeld (New York NY) and Sally Metteer of Wilson Smith Cochran Dickerson (Seattle) for Def. Comcast; Jeffrey Daly & Justin Bolster of Preg O'Donnell & Gillett (Seattle) for Def. Pioneer Cable

**Plff Exp.:** Russell VanDevanter (Alarms/Security) Seattle

**Def. Exp.:** Louis Fiore (Alarms/Security) Sparta NJ

**Trial Judge:** Hon. William Downing

**BREACH OF CONTRACT; NEGLIGENT SECURITY**

**ECONOMIC DAMAGES; EMOTIONAL DISTRESS**

10/12/13 - Plff Deep Rawat, male age 18 at the time, student; Plff Manoj Rawat, male age 50s, data scientist; Plff Leena Rawat, female age 50s, project manager. Two criminal assailants entered Plffs' home in Kirkland, Washington, by breaking a window in the finished, daylight basement of the home. The assailants attacked 18-year-old Deep Rawat and grievously wounded him. The two assailants have admitted their guilt and have been sentenced to prison. Plffs brought this action against Def. Comcast Broadband Security d/b/a XFINITY Home and Pioneer Cable Contractors who supplied and installed, respectively, an alarm system in Plffs' home. Plffs alleged that the Defs. breached various duties founded in contract or in tort.

**Injuries:** Economic damages; emotional distress.

**Settlement:** Plffs asked the jury for \$9,500,000. The Defs. asked the jury for a defense verdict. The parties attended an unsuccessful mediation with retired Judge Paris Kallas.

**Result:** DEFENSE VERDICT. (This case was tried to the bench. The judge found that the Defs. were not negligent and did not otherwise breach any duties owed, whether in contract or in tort.)

SEPTEMBER 2015

KING COUNTY

JESSICA CHADWICK v. MAHER M. ANOUS, M.D.

**Number:** 13-2-20009-1

**Trial Date:** 3/30/15 (3-day trial)

**Plff Atty:** Christopher Otorowski of Otorowski Johnston Morrow  
& Golden (Bainbridge Island)

**Def. Atty:** Rebecca Ringer & Colin Kearns of Floyd Pflueger  
& Ringer (Seattle)

**Insurance Co.:** CNA

**Plff Med.:** James Edwards MD (Plastic Surgeon) Mount Vernon;  
Jeffrey Kyлло MD (Plastic Surgeon/expert) Seattle

**Def. Med.:** Tom Pousti MD (Plastic Surgeon/expert) San Diego CA

**Trial Judge:** Hon. Theresa Doyle

**MEDICAL MALPRACTICE (STANDARD OF CARE)**

**ABDOMINAL INJURY**

5/27/11 - Plff, female age 36, engineering technician. Plff was a patient of Dr. Anous, a plastic surgeon, who performed an abdominoplasty (a "tummy tuck") with power assisted liposculpture. Plff contended that the procedure that Dr. Anous performed fell below the standard of care and that Dr. Anous failed to adequately inform her of the risks of surgery and alternatives available. She also alleged that as a result of Dr. Anous' negligence, she was subjected to pain and suffering and will require additional surgical procedures. Dr. Anous denied each of these claims and maintained that he warned Plff of all of the material facts, including known complications, and that he gave her informed consent.

**Injuries:** Abdominal injuries; wound dehiscence, superficial skin necrosis and scarring. Plff claimed she will require additional surgical procedures.

**Specials:** Med. \$19,776, plus futures for surgery; Lost Wages - none claimed.

**Result:** DEFENSE VERDICT.

SEPTEMBER 2015

PIERCE COUNTY

DEBRA CLAIBOURN v. FAWN LASKOWSKI

**Number:** 13-2-15869-3

**Trial Date:** 6/1/15 (3½-day trial)

**Plff Atty:** Jamal Amirzade of Driggs Bills & Day (Seattle)

**Def. Atty:** Kazuemon Davis of Davis & Moore (Bothell)

**Insurance Co.:** Progressive

**Plff Med.:** Stanley Schiff MD (Neurologist) Shoreline; Brian Chan DC (Chiropractor) Kent

**Def. Med.:** Rick Lamarche DC (Chiropractor) Woodinville; Lewis Almaraz MD (Neurologist) Bellingham; Richard Bensinger MD (Ophthalmologist) Seattle

**Plff Exp.:** Theodore Kadet OD (Optometrist) Bellevue

**Def. Exp.:** Allan Tencer Ph.D. (Biomechanical Engineer) Seattle

**Trial Judge:** Hon. Elizabeth Martin

**REAR END COLLISION--ADMITTED LIABILITY**

**BRAIN & NERVE INJURIES**

Plff contended her vehicle was struck from the rear by the Def.'s vehicle. The Def. claimed this was a low-impact collision.

**Injuries:** Traumatic brain injury; third cranial (oculomotor) nerve damage resulting in eye injuries.

**Specials:** Med. - none mentioned.

**Settlement:** Plff asked the jury for no specific amount. The Def. asked the jury for a defense verdict.

**Result:** DEFENSE VERDICT. (No new trial presently pending.)

SEPTEMBER 2015

PIERCE COUNTY

EVELYN PROVOST v. DARILYN "SUSIE" HENRY AND THOMAS HENRY; DENT & HENRY DDS, P.S. D/B/A GRAHAM FAMILY DENTISTRY; HENRY DAVIS DENT & ROMBERG, P.S. D/B/A GRAHAM DENTURE CENTER

**Number:** 14-2-11111-3

**Trial Date:** 8/13/15 (6-day trial)

**Plff Atty:** Stephanie Bloomfield of Gordon Thomas Honeywell (Tacoma)

**Def. Atty:** Peter Petrich of Davies Pearson (Tacoma)

**Plff Med.:** David Judish MD (Physiatrist); Daria Sciarrone MD (Family Practice), both treating, both Puyallup

**Trial Judge:** Hon. Bryan Chushcoff

**DISABILITY DISCRIMINATION; RETALIATION**

**ECONOMIC DAMAGES; EMOTIONAL DISTRESS**

7/9/14 - Plff, female age 59, dental assistant. Plff brought this action against the Defs. for disability discrimination and retaliation claims under RCW 49.60, Washington's Law Against Discrimination. Plff was a dental assistant for 6½ years and by all accounts was one of the Defs.' top dental assistants. Plff had a series of knee surgeries a decade ago leaving her with a noticeable limp. She also has some problems with her legs due to a rare neurological condition. After a non-disabled employee at another office fell at work and injured his hand, resulting in a costly L&I claim, the Defs. decided that Plff's limp posed a workplace hazard, because someone with a disability like hers was more prone to falls, potentially leading to another costly L&I claim. The Defs. removed Plff from her job and told her she could come back when she got her knee fixed. At trial, the Defs. claimed that they told her that she could return with a doctor's note. Plff testified that it was only after this lawsuit was filed that the Defs. agreed to allow her back with a doctor's clearance. However, when she returned, the Defs. started building a file on her and reduced her hours, assigned her to work Saturdays and to travel to a variety of other dental offices across Pierce County to work. Plff declined to continue working in the face of this retaliation and pursued both discrimination and retaliation claims at trial.

**Injuries:** Economic damages; emotional distress, depression. The loss of Plff's career had a huge emotional impact on her.

SEPTEMBER 2015

EVELYN PROVOST v. DARILYN "SUSIE" HENRY AND THOMAS HENRY; DENT & HENRY DDS, P.S. D/B/A GRAHAM FAMILY DENTISTRY; HENRY DAVIS DENT & ROMBERG, P.S. D/B/A GRAHAM DENTURE CENTER - PIERCE COUNTY - CONT'D

**Specials:** Lost Wages \$241,600 (past and future); Days Work Lost - despite consistent efforts, Plff has been unsuccessful in finding another dental assistant position; General Damages \$280,000.

**Settlement:** Demand: \$25,000. Plff asked the jury for \$440,000.  
Offer: \$10,000. The Def. asked the jury for a defense verdict.

**Result:** PLAINTIFF VERDICT for \$521,600. (The verdict included \$47,000 in lost wages up to the time of trial, \$195,000 in future lost wages for the next five years through Plff's planned date of retirement, and \$280,000 in non-economic damages. In addition to the damages paid, post trial the Defs. agreed to pay Plff's attorneys' fees of \$161,833 and costs of \$8,720, as well as \$54,076 in additional damages to offset the tax implications of receiving 6½ years of wages in one year allowed under Washington's Law Against Discrimination and the *Blaney* decision in accord with the expert analysis of Theresa Jackson, CPA. Plff's total recovery was \$746,228.)

SEPTEMBER 2015

SNOHOMISH COUNTY

SANDRA L. REITE v. JOANNA SANCHEZ

**Number:** 14-2-01933-3

**Trial Date:** 9/14/15 (4-day trial)

**Plff Atty:** Faye Wong, Attorney at Law (Mercer Island)

**Def. Atty:** James Mendel of Bendele & Mendel (Seattle)

**Insurance Co.:** State Farm

**Plff Med.:** Peter Hanson DC (Chiropractor-live testimony) Everett;  
James Rotchford MD (Family Practice) Port Townsend,  
both treating

**Def. Med.:** Thomas Renninger DC (Chiropractor-live testimony)  
Bellevue

**Plff Exp.:** Pam Arno MT (Massage Therapist/treating-live testimony)  
Bothell

**Trial Judge:** Hon. Linda Krese

**REAR END COLLISION**

**SHOULDER, NECK & BACK INJURIES**

Plff, female age 57, employed part time in the insurance industry. Plff contended she was at a complete stop at a red light in Everett, Washington, when her vehicle was struck from the rear by the Def.'s vehicle at 35 mph. At the time of the collision, the Def. was 16-years-old and operating her parents' vehicle. This was a trial de novo from an arbitration where Plff was awarded \$17,483 in medical specials and \$17,000 in non-economic damages by arbitrator Jeffrey Gibbs.

**Injuries:** Shoulder, neck and back sprains/strains; grade II sprain in the cervical area. Plff treated with her primary care physician, chiropractic care and massage therapy for approx. one year. She also underwent an MRI on her shoulder to rule out a rotator cuff injury. Plff had two prior collisions with similar injuries.

**Specials:** Med. \$17,483; Lost Wages \$200.

**Settlement:** Plff asked the jury for \$17,483 in medical specials and \$20,000 - \$25,000 in non-economic damages. The Def. asked the jury for a defense verdict.

**Result:** DEFENSE VERDICT.

SEPTEMBER 2015

SNOHOMISH COUNTY

STEPHANIE ROLLINS v. CROWN DISTRIBUTING; DARREN LIAN; AND SHANNON OTTOW

**Number:** 13-2-08212-6

**Trial Date:** 9/14/15 (5-day trial)

**Plff Atty:** Ben Wells, Ben Wells & Associates (Arlington)

**Def. Atty:** Elizabeth Smith, Law Office of Kenneth R. Searce (Seattle) for Defs. Crown & Lian; Kim McClay of Moore & Davis (Bothell) for Def. Ottow

**Insurance Co.:** Travelers for Def. Crown/Lian; Progressive for Def. Ottow

**Plff Med.:** James Alberts MD (Orthopedic Surgeon); Ellen Modell MD (Neurologist), both Edmonds; Richard Cooper MD (Physiatrist/Life Care Planner) Tacoma, all treating

**Def. Med.:** Roman Kutsy MD (Neurologist/IME) Everett

**Trial Judge:** Hon. Bruce Weiss

**MULTIPLE COLLISIONS**

**BACK INJURY**

2010 & 2012 - Plff, female age 20, child care worker at the time of the collisions. In the first collision, Plff was operating her vehicle on Hwy 92 in Granite Falls, Washington. Def. Lian was operating a vehicle in the scope of his employment with Def. Crown Distributing. Plff contended Def. Lian crossed the center line, striking a vehicle and causing it to spin out, which then struck Plff's vehicle. Def. Lian fled the scene, but was later apprehended and taken to the emergency room, where he conducted himself in such a manner as to cause emotional distress to Plff. He was charged with DUI and hit and run. In the second collision, Plff was operating her vehicle on Machias Road in Granite Falls, Washington. Plff contended Def. Ottow failed to yield the right-of-way and made a left turn into the path of her vehicle, resulting in a significant impact collision.

**Injuries:** First collision: back injury; disc bulge/protrusion at L4-5. Plff's physician opined that Plff will require future surgery. Post traumatic headaches; emotional distress. Second collision: neck sprain/strain. No permanency.

**Specials:** Med. \$23,000 past and \$650,000 futures for the first collision, \$6,205 for the second collision; Lost Wages \$500 as to the second collision.

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STEPHANIE ROLLINS v. CROWN DISTRIBUTING; DARREN LIAN; AND SHANNON  
OTTOW - SNOHOMISH COUNTY - CONT'D

**Settlement:** Plff asked the jury for \$1,500,000 - \$1,680,000 for the first collision and \$8,000 - \$12,000 for the second collision. The Defs. asked the jury for \$75,000 for the first collision and \$4,000 - \$6,000 for the second collision.

**Result:** PLAINTIFF VERDICT for \$871,386. (The verdict for the first collision included \$23,605 in past economic damages, \$370,000 in future economic damages, \$112,500 in past non-economic damages, and \$356,000 in future non-economic damages. The verdict for the second collision included \$6,781 in past economic damages and \$2,500 in non-economic damages.)

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SPOKANE COUNTY

LESLIE A. MULLER v. ZAIDA ROSAS

**Number:** 14-2-00473-1

**Trial Date:** 8/3/15 (4-day trial)

**Plff Atty:** Michael Howard & Richard Relyea of Winston & Cashatt  
(Spokane)

**Def. Atty:** Michael O'Donnell of Hollenbeck Lancaster Miller &  
Andrews (Spokane)

**Insurance Co.:** Farmers

**Trial Judge:** Hon. Harold Clarke III

**REAR END COLLISION**

**NECK & SHOULDER INJURIES**

10/22/10 - Plff, female age 29, bank teller. Plff was driving a 2004 Nissan Xterra southbound on Division in Spokane, Washington, and was stopped at a red light at its intersection with North River Drive. Plff contended when the light turned green, she took her foot off of the brake and was almost immediately struck from the rear by the Def.'s 2008 Ford Escape. The Def.'s vehicle struck the heavy duty trailer hitch on the back of Plff's vehicle. This was a trial de novo from an arbitration.

**Injuries:** Neck and left trapezius muscle strains, resulting in shoulder pain. Plff treated at Group Health and with two physical therapy appointments. Plff was unable to continue treatment due to her work schedule. In 8/11, Plff was in a subsequent collision and her previous symptoms continued. Following an MRI that revealed disc bulges, she was referred to a pain management physician, who recommended physical therapy, chiropractic care, and facet joint injections if necessary. Plff's work schedule continued to preclude her from ongoing treatment and her discomfort persisted. Plff claimed she was still experiencing issues with her neck and shoulder at the time of trial.

**Specials:** Med. \$881 (stipulated), plus an additional \$852 related to diagnosis and treatment of her ongoing injuries beyond her initial treatment; Prop. Damage \$941 to Plff's vehicle, \$4,000 to the Def.'s vehicle.

**Result:** PLAINTIFF VERDICT for \$4,201. (The verdict included \$3,261 in economic damages and \$940 in non-economic damages.)

SEPTEMBER 2015

SETTLEMENT - CONFIDENTIAL COUNTY

JANE DOE, INDIVIDUALLY AND AS PR OF THE ESTATE OF JOHN DOE v. CONFIDENTIAL TIRE DEALER, FORD MOTOR COMPANY, COOPER TIRE & RUBBER COMPANY

Settlement Date: 6/15

**Plff Atty:** James S. Rogers & Liz Donaldson, Law Offices of James S. Rogers (Seattle); Randy Barnhart of Antonio Bates Bernard (Denver CO); Christina Habas, Bill Keating & Steve Polidori of Keating Wagner Polidori Free (Denver CO)

**Def. Atty:** confidential

**Plff Exp.:** Dennis Carlson (Tire Design) Tucson AZ; Robert Caldwell (Accident Reconstructionist) Lafayette CO; Andy Gilberg (Automotive Safety/Door Latch) Kennesaw GA; Cal Lucas (Tire Service) Brandon MD; Frederick DeKay Ph.D. (Economist) Seattle; Micky Gilbert (Safety/Vehicle Handling) Golden CO

**Def. Exp.:** John Daws (Tire Design) Phoenix AZ; John Scott (Accident Reconstructionist) Denver CO; Keith Friedman (Automotive Safety/Door Latch) Austin TX; Joseph Arruda (Tire Service) Foothill Ranch CA, for Def. Tire Dealer; Defs. Ford & Cooper Tire settled prior to expert designation

**PRODUCT LIABILITY (DEFECTIVE DESIGN); TIRE DEALER NEGLIGENCE**

**DEATH**

6/17/12 - Plff John Doe, the decedent, male age 54, professor and dean, survived by his wife and adult children. On Father's Day, Plff John Doe was a passenger in a 2000 Ford Ranger pickup truck driven by his 19 year old daughter, C.H. C.H. was driving at a speed estimated at or near the 75 mph speed limit. Both C.H. and John Doe were properly seat belted. Suddenly the left rear tire suffered tread separation. C.H. took her foot off the accelerator pedal and did not make any large steering movements. Despite her actions, the Ranger went off the roadway, rolling over onto the right shoulder. John Doe was thrown from the vehicle and landed 115 feet east of the vehicle's resting place. He was pronounced dead at the scene of the accident due to multiple blunt force traumas. Prior to the accident, John Doe's wife purchased two new tires for the Ranger and the tire dealer placed the new tires on the front of the vehicle. Even though the rear tires were 14 years old, the tire dealer did not recommend placement of the new tires on the rear axle. Plff John Doe's wife, individually and on behalf

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JANE DOE, INDIVIDUALLY AND AS PR OF THE ESTATE OF JOHN DOE v.  
CONFIDENTIAL TIRE DEALER, FORD MOTOR COMPANY, COOPER TIRE & RUBBER  
COMPANY - SETTLEMENT - CONFIDENTIAL COUNTY - CONT'D

**Facts Cont'd:** of his estate and the couple's children, brought this action against Ford, Cooper Tire, and the confidential tire dealer. Plff asserted that the tire was defectively designed and manufactured; that the door latch was defective; and that the tire dealer should have recommended replacement of the defective tire. Plff settled with Defs. Ford and Cooper Tire. The tire dealer denied that it was negligent in failing to place the tires on the Ranger's rear axle, and argued that C.H. was an inexperienced driver. The tire dealer also argued that Ford's door latch was defective.

**Injuries:** Death.

**Result:** PLAINTIFF SETTLEMENT for \$3,200,000 as to the Def. tire dealer. (Plff settled with Defs. Ford and Cooper Tire for confidential amounts.)

SEPTEMBER 2015

**SETTLEMENT - GRANT COUNTY**

ESTATE OF SUSAN HUNTER v. GREGORY SCHLAGEL (AN ALLSTATE INSURANCE AGENT)

**Number:** 07-2-00020-4

**Settlement Date:** 7/15/15

**Plff Atty:** David Trujillo, Law Offices of David B. Trujillo  
(Yakima)

**Def. Atty:** Gordon Hauschild of Wood Smith Henning & Berman  
(Seattle)

**Insurance Co.:** Fireman's Fund

**BREACH OF CONTRACT; INSURANCE BAD FAITH; INSURANCE FAIR CONDUCT ACT VIOLATION**

**ECONOMIC DAMAGES; EMOTIONAL DISTRESS**

3/6/06-1/31/08 - Plff had insured her own mobile home residence with Allstate Insurance Company for the previous seven years. Plff had Allstate agent, Def. Schlagel, add a landlord policy for a two story brick home that Plff had inherited after taking care of her father until his death. After Allstate sent a refund and a June 12, 2004, notice of intent to cancel the landlord policy due to alleged mobile home status, Plff claimed that the Def. had told her it was a mistake from looking at the wrong property, her own mobile home residence next door/nearby, instead of the actual brick home at issue. Plff alleged that the Def. then collected a new premium payment from her and told her that Allstate would re-inspect the correct property and if there were any problems she would get a new written notice stating any real underwriting concerns. When the brick home was destroyed by fire on March 6, 2006, the Def. then allegedly admitted that he still had Plff's premium check sitting in his file (which Plff asserted violated the duty to bind insurance on receipt or send back pursuant to RCW 48.17.480 and RCW 48.30.190). Plff claimed that the Def. said that Allstate had cancelled the policy because of an alleged bad roof after inspecting the correct property. However, no such notice had ever been sent by Allstate to her or the agent, and Plff asserted that the Def. himself had never informed her about any problems either. The Def. denied those allegations. Plff first sued agent Schlagel only. Def. Schlagel denied Plff's claims for breach of oral contract and negligence for the alleged failure to insure and/or to warn prior to the alleged cancellation. Plff was seeking damages from the apparent lack of insurance after the fire loss and for emotional distress of it all. Plff passed away on January 31, 2008, and her estate was substituted in as Plff. Discovery soon confirmed that Allstate had never actually sent any notice of

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ESTATE OF SUSAN HUNTER v. GREGORY SCHLAGEL (AN ALLSTATE INSURANCE  
AGENT - SETTLEMENT - GRANT COUNTY - CONT'D

**Facts Cont'd:** intent to cancel for any bad roof. Accordingly, Plff added Allstate as a co-defendant and Allstate answered disputing that it had ever really denied the claim (allegedly due to lack of knowledge but with a sworn admission that this position was based on all the facts, evidence and documents in Allstate's possession or control). Allstate also asserted a lack of knowledge on whether it had never sent a proper cancellation notice after inspecting the correct property. Agent Schlagel obtained summary judgment dismissal of Plff's negligence claim for lack of expert testimony on the standard of care notwithstanding Plff's citation to the RCWs governing receipt of the policy premiums. Plff was going to appeal at the end of the case (to preserve an ability to recover emotional distress and any damages if the claims against Allstate failed). Def. Schlagel's motion to dismiss the breach of contract claim was denied. In discovery and discovery conferences, Allstate was unable to produce any notice of intent to cancel for a bad roof and allegedly didn't know who the inspector was, when they inspected the correct home and didn't have a copy of any such inspection report or know any contact information for the inspector. When Allstate finally revealed the date of the inspection for the correct home, it was only 39 days before the alleged August 7th, 2004, cancellation, Plff served Allstate with an Insurance Fair Conduct Act (IFCA) notice of the duty to settle the insurance claim which Allstate had denied denying. Allstate refused to settle and moved for and obtained a summary judgment order dated April 23, 2010, ruling that there had been a cancellation based on the original mobile home notice because Allstate allegedly "sincerely believed" the home was a mobile home when they sent notice of intent to cancel for that reason out on June 14, 2004. However, just a month before trial on January 5, 2012, a new associate attorney for Allstate, who was apparently covering over the holidays, filed a series of pre-trial pleadings along with a declaration with yet another copy of the policy, which just happened to seem thicker to Plff's counsel, who, on a mere whim, compared it page by page with the certified copy previously provided, and found three new smoking-gun "Fisons-like" pages slipped in now suddenly showing that a full 10 days before Allstate sent the notice of intent to cancel the landlord policy on the two story brick home because of an allegedly sincere belief in mobile home status, Allstate had actually received corrected advanced information on the true and actual structure type being a brick structure and had actually relied on that corrected information and had then amended the policy to correct the structure type and also reduced the premium by \$15.00. This

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ESTATE OF SUSAN HUNTER v. GREGORY SCHLAGEL (AN ALLSTATE INSURANCE  
AGENT - SETTLEMENT - GRANT COUNTY - CONT'D

**Facts Cont'd:** revelation broke the case wide open and Plff was finally able to get the cancellation ruling vacated. Plff then obtained summary judgment ruling that Allstate never properly cancelled the policy; that the policy automatically renewed on its anniversary date because Allstate never sent a notice of non-renewal or non-payment as required by the same statute governing the pre-requisites for cancellation; that the loss occurred during the renewal period; and that Allstate had breached the contract by not paying for the loss and that damages would be determined at trial or by later motions. Def. Schlagel then asked to be dismissed on the remaining breach of contract against him since Allstate was now liable on the policy although Allstate tried to seek discretionary appeal and will likely appeal at the end of this case. Plff and Def. Schlagel were then able to negotiate a settlement of just Plff's claims against the Schlagels. The pending claims against Allstate are for Allstate's own actions/inactions and do not depend on any derivative liability based on the acts of Def. Schlagel. The Schlagels did not admit liability or any wrongdoing. The settlement was not contingent on a reasonableness hearing but the Schlagels agreed to file an RCW 4.22 motion giving notice of the settlement and seeking determination of reasonableness.

**Injuries:** Economic damages; cost of rebuilding and lost rents.  
Emotional distress.

**Specials:** Prop. Damage - total loss of the structure and its contents in the fire allegedly exceeded the policy limits by more than double.

**Result:** PLAINTIFF SETTLEMENT for \$100,000, without fees or costs.  
(The case against Allstate is ongoing.)

SEPTEMBER 2015

SETTLEMENT - KING COUNTY

KAREN MALDONADO v. DAWIT KAHNON AND SEATTLE KING COUNTY TAXICAB

**Settlement Date:** 5/12/14

**Plff Atty:** Cydney Campbell Webster of Graham Lundberg Peschel  
(Seattle)

**Def. Atty:** adjuster only

**Insurance Co.:** National Casualty

**Plff Med.:** James Bruckner MD (Orthopedic Surgeon) Seattle

PEDESTRIAN ACCIDENT

HIP INJURY

8/21/12 - Plff, female age 38, office assistant. Plff was walking across 6th Avenue at Cherry Street in downtown Seattle, Washington. Plff contended a taxi cab made a left turn onto 6th Avenue and struck her in the marked crosswalk under a "walk" signal. The taxi cab struck Plff on her left leg.

**Injuries:** Right hip injury; anterior labrum tear requiring surgery. Cervical, thoracic and lumbar sprains with muscle spasms. Plff underwent an arthroscopic debridement of the anteromedial labrum at the chondrolabral junction, an arthroscopic osteochondroplasty of the femoral head and neck, and arthroscopic synovectomy.

**Specials:** Med. \$34,867; Days in Hosp. - 1 day.

**Settlement:** Demand: \$400,000. Offer: \$65,000.

**Result:** PLAINTIFF SETTLEMENT for \$200,000.

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**SETTLEMENT - KING COUNTY**

E.H. INDIVIDUALLY, AND AS PR OF THE ESTATE OF T.G.D, DECEASED v.  
SEATTLE HOSPITALITY, INC., D/B/A QUALITY INN AND SUITES

**Number:** 14-2-01606-9SEA

**Settlement Date:** 5/26/15

**Trial Date:** 6/9/15 (scheduled)

**Plff Atty:** John R. ("Jack") Connelly, Jr. & Micah R. LeBank,  
Connelly Law Offices (Tacoma)

**Def. Atty:** Thomas Merrick of Merrick Hofstedt & Lindsey (Seattle)

**Insurance Co.:** Magna Carta Companies

**Plff Med.:** Alan Steinman MD (Occupational Medicine/Physiology of  
Drowning) Olympia; Richard Cummins MD (Emergency  
Medicine) Seattle, both experts

**Def. Med.:** Tom Neuman (Pulmonologist/Emergency Medicine) Delmar  
CA, expert

**Plff Exp.:** Kevin Johnston (Aquatics/Pool Operations) Pullman;  
Gerald Dworkin (Aquatics Safety/Water Rescue)  
Kennebunkport ME; Michael Oostman (Aquatics Safety)  
North Reading MA; Richard Gill Ph.D. (Human Factors)  
Spokane; Christina Tapia Ph.D. (Economist) Seattle;  
Robert Pauw JD (Immigration Law) Seattle

**Def. Exp.:** William Rowley Ph.D. (Aquatics/Swimming Pools) Palos  
Verdes Estates CA; Christine Wood Ph.D. (Human Factors)  
Menlo Park CA; Joe Moisan (Vocational Rehabilitation)  
Grapeview; Dagmar Butte JD (Immigration Law) Portland  
OR; Paul Sutphen CPA (Accountant) Seattle; Robert  
Steele (Annuity Specialist) Amarillo TX

**Mediator:** Keith Kubik

**Judge:** Hon. William Downing

**HOTEL NEGLIGENCE; PREMISES LIABILITY**

**DEATH**

6/30/13 - Plff T.G.D., the decedent, male age 27, survived by his spouse. Plff, an Ethiopian immigrant enrolled as a Ph.D. student at Washington State University (WSU), was attending an economics conference in Seattle, Washington. After attending the conference he returned to his hotel (the Quality Inn & Suites) and decided to go swimming with a friend in the hotel swimming pool. Plff was a 6 foot 2 inch African man. He entered the pool and began swimming at the 5 foot mark. The pool in which he was swimming was an older swimming pool which was 8½ feet deep and had an exceptionally steep slope between the shallow and deep ends. Unbeknownst to Plff, the King County Health Department had cited the hotel a number of times for failure to properly maintain their pool. Deficiencies included water quality, failure to have a dual drain system, failure to properly add chemicals, failure to maintain a proper water level,

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E.H. INDIVIDUALLY, AND AS PR OF THE ESTATE OF T.G.D, DECEASED v.  
SEATTLE HOSPITALITY, INC., D/B/A QUALITY INN AND SUITES -  
SETTLEMENT - KING COUNTY - CONT'D

**Facts Cont'd:** failure to use the skimmers, and failure to close the pool when the water quality was below the required standard and the drain was not visible. The pool should not be open if the water quality is below the required standard or if the drain in the deep end is not visible. The hotel ignored the citations and the concerns. The people maintaining the pool did not know how to maintain a pool or properly add chemicals, and the filtration system was not working properly due to cracks in the lines from the skimmers which would flood the hotel laundry room. Instead of repairing the problem, they simply lowered the water level resulting in elimination of the skimmers as part of the filtration system. Plff had taken swimming classes at WSU, but was not a strong swimmer. As he swam in the 5 foot area, he swallowed water and got into trouble. Due to the steep slope, as he kicked his legs he was driven further into the deep end of the pool. His friend saw that he was in trouble and ran to get help. Video of the pool which was discover later revealed that Plff struggled, then dropped below the surface. The front desk called 911 at his friend's insistence. The Seattle Fire Department responded within two minutes and 35 seconds of the call. They then stood around the pool and looked into it. Because the water quality was so poor, they were unable to see Plff, a dark skinned man, on a white pool bottom in the 8½ feet of water. The Seattle Police Department also responded. Despite the fact that his clothes and wallet were right by the poolside they told everyone that they could go back to swimming. The Seattle fire and police departmentsthen left and hotel patrons returned to swimming in the pool. Meanwhile, Plff lay on the bottom. Plff's friends continued to search for him and two hours later found him on the bottom of the pool, with the help of an EMT from Texas. They had to ask the hotel to turn off the drain (which had not shut off automatically) and pulled him from the pool. By that time, he had been submerged for over 2½ hours.

**Injuries:** Death by drowning.

**Specials:** Lost Wages \$1,800,000 to \$3,800,000 (potential lost earnings valued by the parties). Plff was an Ethiopian immigrant who was an outstanding Ph.D. student and teacher. He was a leader amongst his peers and was well respected within the economics department at WSU. He was engaged in new and innovative research with two professors regarding important issues facing livestock in Africa. This work had already been recognized by the Bill and Melinda Gates Foundation and Plff had been awarded a grant to attend a livestock research conference in Kenya that occurred shortly after his death.

**Result:** PLAINTIFF SETTLEMENT for \$6,000,000.

SEPTEMBER 2015

SETTLEMENT - KING COUNTY

DAVID TURNER MCCRINDLE, A MINOR v. KELLY UHDE

**Settlement Date:** 3/15/15

**Plff Atty:** Jody Reich of Dethlefs Sparwasser Reich Dickerson & Key  
(Edmonds)

**Def. Atty:** Jonathan Loch of Lee Smart (Seattle)

**Insurance Co.:** Encompass/Allstate

**Plff Med.:** Mansour Shirbacheh MD Ph.D. (Plastic Surgeon/expert-by  
report) Tacoma

**Plff Exp.:** Lawrence Majovski Ph.D. (Psychologist) Tacoma

**DOG BITE**

**FACIAL LACERATION & SCAR; EMOTIONAL DISTRESS**

12/3/11 - Plff, male age 13. This case is the result of an unprovoked attack by a yellow labrador on a neighbor's property. Plff contended when he entered a room of the home to join his father and friends, the dog jumped up and bit him in the face. The dog was destroyed shortly thereafter.

**Injuries:** Facial injury; three lacerations to the face requiring eight stitches and scar revision surgery. A steroid injection was recommended for a protruding scar. Emotional distress; Plff was diagnosed with specific phobia to large dogs, anxiety and adjustment disorders. Permanency claimed; Plff has facial scarring even with revision.

**Specials:** Med. \$2,779.

**Result:** PLAINTIFF SETTLEMENT for \$85,000.

SEPTEMBER 2015

SETTLEMENT - SNOHOMISH COUNTY

ABBIE LILLY v. FARMERS INSURANCE

**Settlement Date:** 10/1/14

**Plff Atty:** Paula McCandlis of Brett Murphy Knapp McCandlis & Brown  
(Bellingham)

**Def. Atty:** adjuster only

**Insurance Co.:** Farmers

**Plff Med.:** Doug Nowak MD (Orthopedic Surgeon); Scott Schaaf  
DO (Orthopedic Surgeon), both Everett; Frederic  
Braun MD (Neurologist/expert) Bellingham

REAR END COLLISION--ADMITTED LIABILITY

HIP & KNEE INJURIES

3/1/13 - Plff, female age 50, clerical staff at a metal fabrication company. Plff contended she was stopped for traffic ahead when her vehicle was struck from the rear by an uninsured motorist. Plff brought this action against Def. Farmers for her UM benefits.

**Injuries:** Knee injury; right medial meniscus tear requiring surgery. Hip injury; right labral tear requiring surgery.

**Specials:** Med. \$29,239; Lost Wages \$13,920; Days Work Lost - 118 days.

**Settlement:** Demand: \$100,000 (policy limits). Offer: \$100,000 (policy limits).

**Result:** PLAINTIFF SETTLEMENT for \$100,000.

SEPTEMBER 2015

SETTLEMENT - YAKIMA COUNTY

KATHLEEN E. BERGSTROM v. VICTOR MCFARLAND

**Settlement Date:** 1/23/15

**Plff Atty:** Gregory Lighty of Abeyta Nelson (Yakima)

**Def. Atty:** adjuster only

**Insurance Co.:** Nationwide

**Plff Med.:** Eduardo Meirelles MD Ph.D. (Neurosurgeon) Yakima

REAR END COLLISION--ADMITTED LIABILITY

BACK INJURY

3/6/12 - Plff, female age 71, retired school teacher. Plff contended she was a passenger in a vehicle that was struck from the rear by the Def.'s vehicle.

**Injuries:** Low-back injury; large herniated disc at L4-5 with associated L5 radiculopathy. Plff underwent an L4-5 posterior lumbar interbody fusion with a left L4-5 microdiscectomy.

**Specials:** Med. \$142,706; Days in Hosp. - 2 days; Prop. Damage \$6,120.

**Result:** PLAINTIFF SETTLEMENT for \$305,000.

SEPTEMBER 2015

SETTLEMENT - YAKIMA COUNTY

SIGIFREDO G. BUENO v. JAMES JEFFERSON AND STATE FARM MUTUAL AUTO  
INSURANCE COMPANY

Settlement Date: 4/28/15

Plff Atty: Terry Abeyta of Abeyta Nelson (Yakima)

Def. Atty: adjuster only

Insurance Co.: State Farm

Plff Med.: Tony Garent DC (Chiropractor) Selah; William Cox  
MD (Family Practice) Selah; Thomas Kennedy MD  
(Orthopedic Surgeon) Yakima; Eduardo Meirelles MD  
(Neurosurgeon) Yakima

INTERSECTION COLLISION--ADMITTED LIABILITY

KNEE INJURY

5/29/13 - Plff, male age 40, seasonal farm worker. Plff was traveling eastbound on East Walnut Street near Naches Avenue in Yakima, Washington. Def. Jefferson was traveling southbound on Naches Avenue. Plff contended the Def. failed to yield at a stop sign and entered the intersection, striking the front of Plff's vehicle. The force of the impact caused Plff's vehicle to strike a fire hydrant.

**Injuries:** Right knee injury; torn medial meniscus requiring surgery. Cervical, thoracic and lumbar sprains/strains. Plff treated with chiropractic care, anti-inflammatory medication, and lumbar facet joint steroid injections by Dr. Meirelles, followed by an MRI of his right knee and a partial meniscectomy by Dr. Kennedy. Plff had previous cervical and lumbar injuries as a result of a motor vehicle collision on 8/30/10 with an anterior fusion at L5-S1. Plff claimed he may require additional surgery on his knee.

**Specials:** Med. \$33,729; Lost Wages \$12,820 (lost earning capacity); Prop. Damage \$3,973 (previously paid).

**Settlement:** Demand: \$111,475 (\$75,000 combined liability and UIM policy limits, plus \$36,475 PIP waiver). Offer: \$111,475 (\$75,000 combined liability and UIM policy limits, plus \$36,475 PIP waiver).

**Result:** PLAINTIFF SETTLEMENT for \$111,475. (The settlement included \$75,000 combined liability and UIM policy limits, plus \$36,475 PIP waiver.)

SEPTEMBER 2015

SETTLEMENT - U.S. DISTRICT COURT - EASTERN DISTRICT

WAYNE GLEASON v. TRI-STATE MEMORIAL HOSPITAL

**Number:** 2:14-cv-00238-TOR

**Settlement Date:** 7/16/15

**Plff Atty:** Richard Eymann of Eymann Allison Hunter Jones  
(Spokane); Lars Berg of Kelly Hart (Fort Worth TX)

**Def. Atty:** Dale De Felice & Gregory Arpin of Paine Hamblen  
(Spokane)

**Mediator:** David Thorner

**Judge:** Hon. Thomas Rice

**WRONGFUL TERMINATION; WHISTLEBLOWER; RETALIATION**

**ECONOMIC DAMAGES; EMOTIONAL DISTRESS**

Plff began his employment with Def. Tri-State Memorial Hospital in April of 2010 as the Program Director of the Tri-State Wound Healing & Hyperbaric Center. Plff managed the nurses, hyperbaric technicians, clinic coordinators and other employees who worked in the Hyperbaric Center. He also worked closely with two physicians at the center, one of whom was Dr. Patrick Gonzalez. In May of 2012, a nurse reported to Plff that Dr. Gonzalez was sexually harassing her. Plff claimed that he reported the alleged sexual harassment incident to Kristy Fresh, the Director of Clinical Services, who failed to take any action. Instead, Plff was retaliated against and no longer allowed to be at the Hyperbaric Center when Dr. Gonzalez was there. When the complaints about Dr. Gonzalez continued and no action was taken, Plff filed a complaint with the EEOC. After going to the EEOC, Plff contended that the Def. further retaliated against him. On October 24, 2012, there was an incident with a patient who was experiencing a low-blood sugar event and became trapped in a bathroom for an extended period. The patient was found only when a family member came to look for her. Def. Tri-State has a policy that a written report must be made within seven days following such an incident. Plff claimed he was unable to complete the report because the Def. placed him on administrative leave three days later, then ultimately terminated his employment. Plff contended that where there were other employees present at the time of the patient incident, but he was the only person who was disciplined.

**Injuries:** Economic damages; emotional distress.

**Specials:** Lost Wages - claimed, plus benefits.

**Settlement:** Offer: \$275,000 (Offer of Judgment).

**Result:** PLAINTIFF SETTLEMENT for \$275,000.

SEPTEMBER 2015

SETTLEMENT - U.S. DISTRICT COURT - WESTERN DISTRICT

DAVID LOTT v. CITY OF TUKWILA; JACOB BERRY; AND ZACK ANDERSON

**Number:** 2:14-cv-00260-JCC

**Settlement Date:** 6/3/15 (settled during bench trial)

**Plff Atty:** Joseph R. Shaeffer, Tiffany Cartwright & David Whedbee  
of MacDonald Hoague & Bayless (Seattle)

**Def. Atty:** Rachel Turpin of Kenyon Disend (Issaquah); Amanda  
Butler & Richard Jolley of Keating Bucklin & McCormick  
(Seattle)

**Trial Judge:** Hon. John C. Coughenour

**CIVIL RIGHTS VIOLATION; EXCESSIVE FORCE**

**HEAD INJURY; EMOTIONAL DISTRESS**

8/11/11 - Plff, male age 60. Plff brought this action against Def. City of Tukwila Police Department and it's two officers, Defs. Anderson and Berry, alleging they shoved him against a bus stop and took him to the ground, where he was handcuffed and arrested. A dash-camera video of the incident showed that Plff was slammed onto the trunk of a patrol car after he was handcuffed, then sprayed with pepper spray. The video showed Def. Officer Berry putting his can of pepper spray inches from Plff's face and spraying him before forcing him into the back seat. Def. Berry claimed that he delivered a three-second burst of pepper spray to force Plff to comply after he refused to comply with a five-second countdown to get into the car. Plff was driven to the police station before the irritant was washed off of his face. Plff claimed that Def. Tukwila Police Department has displayed a pattern and practice of the unconstitutional use of pepper spray, a powerful irritant, and sought an injunction stopping its officers from using it without justification. Def. Tukwila defines the use of pepper spray as a "type 1 or level 1" use of force, among the least amount of force that can be applied to gain compliance of a suspect or arrestee. However, the Ninth Circuit Court of Appeals found in a series of cases that the use of pepper spray constitutes an intermediate level of force, and that its use is an "unreasonable application of force against individuals suspected of only minor criminal activities, offer only passive resistance and pose little or no threat of harm to others." The Defs. claimed that Plff was intoxicated and yelling wildly at people, and that when Def. Anderson cautiously approached Plff to ask for identification, he became abusive and confrontational. Def. Anderson contended that when Plff refused to sit on the bench and moved away from him as if he was going to fight, he became concerned that Plff might fall into the street so he "pushed [Plff] toward the bus shelter" for Plff's own safety and decided to arrest him.

SEPTEMBER 2015

DAVID LOTT v. CITY OF TUKWILA; JACOB BERRY; AND ZACK ANDERSON -  
SETTLEMENT - U.S. DISTRICT COURT - WESTERN DISTRICT - CONT'D

**Injuries:** Emotional distress. Head injury; laceration requiring three stitches. After arriving at the police station, paramedics washed the irritant off of Plff's face. Plff was transported to a hospital where he received stitches to close a head wound that he suffered during the incident.

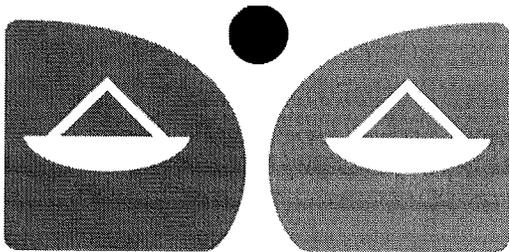
**Result:** PLAINTIFF SETTLEMENT for \$300,000. (The case settled after two days of testimony in a bench trial after the judge questioned the Tukwila Deputy Chief about "what he thought that injunctive relief might look like".)

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