

MONTEREY COUNTY**MOTOR VEHICLE**

Motorcycle — Left Turn — Intersection

Plaintiff: Crash-related injuries resulted in army discharge**MEDIATED****SETTLEMENT \$1,700,000****CASE**

Edwin B. Hallett and Felicia Banetea v. Margaret W. Johnsen, individually and as Trustee of the Rolf E. Johnsen and Margaret W. Johnsen Living Trust; Rolf E. Johnsen, individually and as Trustee of the Rolf E. Johnsen and Margaret W. Johnsen Living Trust; and Does 1 through 30, inclusive, No. M132284

COURT

Superior Court of Monterey County, Monterey

JUDGE

Thomas W. Wills

NEUTRAL(S)

Douglas deVries
Joseph S. Biderman

DATE

1/16/2017

PLAINTIFF**ATTORNEY(S)**

Werner R. Meissner (lead), Law Office of Werner R. Meissner, San Pedro, CA
Robert L. Meissner, Law Office of Robert L. Meissner, Fair Oaks, CA

DEFENSE**ATTORNEY(S)**

Ty S. Vanderford, Vanderford & Ruiz, LLP, Pasadena, CA

FACTS & ALLEGATIONS At approximately 2:20 p.m. on Aug. 21, 2014, plaintiff Edwin Hallett, 35, a sergeant in the army, was operating his motorcycle north/eastbound on Del Monte Boulevard, in Monterey. As he entered the intersection with Hannon Avenue, his motorcycle struck the front, right wheel area of a Lexus sedan operated by Margaret Johnsen, who was making a left turn from Del Monte Boulevard onto Hannon Avenue. Hallett was subsequently thrown off his motorcycle, and he struck the pavement on the other side of Johnsen's vehicle. Hallett allegedly sustained injuries to his pelvis, hip, hand and tailbone.

Hallett sued Margaret Johnsen and the co-owner of Margaret Johnsen's vehicle, Rolf Johnsen. Hallett alleged that Ms. Johnsen was negligent in the operation of the Lexus and that Mr. Johnsen was vicariously liable for Ms. Johnsen's actions.

The matter proceeded to mediation.

Hallett claimed he could not avoid colliding with Ms. Johnsen's vehicle, which was making a left turn in front of him. Thus, plaintiff's counsel asserted that Ms. Johnsen was

negligent for making an unsafe and illegal left turn in front of oncoming traffic at the intersection of the roadways.

The defendants did not dispute liability at mediation.

INJURIES/DAMAGES *closed reduction; diastasis; erectile dysfunction; finger, dislocation; fracture, coccyx; fracture, displaced; fracture, hip; fracture, pelvis; fracture, pubic bone; fracture, pubic ramus; hand; hematoma; hip; internal bleeding; loss of consortium; pelvis; pins/rods/screws; thumb*

Hallett sustained multiple pelvic fractures, including a displaced fracture of the right inferior pubic ramus, a fracture of the right anterior acetabular wall, a fractured coccyx, and diastasis (or separation) of the pubic symphysis with multiple bony fragments. He also suffered a large pelvic hematoma, internal bleeding, and a dislocated thumb on his right hand. Hallett was subsequently airlifted from the scene and taken to Regional Medical Center of San Jose, in San Jose. Coil embolization and occlusion of the left pelvic branch off the left, common femoral artery was performed to stop the internal bleeding. Thereafter, closed reduction surgery was performed to close the diastasis of the right sacroiliac joint by placing a 5-inch screw through the joint. The multiple pelvic fractures caused painful instability of the pelvic ring, requiring months of rehabilitation.

Hallett claimed his dislocated thumb caused some loss of grip strength in his right, dominant hand. He also claimed that the pelvic trauma had resulted in some degree of erectile dysfunction. However, Hallett continued to be on active duty in the army during his rehabilitation. Although Hallett was ambulatory, an army physical evaluation determined that he would never regain the ability to evade enemy fire again, which made Hallett unfit for service in the army. As a result, Hallett was honorably discharged in January 2016.

Hallett claimed that he will have a lifetime of disability and pain in the hips, groin, and pelvic joints and that his unstable pelvis made him unstable on his feet, causing him to have limited mobility and occasionally fall. He also claimed that his pain management requirements made him unemployable.

Thus, Hallett sought recovery of \$127,251.81 in past medical expenses based on the army's medical lien and \$527,000 in future medical expenses based on his future of pain and orthopedic management, including possible future right hip arthroplasty surgeries. He also sought recovery of at least \$986,296 in past wages and benefits, had he continued his successful army career to retirement in 28 years, versus what he is allegedly likely to earn in a new vocation. Additionally, Hallett sought recovery of at least \$58,427 in future loss of army retirement benefits.

Hallett's wife, Felicia Bantea (who was initially erroneously named as Felicia "Banetea" in court documents), filed a derivative claim for her alleged loss of consortium, but the claim was dismissed prior to the mediation.

Defense counsel disputed the extent and duration of Hallett's injuries and disability, as well as disputed Hallett's current and future employability. Defense counsel particularly disputed the need for any further medical treatment or surgery; the reasonableness of past bills; and the

amount of future medical expenses, loss of income, and loss of retirement benefits. Counsel further asserted that Hallett was receiving army retirement benefits and disability and that all medical expenses were covered by the United States Department of Veterans Affairs.

RESULT On July 21, 2016, during a mediation before mediator Douglas deVries, of Judicate West, the Johnsens agreed to tender their \$1 million primary policy limit. However, Hallett sought further recovery for his damages. As a result, the parties attended a mandatory settlement conference at the Monterey Superior Court on Jan. 6, 2017, during which the Johnsens offered an additional \$175,000, but Hallett declined the \$1,175,000 settlement offer.

The parties ultimately agreed to a \$1.7 million settlement during another mediation, which was held during expert discovery on Jan. 16, 2017. The settlement was finalized via the guidance of mediator Joseph S. Biderman, of ADR Services Inc.

INSURER(S) Amica Mutual Insurance Co. for both defendants (\$1 million primary policy)
United States Liability Insurance Co. Inc. for both defendants (\$3 million umbrella policy)

**PLAINTIFF
EXPERT(S)**

Clay A. Campbell, accident reconstruction, Livermore, CA (did not testify)
Dorothy Devereaux, M.S., C.V.E., vocational assessment, Fair Oaks, CA (did not testify)
Robert Kessler, M.D., urology, Palo Alto, CA (did not testify)
Michael Gayle Klassen, M.D., orthopedic surgery, Monterey, CA (did not testify)
James A. Mills, M.A., economics, Los Altos, CA (did not testify)
Karen M. Preston, P.H.N., R.N., life care planning, Sacramento, CA (did not testify)

**DEFENSE
EXPERT(S)**

Richard S. Barnes, C.P.A., economics, Sacramento, CA (did not testify)
Edward Cahill, M.D., orthopedic surgery, Stockton, CA (did not testify)
Gary Nibbelink, C.R.C., vocational rehabilitation, Sacramento, CA (did not testify)
Tamera G. Rockholt, R.N., coding & billing (medical), Portland, OR (life care plan; did not testify)
Robert W. Snook, accident reconstruction, Galt, CA (did not testify)

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' and defense counsel.

—Priya Idiculla

NORTHERN

SAN FRANCISCO COUNTY

WORKER/WORKPLACE NEGLIGENCE

Negligent Maintenance — Workplace Safety — Construction — Accidents

Failure to maintain work site caused crush injury: plaintiff

**MEDIATED
SETTLEMENT** \$950,000

CASE Terrence Buckner v. Nibbi Brothers General Contractors, St. Anthony Foundation, Hkit Architects, and Does 1-50, inclusive, No. CGC-15-547015

COURT Superior Court of San Francisco County, San Francisco

JUDGE John K. Stewart

NEUTRAL(S) Alfred G. Chiantelli

DATE 4/19/2017

**PLAINTIFF
ATTORNEY(S)** Eustace de Saint Phalle (lead), Rains Lucia Stern St. Phalle & Silver, PC, San Francisco, CA
David C. Anderson, Anderson Law Firm, San Francisco, CA
Jack Bollier, Rains Lucia Stern St. Phalle & Silver, PC, San Francisco, CA
Nicole R. Castronovo, Rains Lucia Stern St. Phalle & Silver, PC, San Francisco, CA
E. Robert Wallach, Rains Lucia Stern St. Phalle & Silver, PC, San Francisco, CA

**DEFENSE
ATTORNEY(S)** Patrick E. Taylor, Bremer Whyte Brown & O'Meara, Oakland, CA (Nibbi Brothers General Contractors)
None reported (Hkit Architects, St. Anthony Foundation)

FACTS & ALLEGATIONS On Aug. 19, 2013, plaintiff Terrence Buckner, 54, a construction worker, was in the process of moving a vertical stack of plywood at a construction work site in San Francisco when the entire stack, weighing approximately 600 pounds, suddenly toppled over on him. Buckner was subsequently thrown to the ground and remained pinned under the stack for 30 minutes. He briefly lost consciousness and his right foot was crushed.

Following the incident, Cal/OSHA performed an investigation and cited the subcontractor, CONCO, with violating Cal/OSHA rules against unsafe vertical stacks of plywood. In addition, Cal/OSHA cited the general