

Top 20 Personal Injury Awards of the Year



CAUSE OF ACTION: Of this year's 20 highest personal injury awards, one was a dram shop action, 10 were medical malpractice suits, two stemmed from small plane crashes and four involved workplace injury or occupational exposure.



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Here are the largest personal injury verdicts reported by the Law Journal for the 12 months ending Aug. 29, 2005, ranked in order of their value as of date of verdict or settlement. Awards of the same value share a ranking. The year's list ends with a six-way tie for rank number 15. They do not include arbitration awards or unilateral decisions by governmental entities to compensate injured parties, nor do they include uncollectible judgments. Awards for multiple parties are ranked by their lump sum values.

1 Jury Duns Stadium Beer Vendor \$105M For Paralysis Caused by Drunken Fan
Verni v. Lanzaro: A New Jersey jury has assessed \$105 million in compensatory and punitive damages against Aramark Corp., the nation's leading arena concessionaire, in the case of a girl paralyzed in a crash with a driver drunk on beer served at a New York Giants football game.

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4 Railroad Worker's Estate, Family Win \$11.43M in Asbestos Suit
Fuccilli v. N.J. Transit: A Middlesex County jury awarded \$11.43 million Aug. 10 in a wrongful death suit on behalf of a railroad worker whose lung disease was claimed to have been caused by inhaling asbestos and other hazardous substances on the job.

Ruggerio Fuccilli, 50, of Freehold, had worked from 1974-76 for Central Railroad of New Jersey, from 1976-83 for Conrail, and from 1983-2001 at New Jersey Transit. Many of his duties, such as welding, grinding metal and fixing brakes, exposed him to contaminants such as asbestos, sawdust, welding fumes and silica, according to evidence proffered by his lawyers, **Barry Eichen** and **William Levinson** of **Eichen Levinson** in Edison.

Fuccilli died in December 2002, two years after being diagnosed with pulmonary fibrosis. He suffered shortness of breath and was on oxygen for the last two years of his life, according to testimony by two of his treating doctors, an occupational health physician and a pulmonologist. Fuccilli was placed on a waiting list for a lung transplant but a donor was never found, Levinson says.

The jury deliberated eight hours before returning its verdict in a five-week trial at which Superior Court Judge **Ann McCormick** presided. The jury assessed \$4.1 million for Fuccilli's disability, pain and suffering and \$15.07 million for his wife Catherine's and their autistic son Michael's loss of companionship, for a total of \$19.17 million.

But the award was reduced to \$11.43 million because Conrail, which was held 35 percent liable, settled before trial for \$500,000, and because Fuccilli was held 8 percent responsible. The jury assessed 50 percent of liability to New Jersey Transit and 7 percent to Central Railroad.

The defense maintained that Fuccilli's symptoms either had no known cause or were caused by his cigarette smoking and exposure to wood dust during his four years as a carpenter before taking up railroad work, Levinson says.

Conrail's lawyer, **Louis Ruprecht** of **Ruprecht, Hart & Weeks** in Millburn, did not return calls, nor did blamed another defendant, A&A Temperature Controls of Jersey City, retained to work on the boilers.

A&A's lawyer, **Harvey Cooper** of East Hanover's **Dougherty & Zirulnik**, Selective Insurance Co.'s in-house legal department, plans to go to trial. He says the evidence shows A&A was not responsible for the equipment that failed.

11 Jury Gives \$4M To Victim of Stroke Caused by Headache Misdiagnosis

Foster v. Falk: A Middlesex County jury awarded \$4 million on Feb. 4 to a woman found to have suffered a brain-damaging stroke because doctors failed to order tests for her headaches.

Over seven days in June 1996, **Carlene Foster**, now 50, complained of headaches and vomiting to three doctors at HIP of New Jersey in Edison and to an emergency room doctor at J.F.K. Medical Center, and on June 12, she suffered a stroke. The jury found each doctor 25 percent liable, says her lawyers, **William Crutchlow** and **William Levinson** of **Edison's Eichen Levinson**.

Superior Court Judge **Yolanda Ciccone** presided at trial. Foster's expert testified that a CAT scan, which would have shown pre-aneurysm bleeding, should have been ordered. The defense contended that her symptoms could have been attributed to migraine headaches and that the doctors did not deviate from standards of care by not ordering a CAT scan, Foster's lawyers say.

The doctors and their lawyers are **David Falk**, represented by **John Orlovsky** of **Orlovsky, Moody, Schaaff & Gabrysiak** in West Long Branch; **Nancy Somer**, represented by **Thomas Pyle** of **Roseland's Post, Polak, Goodsell, MacNeill & Strauchler**; **Jeffrey Rosen**, represented by **Donald Grasso** of **Orlovsky, Grasso, Bolger, Mensching, Halpin & Daley** in Toms River; and **Angelo Racaniello**, represented by **Peter Gordon** of **Kromprier & Gordon** in Parsippany.

Pyle confirms the size of the verdict but declines to comment on whether there will be an appeal.