

VERDICTS AND SETTLEMENTS

\$34 Million To Armored Van Messenger Crushed By Coins

Dramatic Accident Recreation Key To Victory

By Nora Lockwood Toohar

Wells Fargo messenger Daniel Hiscock was riding in the back of an armored van when it collided with a tractor-trailer on a foggy bridge in Tampa, Fla., six years ago. Although it was just a minor collision, more than 700 pounds of coins surged forward inside the cargo area, crushing Hiscock and leaving him paralyzed from the chest down.

Using a videotape of two dramatic recreations of the accident – one with and one without a simple, \$300 barrier – plaintiffs' attorney C. Steven Yerrid convinced the Tampa jury that Hiscock's devastating injury could have been prevented if the armored van manufacturer had installed a simple, inexpensive safety device to prevent the coins from exploding upon impact.

Jurors deliberated only five hours before awarding Hiscock and the estate of his late wife, June Hiscock, nearly \$34 million in compensatory damages on April 27. The unanimous verdict held Griffin Inc. of Byhalia, Miss. – one of the world's largest manufacturers of armored vehicles – liable for manufacturing a defective van.

"This was an accident that didn't have to happen," said Yerrid.

"For very little cost, the van could have been made safe. The appropriate precautions were not taken. As a result, this is a story of shattered lives and shattered dreams."

The \$33.89 million award is one of the largest in Florida's history. Under an agreement reached immediately after the trial, however, the judgment was reduced. Both sides have declined to reveal the amount



of the settlement, but Yerrid said Griffin agreed to pay an "eight-figure" amount, much of it through insurance.

For Hiscock, 56, whose wife died of heart disease four weeks before the start of the trial, the jurors' decision was an important personal vindication, Yerrid said. A former Marine sergeant and Vietnam veteran, Hiscock's eyes welled up with tears when the jury announced that he was not



When attorneys recreated the crash with an identical van, they were able to film how the 700 pounds of coins "exploded" past the flimsy barrier and crushed the plaintiff, who was seated in the back of the van.

back of its armored vans.

Hiscock can't remember any details of the accident.

Crushed beneath the coins, his spinal cord was severed. His right leg was also fractured when it was rammed into the wall separating him from the driver. Biomechanical engineers theorized that his leg had been resting up on the wall at the time of the accident and was pushed forward when the cargo hit the back of his seat.

Defense attorneys did not return phone calls seeking com-

responsible for any of his injuries.

"Much of what he sought was exoneration, and that attention was paid to the safety of the people riding in these armored vans," Yerrid said.

Broken Seatbelt

The Hiscocks sued Griffin in 2001 for failing to install protective safety devices to prevent cargo from surging forward and injuring occupants riding in the

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ment on the verdict. But according to Yerrid, the defense's main argument was that Hiscock caused his own injuries by failing to wear a seatbelt and by failing to stow the cargo properly.

To refute the defense's contention that he wasn't wearing his seatbelt at the time of the crash, one of Hiscock's co-workers testified in a deposition that Hiscock "always put his safety belt on," Yerrid said.

In any case, the plaintiffs' biomechanical engineering experts testified, the seatbelt broke apart during the crash. And that probably saved his life, they said.

Hiscock, who was seated in the van with his seat reclined when the accident occurred, was pushed downward and forward when the cargo hit the back of his seat.

"As his leg was compressing into the wall, the cargo hit the back of his seat and basically bent his seat tremendously right into his body," said Alan Cantor, chief executive of ARCCA, an accident reconstruction firm that was hired by the plaintiffs.

"The seat belt is designed to take 5,000 pounds, and the cargo was coming in at a weight of 10,000 to 15,000 pounds, hitting him in the back," said Cantor, who testified at the trial. "He would have been squashed between the two. The cargo pushing on the base of the seat broke the seat-belt buckle, which actually saved his life."

To prove their contention that it was the defendant company's faulty cargo bar that was responsible for Hiscock's injuries, the plaintiffs asked ARCCA to recreate the crash and test the cargo bar under similar conditions.

Coins 'Exploded'

To replicate the crash as closely as possible, ARCCA used an identical armored van that was manufactured by the defendant.

The manufacturer's cargo restraining bar was a piece of steel tubing that rose less than two inches off the ground.

Griffin's officials testified that the restraining bar was built to hold 800 pounds. To test the bar's effectiveness, ARCCA engineers rented 800 pounds of coins (totaling \$15,000), filled the test van with the coin boxes and ran the van into a wall at 30 mph.

"The coins literally exploded in the back," Cantor said.

"Basically, the barrier failed miserably," said ARCCA senior engineer John Yannacone.

ARCCA then conducted another test, using the same model van, but equipped with an inexpensive safety barrier to prevent the cargo from surging forward. The safety shield screen was similar to that used in a plumber's truck to prevent tools from moving forward. Built with materials from Home Depot, it cost about \$300.

Called a "sled test," the second test recreated the forces of a crash without actually running the van into a wall, but instead, stopping the van abruptly to create forces identical to the crash. ARCCA's restraining barrier worked.

"All the coins were contained away from where the occupant was, and none of the boxes would have hit the seat," Yannacone said.

Cleaning up after these tests was a challenge.

In the first test, ARCCA employees were able to find most of the 60,000 quarters that shot through the van. After the second test, they had a little more trouble.

"We came up a few hundred [dollars] short," Yannacone recalled.

"They made a real mess," he said. "We started off with 30 boxes of quarters, \$500 to a box. When we were done we ended up with 40,000 loose quarters and some rolls. Basically, there's not a whole lot left of the cardboard boxes and paper wrappers after the crash.

"It basically sprayed the entire facility," he continued. "The quarters sprayed like a shotgun blast. They were in trashcans, on the top shelf, pretty much every place you could think of. We spent

awhile cleaning up." (The coins had shot forward, hit the barrier and ricocheted back through the open back doors where the cameras were mounted).

During the plaintiffs' opening argument, Yerrid's co-counsel Theresa Fiset showed a videotape of the first test, in which boxes and wrappers of coins shot forward, just as they did during the actual crash.

"We ran a test with the cargo stowed exactly as the manufacturer intended it to be stowed," Yerrid explained. "The result of that test showed the restraining bar was one-thirtieth of the strength it needed to be."

During Cantor's testimony, ARCCA's litigation team ran the videotape of the second test, which showed an inexpensive safety barrier installed by ARCCA preventing the cargo from surging forward.

Other demonstratives supplied by ARCCA included a three-dimensional model of how Hiscock's body was pushed forward during the crash.

ARCCA officials and The Yerrid Law Firm declined to disclose the costs of ARCCA's involvement.

'Trifecta'

Yerrid said his team's trial strategy was broader than just relying on crash reconstruction videos to sway the jury.

"We had a good case in terms of the client, factual scenario and legal responsibilities," he said. "That's usually a trifecta."

Yerrid and Fiset shared responsibilities during the two-week trial. Fiset delivered the opening argument, and Yerrid delivered the closing argument.

"This is a story of shattered lives and shattered dreams," Yerrid said. "The main focus was to ask the jury to take the shattered pieces and put them back together, and make this a happy ending."

Yerrid said he followed the same strategy he has used successfully in a number of multimillion, high-profile verdicts.

"The most important way to convey a critical message or critical presentation is sincerity, credibility and a true representation of what the evidence is going to be, and then, upon summation, an emphasis that we did just what we said we would do. We proved our case," he said.

Hiscock testified at the trial and came across as respectful and honest, Fiset said. She added that he easily answered all questions about how he performed his job, including stowing cargo.

The plaintiffs' attorneys also showed jurors a videotaped deposition of Hiscock's wife that was taken before her death, in which she described the couple's struggles managing daily life after the accident.

"By her own appearance, she demonstrated what she had gone through for the six years after the accident," Yerrid said.

The jury awarded \$3 million to June Hiscock's estate and \$30.89 million to Hiscock.

Best known as a member of the Florida team of lawyers that reached a \$13.6-billion settlement with the tobacco industry over smoking-related illnesses, Yerrid said the victory in Tampa – where he lives and works – was especially sweet.

"It's always nice to have a significant accomplishment in your home town," he said. "I have had a lot of big verdicts. But to have the accomplishment in my home town meant a lot to me."

Plaintiffs' Attorneys: C. Steven Yerrid and Theresa L. Fiset of The Yerrid Law Firm in Tampa, Fla.

Defense Attorneys: Jack D. Luks and Anthony J. Petrillo of Luks, Santaniello, Perez, Petrillo & Gold in Fort Lauderdale, Fla.

The Case: *Hiscock v. Griffin, Inc.*; April 27, 2004; Circuit Court, Hillsborough County, Fla.; Judge Herbert Baumann Jr. **LWUSA**

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