

# VIRGINIA LAWYERS WEEKLY

FEATURE STORY

## Virginia's Largest Verdicts of 2007

By Virginia Lawyers Weekly Staff  
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In this issue, Virginia Lawyers Weekly is pleased to present the survey of "Virginia's Largest Verdicts of 2007," our annual compilation of big jury verdicts from across the commonwealth.

As in past years, our criteria for the list are simple:

1. The verdict must be for at least \$1 million.
2. The verdict was returned by a jury in Virginia - not a judge.
3. The verdict was returned in calendar year 2007.

The 2007 survey features 20 verdicts, down from the 29 million-dollar verdicts in last year's compilation.

If we have missed any million-dollar verdicts from 2007, please let us know. We'll be glad to add that information to the online version of the story so it can be as complete as possible.

And during the coming year, we would greatly appreciate hearing about verdicts that will make it on next year's list.

### #1 - \$58 million

*Verizon Services Corp v. Vonage Holdings Corp.*

**Type of Case:** Patent infringement

**Court:** U.S District Court, Alexandria

**Attorneys:** Brian C. Riopelle, Richmond; Dan Webb and Peter McCabe III, Chicago

**Summary:** The jury found that Vonage infringed on three patents related to Voice-over-Internet Protocol technology. U.S. District Judge Claude M. Hilton entered an injunction blocking further use of the patent, but the order was stayed on appeal.

The Federal Circuit affirmed the infringement finding on two of the three patents and remanded the case for a new trial on the third patent. While the case was on remand, the parties settled with a \$120 million payment by Vonage to Verizon.

**#2 - \$23,037,945**

*LifeNet Inc. v. Musculoskeletal Transplant Foundation Inc.*

**Type of Case:** Patent infringement

**Court:** U.S. District Court, Richmond

**Attorneys:** Kell M. Damsgaard, Anthony Roth and Robert Busby, Philadelphia  
**Summary:** The jury found that Musculoskeletal Transplant Foundation violated three patents held by LifeNet Inc. One patent described a process for cleaning bone grafts with an ultrasonic cleaning device so that the grafts are free from bone marrow and from bacterial, fungal and viral contamination. The other two patents involved a process for demineralizing bone so that it is in an optimal range of residual calcium.

The jury award reflected the payment of royalties it determined were due. The panel found that the infringement of one of the patents was willful, which means that \$4.6 million of the award could be trebled. Post-trial motions are pending.

**#3 - \$16 million**

*Johnson v. Supervalu*

**Type of Case:** Constructive fraud, intentional infliction of emotional distress

**Court:** Richmond Circuit Court

**Attorneys:** Verbena Askew, Hampton, assisted by Christopher Anderson, Robert Walker, Leonard Lambert and Gina Burgin, all of Richmond

**Summary:** Jonathan F. Johnson, considered the nation's most successful minority grocer in the late 1990s, contended that Minneapolis-based Supervalu forced him to buy a grocery chain at an inflated price and then agreed to new financing under a deal that was structured in a way that he could not succeed.

Johnson and his company went out of business in April 2004. The Supreme Court of Virginia granted an appeal on Dec. 17.

**#4 - \$12,264,302, including pre-judgment interest**

*Ritzmann v. Miller Oil Company Inc.*

**Type of Case:** Personal injury, mild traumatic brain injury

**Court:** Hampton Circuit Court

**Attorneys:** Stephen M. Smith, Hampton; Edward E. Scher, Richmond

**Summary:** Annette Ritzmann slipped on a wet spot on the sidewalk outside a Miller Mart convenience

store in Williamsburg. She landed on her chest and chin on the pavement eight inches below the walk.

She alleged that she suffered from short-term memory loss, fatigue, stress, dizziness and depression and was no longer able to operate the beauty salon that had about 20 employees at the time of the fall.

While the jury was deliberating, the parties entered into a high-low agreement in which Ritzmann would receive no more than \$6 million, the limit of the defendant's insurance coverage, and no less than \$1.5 million.

**#5 - \$9.25 million**

*Oney, Executor v. John Crane Inc.*

**Type of Case:** Wrongful death, mesothelioma

**Court:** Newport News Circuit Court

**Attorney:** Robert R. Hatten, Newport News

**Summary:** A former Newport News Shipbuilding and Dry Dock machinist died in 2006 from mesothelioma. He was exposed to asbestos, the only cause for the disease, while installing asbestos packing and gaskets in the engine rooms of ships in the 1960s.

The case was tried under maritime law with other asbestos manufacturers as defendants, and the jury concluded that John Crane Inc. was 60 percent responsible and Garlock Sealing Technology was 40 percent responsible. Hatten had settled earlier with Garlock, leaving a judgment against John Crane of about \$5.55 million.

The Supreme Court of Virginia refused John Crane's petition for appeal last month. Last year, the court affirmed a judgment for another of Hatten's clients against John Crane in a similar case, *Jones v. John Crane Inc.* (VLW 007-6-113).

**#6 - \$4.4 million**, including \$1.4 million in pre-judgment interest

*Estate of John Wayne Marker v. Evans*

**Type of Case:** Wrongful death, Medical malpractice

**Court:** Prince Edward County Circuit Court

**Attorney:** James B. Feinman, Lynchburg

**Summary:** A 38-year-old construction worker went to the emergency room of Southside Community Hospital in November 2000 after experiencing a crushing pain in his chest. Although his wife told the emergency room nurse he believed he was having a heart attack and that his twin brother had heart disease, the physician concluded that he had stomach problems and prescribed medication for it.

Three months after the emergency room visits, Marker collapsed and died at work. An autopsy disclosed severe coronary artery disease.

An appeal of the case is pending.

**#7 - \$4,258,237**

*Banc of America Leasing & Capital LLC v. ePlus Group Inc.*

**Type of Case:** Breach of contract

**Court:** Fairfax County Circuit Court

**Attorneys:** Melissa M. Glassman, John D. Wilburn and Kevin F.X. De Turris

**Summary:** Banc of America Leasing & Capital LLC entered into an agreement with ePlus Group Inc. to provide financing for a computer equipment lease between ePlus and a third party. However, the third party was engaged in a scheme to defraud lending institutions by using fake computer equipment that consisted of little more than empty cases with fans and blinking lights.

BoA contended that it relied on representations by ePlus about the existence and value of the equipment. The Supreme Court of Virginia rejected ePlus' petition for appeal.

**#8 - \$4 million**

*The United Company v. Keenan*

**Type of Case:** Oral contract

**Court:** U.S. District Court, Abingdon

**Attorneys:** W. David Paxton, Roanoke; Thomas F. Cullen, Washington, DC

**Summary:** The United Company contended that Jeffrey J. Keenan, its former president and chief operating officer, should repay a \$10 million bonus because he was required to remain with the company for five years after receiving the money, and he left less than 18 months later.

The case was settled earlier this month under confidential terms.

**#9 - \$3,362,437, including pre-judgment interest**

*Wood, Administrator v. Carleo*

**Type of Case:** Wrongful death, Medical malpractice

**Court:** Norfolk Circuit Court

**Attorneys:** Lewis T. Stoneburner and Wallace B. Wason Jr., Richmond

**Summary:** Attorneys for 9-year-old Tiffany Danielle Wood alleged that an emergency room doctor failed to perform the tests to diagnose bleeding from an arterio-venous malformation after Tiffany

suffered a seizure with convulsions and loss of consciousness in a basketball game.

Twelve days after the physician diagnosed the incident as a simple faint, Tiffany suffered a cerebral hemorrhage and died three days later. The jury awarded \$2 million plus interest from the date of Tiffany's death, which was reduced to the \$1.5 million cap on medical malpractice awards that applied at the time.

The case was settled under confidential terms while on appeal.

**#10 - \$3,317,744**, including pre-judgment interest

*Fletcher v. Ayala*

**Type of Case:** Personal injury, traumatic brain injury

**Court:** Prince William Circuit Court

**Attorney:** Douglas B. Wessel, Reston

**Summary:** A retired minister was injured when a car turned left in a through-lane of an intersection because a Pizza Hut delivery driver had abandoned her vehicle in the left turn lane after it broke down. Plaintiff underwent surgery for a subdural hematoma and extensive rehabilitation but still has deficits in language-related function.

The maximum coverage was \$100,000, \$25,000 from the other driver and \$75,000 in underinsured motorist coverage.

Pizza Hut and its driver were named as defendants, but the case against them was nonsuited following pretrial rulings that such evidence as a direction by the store manager to remove the Pizza Hut sign from the vehicle was not admissible. Wessel said he intends to revive the claim against Pizza Hut.

**#11 - \$3.1 million**

*Estate of Crump. v. Estate of Hoover*

**Type of Case:** Wrongful death

**Court:** Rockingham County Circuit Court

**Attorneys:** Donald D. Litten and Jason A. Botkins, Harrisonburg

**Summary:** Brewer E. Hoover Jr., an employee in the American HomePatient office in Harrisonburg, shot and killed two co-workers, Bonnie Sue H. Crump and Gary Allen Gibson. Hoover began acting in an erratic and bizarre manner in March 2006 and developed an infatuation with Crump and a false belief that she and Gibson were having an affair.

The attorneys for Crump's estate contended that she and others had warned the company's management of Hoover's threatening and aggressive behavior, but the company did not respond to the complaints before he killed Crump and Gibson in May 2006.

The case and a companion suit filed on behalf of Gibson's estate were settled by mediation after the trial.

**#12 (tie) - \$2.5 million**

*Johnson v. Hairston*

**Type of Case:** Personal injury

**Court:** Henry County Circuit Court

**Attorneys:** Philip G. Gardner and James J. Reynolds, Martinsville

**Summary:** The plaintiff's vehicle was hit at an intersection by a state trooper who has responding to what he mistakenly believed was an emergency call from another trooper. The trooper had the right of way but was driving 94 mph immediately before the collision, according to a crash data recorder in his vehicle.

Plaintiff's attorneys had to prove that the trooper was grossly negligent to overcome his sovereign immunity defense.

Plaintiff suffered facial disfigurement and has a total permanent disability as a result of brain injury incurred in the crash.

The case was settled while on appeal.

**#12 (tie) - \$2.5 million**

*Omega World Travel v. Mumma*

**Type of Case:** Defamation

**Court:** U.S. District Court, Alexandria

**Attorney:** James P. Hodges, Leesburg

**Summary:** Two companies and their founder alleged that a principal in an Internet service provider had falsely labeled them as spammers on his anti-spam Web site and had posted a photo on the site depicting them in prison garb behind bars. The trial judge granted partial summary judgment before trial in ruling that there was no evidence that the plaintiffs had sent unsolicited bulk e-mail.

The judge reduced the award to \$330,000, \$10,000 in compensatory damages and \$100,000 in punitive damages for each defendant. No appeal was taken.

**#14 - \$2 million**

*Raymond v. Rapphahn*

**Type of Case:** Personal injury, traumatic brain injury

**Court:** Fairfax Circuit Court

**Attorneys:** Julie H. Heiden and Peter DePaolis, Fairfax

**Summary:** Molly Raymond's vehicle was hit by two teenagers driving at a high rate of speed in separate vehicles just after she had turned right on red on the Fairfax County Parkway. Raymond, a 50-year-old registered nurse who had run marathons, suffered a traumatic brain injury and soft-tissue injuries to her neck, back and hip. She has limited short-term memory and reduced mental capacity.

Insurance coverage was limited to \$500,000, \$100,000 from each of the teenage drivers and \$300,000 in underinsured motorist benefits.

**#15 - \$1.97 million**

*Cornejo, Administrator v. Gotwalt*

**Type of Case:** Wrongful death

**Court:** Fairfax Circuit Court

**Attorneys:** Malik K. Cutlar and Jeffrey L. Rhodes, Arlington

**Summary:** Jack "Steven" Cornejo was shot and killed by Brandon Gotwalt outside an apartment complex after Gotwalt intervened in a verbal dispute between Cornejo and a female companion. Attorneys for Cornejo's estate contended that Gotwalt got the upper hand in a fight and then shot Cornejo, who was unarmed, from behind at close range.

Gotwald contended that he shot Cornejo in self-defense while Cornejo was choking him, and Gotward was not prosecuted in the shooting, even though he left the scene and disposed of his bloody shirt and the casing from the fatal round before at first denying to police that he knew anything about the incident.

The Supreme Court of Virginia refused Gotwald's petition for appeal last month.

**#16 - \$1,887,224**

*Johnson v. Uy*

**Type of Case:** Personal injury, medical malpractice

**Court:** Virginia Beach Circuit Court

**Attorneys:** David M. Kopstein of Seabrook, Md.; James C. Lewis, Virginia Beach

**Summary:** Twan Johnson had a difficult delivery because of shoulder dystocia. His attorneys contended that the obstetrician caused Erb's palsy by applying excessive traction to the infant's head. The child suffered permanent injuries to a shoulder and arm.

The verdict for the child was \$1.75 million, the applicable med mal cap at the time of the injury, and the jury awarded an additional \$137,224 to the mother. The judgment has been paid.

**#17 - \$1.7 million**

*Confidential*

**Type of Case:** Personal injury

**Attorneys:** Charles J. Zauzig III and Melissa Ray, Woodbridge; Brian Jones, Richmond

**Summary:** The 19-year-old plaintiff was hit head-on by a driver who crossed the center line on Route 55 near Linden. Plaintiff was eight months pregnant and the fetus was killed in the collision because of a traumatic rupture of her uterus.

Her uterus was repaired but any future pregnancies will be high risk for a life-threatening uterine rupture, and delivery will have to be by cesarean section at 36 to 37 weeks before contractions begin.

The judgment has been paid.

**#18 - \$1.6 million**

*Confidential*

**Type of Case:** Personal injury, mild traumatic brain injury

**Attorneys:** Charles J. Zauzig III, Claire E. Keena and Melissa G. Ray, Woodbridge

**Summary:** The 51-year-old plaintiff suffered a mild traumatic brain injury when his SUV was rear-ended by a delivery truck on Interstate 95. A CT scan disclosed bleeding in the brain, and, as a result, plaintiff had difficulty with balance, became irritable and combative, and suffered from headaches, fatigue and cognitive deficits.

His injuries were such that he could not longer be successful in the used car industry, where he had worked for 30 years.

The judgment has been paid.

**#19 (tie) - \$1.5 million**

*Johnson-Rankin v. Whiting*

**Type of Case:** Personal injury, traumatic brain injury

**Court:** Augusta County Circuit Court

**Attorney:** Steven P. Hammond, Charlottesville

**Summary:** Vickie Johnson-Rankin was a passenger in a pickup truck when a drunken driver crossed to her side of a neighborhood street and struck the pickup head on in Stuarts Draft.

The 40-year-old mother of two had a sore back and neck immediately after wreck and in the next month developed mood swings and made multiple errors in her job as a mortgage loan processor. A neuropsychiatrist testified that she will never be able to hold a full-time job as a result of the brain injury.

The same company had a policy on the defendant with a limit of \$100,000 and underinsurance coverage of \$500,000 on Johnson-Rankin's vehicle. The case was tried with a high-low agreement of \$450,000 and \$100,000.

**#19 (tie) - \$1.5 million**

*Ingraham v. Williams*

**Type of Case:** Personal injury

**Court:** Chesterfield County Circuit Court

**Attorneys:** John Newby, Jay Tronfeld and Elizabeth West, Richmond

**Summary:** Troy Ingraham, a 27-year-old employee of a beer distributor, suffered severe injuries to his right leg in a collision between his pickup truck and a Ford 350 truck at the intersection of U.S. 460 and state Route 226 in Dinwiddie County. The injuries required four surgeries and extensive physical therapy and left Ingraham with a 31 percent disability in his leg.

A vocational expert estimated that the injury would result in a future loss of earning capacity of almost \$600,000.

The case is on appeal to the Supreme Court of Virginia.

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