

VIRGINIA LAWYERS WEEKLY

NEWS STORY

Million-dollar verdicts on the rise in Virginia?

In 10 cases, a jury returned seven figures for wrongful death

By Alan Cooper*
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Virginia juries returned 29 verdicts of \$1 million or more in 2006, almost half again as many as in 2005.

The number of large verdicts is too small to suggest a trend, but the increase is at odds with the declining number of jury trials in the state—and across the country.

The number of cases decided by a jury has dropped incrementally by two-thirds from 2,185 in 1998 to 719 in 2005. Preliminary figures from the Supreme Court of Virginia suggest that the downward trend continued in 2006.

The complete survey of "Virginia's Largest Verdicts of 2006" begins on page 7.

Ten of the 2006 verdicts involved medical malpractice claims, including a case alleging negligence at a nursing home.

Nine cases involved motor vehicles, including a fall from a tractor-trailer at a loading dock.

Three verdicts were based on allegations of police misconduct, and three were commercial disputes. Two product liability cases, an EEOC retaliatory discharge case and a condemnation dispute rounded out the list.

Post-trial motions or appeals are pending in 16 of the cases, while judgments have been paid or appeals have been rejected in nine cases.

In four cases, plaintiffs got a third or less of the award because of limits on insurance coverage, and the medical malpractice cap resulted in reductions in several other cases.

The biggest reduction was the result of the federal law that limits recoveries in Equal Employment Opportunity Commission cases based on the number of employees a company has. A federal jury in Norfolk returned verdicts totaling \$7.7 million for compensatory and punitive damages, but the trial judge reduced them to \$200,000. The plaintiff also received \$209,000 in back pay and \$240,000 in attorneys' fees, but the case is on appeal.

Richmond lawyer Lewis T. Stoneburner was involved in three verdicts totaling \$10.72 million. All three cases are on appeal, and medical malpractice caps reduced the judgments in two of the cases by more than \$2 million.

Stoneburner teamed with law partner Irvin V. Center in the biggest case, a \$5.6 million verdict for an

army staff sergeant whose pickup truck was rear-ended by a Trailways bus. He worked with another partner, Wallace B. Wason Jr., to win verdicts in two medical malpractice cases involving shoulder dystocia.

Newport News attorney Robert R. Hatten had the largest verdict, \$10.4 million for the estate of a man who was exposed to asbestos 40 years ago while installing asbestos gaskets and packing on ships. Because the case was tried under maritime law, and he had settled with two other defendants, the verdict against the defendant, John Crane Inc., was \$3.5 million.

Wrongful death cases

Alexandria lawyer Gregory L. Murphy is in line for the biggest recovery of the year—if the verdict holds up on appeal. He won \$8 million for the parents and younger sister of a Fairfax County high school senior.

The youth was killed on his way home from the first day of school in September 2002 when the driver of a construction truck fell asleep and crashed into the rear of the car in which the teenager was a passenger.

The case was one of 10 wrongful death recoveries of \$1 million or more. Two other cases were survival actions. A victim of negligence at a nursing home died before trial of unrelated causes and a man severely injured in a crash committed suicide seven months after the wreck.

Two lawyers tried cases knowing that they had little chance of an appropriate recovery. Harrisonburg attorney William W. Helsley filed suit against a drunken driver who crashed into a woman's vehicle and severely injured her. The jury award was \$1.17 million, but the driver was insured for only \$25,000.

Shawsville attorney Bill K. Cruey won a verdict for \$2.3 million for a 6-year-old girl who was killed by a disoriented driver while walking with her mother along U.S. 460 in Montgomery County. The mother also was killed, but only \$200,000 in coverage was available for both victims.

Richmond personal injury lawyer W. Coleman Allen Jr. said, "Regardless of issues that relate to tort reform, where there are meritorious claims for deserving plaintiffs, juries will return substantial verdicts."

He said the number of wrongful death verdicts is "a significant trend." As recently as five years ago, more than one seven-figure wrongful death verdict in a year would have been unusual, he said.

The plaintiff's bar has come to realize that wrongful death cases are as different from a typical personal injury case as are medical malpractice and product liability cases, he said.

Personal injury attorneys have become more adept at showing that the untimely death of a loved one is "a lifetime situation for that beneficiary, not something that they get over," Allen said.