

ANDRE ROBERGE, ET AL. vs. RICHARD ROBERGE, ET AL.
96-40142

DATE OF VERDICT/SETTLEMENT: June 22, 1999

TOPIC: HOMEOWNERS ALLEGEDLY NEGLIGENT IN PROVIDING 13-YEAR-OLD NEPHEW WITH UNSAFE BICYCLE - 10-SPEED BICYCLE ALLEGEDLY EQUIPPED WITH DEFECTIVE BRAKING SYSTEM - 13-YEAR-OLD PLAINTIFF CRASHES INTO ROW OF MAILBOXES WHILE ATTEMPTING TO ROUND CURVE - LACERATIONS AND SCARRING TO NECK AND CHIN - FRACTURED JAW.

SUMMARY:

Result: Defendant's Verdict

EXPERT WITNESSES:

Defendant's: Robert Azar, Ph.D., P.E. from Hampden, MA: Defendant's expert engineer.

ATTORNEY:

Plaintiff's: Anthony Siciliano, Springfield, MA for plaintiffs.

Defendant's: John B. Stewart, Springfield, MA for defendant.

JUDGE: Charles B. Smartwood

RANGE AMOUNT: \$0

STATE: Mass.

INJURIES:

HOMEOWNERS ALLEGEDLY NEGLIGENT IN PROVIDING 13-YEAR-OLD NEPHEW WITH UNSAFE BICYCLE - 10-SPEED BICYCLE ALLEGEDLY EQUIPPED WITH DEFECTIVE BRAKING SYSTEM - 13-YEAR-OLD PLAINTIFF CRASHES INTO ROW OF MAILBOXES WHILE ATTEMPTING TO ROUND CURVE - LACERATIONS AND SCARRING TO NECK AND CHIN - FRACTURED JAW.

FACTS:

This action was brought on behalf of the 13-year-old male plaintiff, alleging that the 10-speed bicycle he was operating at the time of the subject accident was equipped with a defective braking system which failed to properly activate when he attempted to slow the bike while rounding a curve.

The evidence established that the plaintiff was operating a 10-speed bicycle owned by his aunt and uncle and kept at their beach cottage when he was involved in the accident which occurred as he attempted to negotiate a left turn in the road where the roadway forked. As the plaintiff

attempted to make the left turn, he crashed the bicycle into a row of mailboxes. The plaintiff claimed that the brakes failed to slow him as expected, causing the subject accident.

At deposition, the plaintiff could not recall his speed or distance from the mailboxes at the point he commenced braking. At trial, he testified that he was traveling at approximately 10 miles per hour and was 45 feet away when he applied the brakes. The plaintiff conceded that if the brakes met CPSC braking standards, they would not be defective.

The defendants offered evidence that the brakes worked adequately before and after the accident and that they complied with CPSC standards, providing that a 150 pound rider operating at a speed of 15 miles per hour could stop within 15 feet. A history of the accident given to one of the plaintiff's medical providers for the purpose of diagnosis and treatment indicated the plaintiff was proceeding at a 'high rate of speed' when he crashed.

The plaintiff suffered a fractured jaw, necessitating two surgeries and requiring that the jaw be wired shut for a period of eight weeks. He also suffered lacerations to the neck and chin, resulting in permanent scarring. The plaintiff introduced medical specials of approximately \$15,000. The plaintiff claimed residual nerve injury in the area of the jaw, resulting in loss of sensation and chronic pain.

The plaintiff's last pre-trial settlement demand was \$105,000. The defendant's last offer was \$7,500. In answers to special questions, the jury determined that the bicycle was not defective or unsafe, thereby precluding determination of the question of whether or not the defendants were negligent.

Jury Verdicts Review Publications, Inc.

Court: U.S. District Court, Worcester, MA

PUBLISHED IN: New England Jury Verdict Review & Analysis, Vol. 14, Issue 12

1999 WL 33488798 (D.Mass.), 14 N.Eng. J.V.R.A. 12:9

END OF DOCUMENT