



Cullen and Dykman's Liability Defense Prevails Resulting in Unanimous Verdict

April 19, 2016

On January 26, 2010 plaintiff, was a rear-seated passenger on a bus which had pulled into a stop when a side compartment door on a passing utility truck suddenly swung open, striking the rear, driver's side corner of the bus. As a result, this man claimed to have sustained multiple herniations along the cervical region of his spine and, after roughly a year of conservative treatment with therapy and steroidal injections, he underwent spinal surgery (a discectomy with fusion at the C6-7 level. We were defending the owner and operator of the passing utility truck against plaintiff's claims that they were negligent in their ownership, maintenance and operation of that truck.

On liability, our defense was that the side compartment door swung open when that steel locking rod inside the truck body broke unexpectedly at a defective weld made by the truck body manufacturer. We supported our defense with, among other evidence, the testimony of a metallurgist who had inspected the utility truck and steel locking rod, concluding that the sudden weld failure was unforeseeable to our clients given that the steel locking rod was hidden inside the truck body, it would not require any maintenance absent a problem or malfunction and there were no prior accidents involving this truck. On damages, our defense was that the alleged cervical pathology was degenerative in nature, which we would have supported with the favorable conclusions of a radiologist, orthopedist and neurologist.

Plaintiff's settlement demands were consistently in the multiple six figures and our research showed that the value of his injury could have yielded a sustainable verdict in the seven figure range assuming full liability. However, during the liability phase of the bifurcated trial, we persuaded the jury that our clients were not negligent and, consequently, the jury returned a unanimous verdict exonerating both of our clients.

Practices

- Personal Injury/ Negligence

Attorneys

- Kenneth S. Buffaloe