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Tort Report: 'High-Low' Deal Nets Plaintiff Extra \$10M

By **Y. Peter Kang**

Law360 (May 27, 2025, 7:58 PM EDT) -- A last-minute "high-low" agreement that turned out to be a stroke of genius by lawyers for an injured motorcyclist and a \$26 million verdict for a crash caused by a postal worker lead Law360's Tort Report, which compiles recent personal injury and medical malpractice news that may have flown under the radar.

Injured Motorcyclist Inks \$37M "High-Low" Deal Before \$27M Verdict

A California state jury has awarded a record \$27 million to a motorcyclist who lost his leg in a collision with a construction worker's vehicle, but the record verdict will be boosted by \$10 million pursuant to a "high-low" agreement the parties reached just minutes before the verdict.

The San Diego County jury on May 20 found in favor of plaintiff Michael LaPlante and against construction firm The Griffith Co. in a suit accusing one of its employees of negligently making an unsafe U-turn on a highway, causing a collision with LaPlante's motorcycle that resulted in multiple rib and leg fractures and a mangled left leg, according to the plaintiff's attorneys with Panish Shea Ravipudi LLP.

"The Griffith Company fought us every step of the way in this case, asserting the going-and-coming rule shielded it from liability, but the jury got it right and delivered a just verdict for our clients," lead plaintiff's attorney Brian Panish said in a statement.

Although Panish had asked the jury to award LaPlante \$80 million, the \$27 million verdict is believed to be the largest sum ever awarded in San Diego County for this type of injury, according to plaintiff's counsel.

During jury deliberations, the parties agreed to a so-called high-low settlement agreement, which limits a defendant's maximum liability while at the same time guaranteeing a minimum payment for the plaintiff even if they lose the trial.

Under the deal, LaPlante was able to recoup \$10 million more than he otherwise would have — he was set to receive \$37 million no matter the jury's decision, while Griffith and its employee would have been on the hook for no more than \$42 million.

Panish told Law360 that he has agreed to high-low deals just eight times in his decades of trying personal injury cases, since he does not want to cap his clients' damages potential. Here, he said, the poker-faced jury in conservative-leaning San Diego County prompted him to talk deal, which was negotiated over the course of about five hours and finalized just 30 minutes before the verdict was read.

"It was a conservative jury, and I was just reading the situation," he said. "It felt like the right thing to avoid any appeal, and the client wanted to be done with the case, so for him it was the best thing, and it turned out even better."

Panish said that over the course of his trial career, the jury's verdict has exceeded the "high" of the high-low deal on five occasions, while the "low" has surpassed the verdict three times, including for LaPlante.

"Every case is different. You've got to be ready, since things are very fluid at trial," Panish said. "The certainty and the limitation of risk [are important] for the client. It's a stressful thing for people to go

through this and a potential retrial and the chance to lose an appeal. This was the best thing for the client in this case."

The case is LaPlante v. Griffith Co. et al., case number 37-2023-00035872-CU-PA-CTL, in the Superior Court of the State of California, County of San Diego.

5th Circ. Affirms \$26.5M Verdict for USPS Auto Collision

The Fifth Circuit has affirmed a \$26.5 million verdict against the federal government in a suit over a postal vehicle crash that ultimately resulted in a motorist's death, saying there was sufficient evidence supporting the award.

In a published opinion, a three-judge panel on May 16 affirmed a bench verdict from a Texas federal judge in a Federal Tort Claims Act suit lodged by Michael Le and his wife accusing a U.S. Postal Service driver of negligently crashing into Michael Le's vehicle, resulting in quadriplegia and later bilateral leg amputations. Michael Le died while his case was pending before the Fifth Circuit, according to the opinion.

The panel concluded that the **July 2023 verdict** was not excessive, given Le's numerous permanent injuries.

"The district court noted Mr. Le's 'grueling physical, mental, and emotional pain' that had resulted from his quadriplegia, amputations, and esophageal fistula — on top of the 'severe depression, periodic suicidality, sleep deprivation, and loss of appetite' that had resulted from these harms," the opinion states.

The appeals court said a \$4.4 million award for future physical pain and mental anguish was appropriate given Le's injuries.

"At trial, the Le family presented evidence on Mr. Le's pain and mental anguish, and there is no evidence that his quadriplegia, amputations, and esophageal tears did not persist until his eventual passing," it said.

The suit accused USPS employee Jill Williams of negligently backing her mail truck into Le's vehicle just as he finished backing his Toyota Solara out of his driveway.

According to the suit, the May 2018 collision occurred as Williams was driving in reverse, against the flow of traffic. The package she was delivering did not fit in a "community mailbox," so she had intended to backtrack to the package recipient's house about two houses back even though it went against USPS policy to drive in reverse given the numerous blind spots, the suit says.

The collision caused Le to step on the accelerator, drive across his yard and crash into his neighbor's house, according to court papers. Although Le was initially able to walk around after the slow-speed collision, he eventually collapsed, and it was later determined he had an untreated condition known as ankylosing spondylitis — a fusing of the vertebrae — which makes one more susceptible to spinal fractures, according to court papers.

The case is Henry Le v. U.S., case number 24-10123, in the U.S. Court of Appeals for the Fifth Circuit.

Fla. Jury Puts Transpo Co. on Hook for \$31M in Flying Tire Case

A Miami jury has handed up a \$31 million verdict in a suit accusing a transportation company driver of causing a tire to become detached from a commercial box truck and crash through the windshield of a 25-year-old man's vehicle, causing his death, plaintiff's counsel announced.

After two-week trial, a Miami-Dade County jury on May 2 found Marazul Enterprise, delivery giant XPO Logistics and driver Francisco Romero liable in a suit accusing them of causing the 2018 death of Josué Calá.

The suit filed by Calá's fiancée, Julianna Charles, who was in the vehicle and says she also suffered

injuries and mental trauma, alleges the companies failed to properly inspect and maintain the box truck, according to Charles' lawyers with Kaster Lynch Farrar Ball LLP.

The jury found Romero was 30% at fault, while the two companies were each found to be 35% liable. The jury also determined Romero could be considered an agent of XPO and therefore the company is on the hook for Romero's share of the liability, according to plaintiff's counsel.

"This tragedy should raise serious concerns about the lack of proper practices in the trucking industry," plaintiff's counsel Wes Ball of Kaster Lynch said in a statement. "This should be a wakeup call for the transportation companies, insurers and legislators that are colluding to weaken safety and liability standards and endanger every other driver on the road."

The case is Charles v. Marazul Enterprise Inc. et al., case number 2020-011693-CA-01, in the 11th Judicial Circuit Court of the State of Florida.

NJ Woman Sues Lyft for Not Stopping Driver's Sexual Assault

A New Jersey woman who claims she was sexually assaulted by her Lyft driver sued the ride-hailing company in Pennsylvania state court, claiming the company should have known that her driver had taken her off-route and stopped while he attacked her.

The plaintiff, referred to as KK, is also suing several businesses that allegedly overserved her alcohol, claiming in an April 17 complaint filed in the Philadelphia County Court of Common Pleas that several Philadelphia and New Jersey bars should not have served her while she was out for a friend's birthday in 2023.

The suit also alleges Lyft should not have allowed the driver, Omer Arcagok, to drive under a pseudonym, and accuses Arcagok of waiting until KK passed out before he took her to a secluded parking lot and sexually assaulted her.

"Despite the fact that defendant Lyft, in real time, knew something was terribly wrong, it turned a blind eye," the suit said. "As this nightmare unfolded, defendant Lyft was notified that its driver had taken KK off-route to a secluded location."

Lyft did nothing while the vehicle was stopped for approximately 54 minutes during the assault, the suit says.

"Instead of taking the appropriate steps to notify law enforcement, defendant Lyft sent K.K. a silent push notification stating, 'You've been stopped for a while, do you need help?'," the complaint states.

The case is Jane Doe KK v. Lyft Inc. et al., case number 250402203, in the Court of Common Pleas of Philadelphia County, Pennsylvania.

--Editing by Alanna Weissman and Lakshna Mehta.