

Quantum Book

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Chapter 7

Mental Anguish Awards

FALSE ARREST

\$15,000

false arrest/imprisonment of woman who spent sixteen hours in custody related to auto purchase
Judge. A woman purchased a used vehicle from a dealership. She returned the vehicle several days later for an inspection sticker and then again two weeks later for minor repairs and a payment. Two months later, the dealership advised the plaintiff that she needed to return the vehicle because she failed to pay off her original car with the finance company noting that they would not extend her credit on the purchased vehicle otherwise. She did not return the vehicle believing the purchased vehicle to be hers.

The local police contacted her to return the vehicle but she did not. Four or five police units arrived at her residence arresting her. Her blind mother was left unattended. She remained in jail overnight and for a total of sixteen hours in the course of the two days. She was then given a trial date and released. The charges were later dropped but she still went to court frightened that she might be arrested again if she did not go. Plaintiff cried at trial describing the event and circumstances of her arrest and incarceration. The trial court awarded the plaintiff \$15,000 in general damages associated with the false arrest and imprisonment. *Johnson v. Montoya*, 2013-1951 (La. App. 1 Cir. 5/2/14), 145 So.3d 418.

\$30,000

twenty-five days of unlawful incarceration; arrested in presence of her children; extreme psychological stress & suffering

Judge. Plaintiff was illegally stopped by a police officer while she was on her way to her place of employment. She was arrested and spent twenty-five days in jail. The trial court judge originally found in favor of the defendants but the appellate court remanded the case for further proceedings finding that her payment of one fine in the matter did not preclude her claims for false arrest.

The trial court rendered judgment in the sum of \$30,000. The appellate court chronicled the mental anguish she must have endured while incarcerated for twenty-five days. The plaintiff left her job as she lived in fear that anytime she passed through the town on her way to work she would again be subjected to the same kind of unlawful treatment. Plaintiff testified it caused her to suffer great mental distress. *Parker v. Town of Woodworth*, 2014-943 (La. App. 3 Cir. 3/4/15), 160 So.3d 1113.

\$100,000

man receives above award for false arrest resulting in being tasered several times & pepper sprayed by police officers; employment terminated; residual emotional distress; soft tissue injuries

Judge. A male plaintiff brought suit after being wrongfully detained by police officers who used excessive force. The plaintiff endured excruciating pain as a result of the taser gun and pepper spray used simultaneously and multiple times on the plaintiff. He had a pre-existing condition which entailed prior problems with both knees, together with arthritis and heart disease. The trial court found that plaintiff

CHAPTER 3

Brain Damages

\$3,575,000

severe & permanent closed head injury; woman now has mind of ten to fifteen year-old child; interdicted; plaintiff aware of her limitations

Judge. A twenty-six year-old woman sustained permanent brain injuries, together with a shattered hip, fractured pelvic bone, lacerated spleen, and severed diaphragm as a result of a vehicular accident. The plaintiff suffered a severe and permanent closed head injury. She was interdicted. She now lives with her mother. Her daughters now live with their maternal grandfather (the plaintiff herein) and his wife, and her son lives with a cousin.

The plaintiff was a single, attractive, healthy, and employed mother of three children. After the accident, plaintiff was in a coma due to the severe closed head injury. She underwent extensive rehabilitation to re-learn all of the functions of daily living. She can now perform the basic functions of life and will remain a “shell” of her former self. She has a significantly diminished IQ, as evidence reflects that she has the mind of a 10-to-15 year-old child. Yet, she is aware of how she used to be and all that she has lost.

The accident also left her with a permanent “dropped foot.” She is unsteady in her movements, falls down often, and is uncoordinated. Plaintiff will likely be wheelchair-bound by the age of fifty. She has had eye surgery for double vision and has speech and articulation problems. The plaintiff will suffer from early dementia, has both learning deficits and memory problems. She will never be gainfully employed. She is aware of how she used to be and all that she has lost.

Originally, a jury awarded the plaintiff general damages totaling \$575,000. Past lost wages were \$108,500; & future lost wages were \$505,000. Past medical expenses were \$725,608; & future medical expenses were \$3,000,000. The trial court granted a JNOV increasing the plaintiff’s general damage award by \$3,000,000. *Falcon v. Louisiana Dept. Of Transp.*, 2013-1404 (La. App. 1 Cir. 12/19/14), 168 So.3d 476.

\$2,500,000

coma for thirty days, fifteen surgeries for multiple fractures, spleen removal, reconstruction procedures, brain hemorrhaging, permanent brain damage; personality disorder, bedwetting

Judge. A man arrived in a comatose state at the hospital after an auto accident. His primary diagnosis was traumatic subarachnoid brain hemorrhage with injury to the anterior temporal lobe. His secondary diagnosis included: right femur fracture, spleen capsular tear, pulmonary insufficiency, open eye wound, dislocated finger, open cheek wound, hypotension, tears of the colon, finger joint fracture, left elbow fracture, nose fracture, and five more facial fractures. He was comatose for almost thirty days. He underwent fifteen separate surgical procedures including the repair of multiple facial fractures, the removal of his spleen, the repair of the lacerations of the colon, and reconstruction surgery to his left elbow and right hip.

Plaintiff later underwent several more surgeries including a procedure at the MAYO Clinic to remove heterotopic ossification in his left elbow. He had lingering behavioral problems which necessitated the temporary admittance to the hospital. He also required periodic hospitalizations due to the problems with his

Chapter 12

*Soft Tissue Injuries
of the
Neck & Back*

\$22,500

max award of five months is \$15,000 plus \$7,500 for ten months of residual pain

Judge. A driver sustained facial trauma, cervical strain, and right knee trauma in an auto accident. A passenger suffered cervical strain, upper right trauma, and left knee trauma. Both had two month-long treatment of physical therapy, ice packs, and medication by the same doctor while continuing to work in physically strenuous jobs. The court ruled that the maximum award for a five month-long soft tissue injury of this nature suffered by both of the plaintiffs was \$15,000. Additionally, the maximum award for any residual pain & suffering endured following the discharge from their treating physician's care until the time of trial (ten months) is \$7,500.

The trial court awarded each plaintiff \$30,000 in general damages but the appellate court reduced the trial court's awards to \$22,500 for each plaintiff as noted herein. *Edwards v. GEICO Indem. Co.*, 2014-606 (La. App. 3 Cir. 3/18/15), 167 So.3d 957.

\$14,000

three month soft tissue injuries

Judge. A trial court found that a plaintiff experienced an auto accident with a significant impact such that her vehicle was totaled, she had to be immobilized and wear a neck collar prior to being extracted from the vehicle's door, and she had to be transported to an emergency vehicle via a spine board. Also, plaintiff suffered both physical and mental pain due to the accident. While the extent of plaintiff's physical injuries may have only been "soft tissue injuries," it is clear that the trial court found that the physical and mental pain associated with these injuries was significant. The plaintiff claimed that she sustained pain and suffering for nearly three months. She was released to return to work with no restrictions approximately three months post-accident. The trial court awarded the plaintiff \$14,000 in general damages. *Vaughn v. AAA Ins. Co.*, 2014-106 (La. App. 3 Cir. 6/18/14), 161 So.3d 749.

\$55,000

woman incurs hand/wrist surgery, two back surgeries and soft tissue injuries;

jury finds only soft tissue injuries related to accident that resolved almost four years later

Jury. A woman develop carpal tunnel syndrome, trigger finger in her thumb, and cubital tunnel syndrome after a slip and fall. She had surgery for these injuries. She also had back complaints for which she underwent a three-level foraminotomy and later the insertion of a spinal cord stimulator.

The jury awarded plaintiff \$39,851 in past medicals, \$10,000 for loss of enjoyment of life, \$30,000 for pain and suffering, and \$15,000 for emotional distress. The appellate court reasoned the jury did not award damages related to the hand, wrist, and back surgeries because the evidence indicated that those injuries were not caused by the slip and fall. Therefore, the award was for the plaintiff's soft tissue injuries that resolved by

Chapter 27

Poison & Environmental Injuries

\$3,800,000

**seventy-nine year-old man suffers for six years
before his diagnosis of mesothelioma and death**

Judge. An elderly man suffered from asbestos-related problems as early as six years prior to the diagnosis of mesothelioma six weeks before his death. At trial, decedent's treating physician testified that the decedent suffered symptoms of mesothelioma - chest pain, shortness of breath, fatigue, coughing and other breathing problems for years prior to his diagnosis. His physician testified that plaintiff was miserable at the end of his life as he lay dying of mesothelioma and "starving for breath" due to the lack of oxygen in his body, despite being on an oxygen machine. Decedent's daughter testified that prior to his death, her father suffered from fluid retention in his abdomen and lower extremities, had swollen, bleeding testicles, mouth sores, problems eating, weight loss, and was ultimately placed on oxygen, hospitalized, and then placed on hospice care. The trial court judge awarded general damages in the total amount of \$3,800,000 for the decedent's survival claim suffering for years before his death. *White v. Entergy Gulf States Louisiana*, 2013-1608 (La. App. 1 Cir. 11/10/14), 167 So.3d 764.

\$100,000/\$50,000

**wife/husband awarded damages related to exposure to toxic mold
wife underwent treatment by twenty-five different physicians and was diagnosed her
with damage to her myelin sheath causing numbness and pain; reversed on prescription issues**

Judge. A husband and wife purchased an old home and began renovating the house. The wife ripped up carpet in the living room, which took three days, observing a black gelatinous substance which she cleaned. She soon became sick with upper respiratory infections lasting for months. She developed persistent respiratory problems eventually seeing twenty-four different physicians in the course of a year related to aches in her joints, swelling into her lower extremities, and fever at night. She eventually saw an environmental specialist in Texas who found several different toxic molds in her bloodstream. As a result of that mold in her system, she suffered damage to her myelin sheath which caused numbness and pain. She eventually received fifty-six IV infusions that lasted each seven hours per day. She became depressed eventually recovering. The husband remained in the house for one week but left also because of the environmental conditions.

Plaintiffs filed suit for rescission of the sale and for their personal injuries. The trial court granted a rescission of the sale and \$100,000 to the wife and \$50,000 to the husband for their personal injuries sustained as a result of the exposure to mold in the house. The court of appeal reversed ruling that the plaintiffs were on notice of the injuries associated with the environmental issues in the house at least two years prior to filing the lawsuit. *Guillot v. Doughty*, 2013-1348 (La. App. 1 Cir. 3/21/14), 142 So.3d 1034.

\$2,750,000

**elderly man lives for four months following diagnosis of lung cancer from asbestos;
non-responsive to environment; constant & severe pain in last three weeks of life**

Jury. A sixty-nine year old man died from lung cancer after being exposed to asbestos and working for the defendant for approximately 31 years. The estate, decedent's spouse and four daughters, instituted this lawsuit. The decedent initially had contracted laryngeal cancer which resulted in the removal of his voice