



Patton & Ryan LLC Attorneys at Law

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The first three-quarters of 2015 have been our busiest to-date since opening our doors in 2004. We are literally being asked monthly to try cases around the country, oftentimes on the eve of trial.

These formidable challenges are most welcome and continue to be our forte. We expect the rest of the year to be equally active and successful, with our client's interests always paramount to every attorney in our firm. Our dedication to the best result will never waiver no matter the severity of the case or the jurisdiction involved.

Please call me if we can assist you in any way.

312.261.5166

John Patton, Jr.



PATTON'S GENERAL TORT NEWS

Patton & Ryan Parachutes into Colorado Construction Defect Case

This past July, Patton & Ryan stepped in as lead trial counsel on a complex construction defect case just three months before the scheduled trial date undaunted by the knowledge that the case had already been in litigation for four years and had over 20 Plaintiffs. The case alleged multiple theories of liability against Patton & Ryan's client, a golf course owner and land seller, LB Rose Ranch. Partners John W. Patton, Jr., Dave Ryan, and Paul Motz accepted the case, assembled their trial team, and headed out to the Rockies.

Among the Plaintiffs' allegations against LB Rose Ranch, were that the seller negligently designed, constructed, and sold them 20 homes that were improperly located in a geologic hazard. The Plaintiffs alleged the area on which the homes were built was hydrocollapsible soil which shrinks and condenses when excessively wetted. The Plaintiffs argued that prior to the construction of the subdivision, the land developer inadequately addressed the soil condition causing their homes to sink up to 20 inches and resulting in an array of structural damage.

The Patton & Ryan trial team faced a number of obstacles, including the fact that expert disclosures were already completed before they were retained, preventing them from engaging any additional experts on four of the key liability issues their client faced. However, the trial

team employed the aggressive motion practice for which Patton & Ryan is known, and succeeded in convincing the Court to allow depositions to be taken of an additional 20 fact witnesses. The trial team also won a partial summary judgment motion, substantially reducing the Plaintiffs' damage claims.

Working around the clock, Patton & Ryan was able to complete additional vital fact discovery as well as taking the depositions of critical witnesses, as granted by the Court, including those of the developer, builder, construction forepersons, and the development's realtor right up until the day of trial.

Although Plaintiffs had already secured nearly \$8 million from the developer, builder and design professionals in pre-trial settlements and a binding arbitration award, their pre-trial demand from LB Rose Ranch was nearly \$30 million dollars. After a three week trial fighting to ensure a fair result for their client, partners John Patton, Dave Ryan, and Paul Motz managed to secure a jury verdict that was over two million dollars less than the prior settlements and arbitration awards. This result puts our client in the position of paying nothing as the verdict was significantly less than the existing set-offs.

Construction Defect

Patton & Ryan Assists in Settling \$6.1 Million Case Prior to Jury Selection

Hitendra Patel vs. Plote Construction Inc., ECS Illinois LLC, Highway Safety, and Elizabeth Stawinsky

Several weeks prior to trial Patton & Ryan, LLC was retained to serve as lead trial counsel in a case that had been pending in the Circuit Court of Cook County in Illinois for over five (5) years.

On September 3, 2009, Plaintiff, a 47-year-old man, was struck by a car driven by an intoxicated driver, Elizabeth Stawinski, while working on a roadway repaving project in Chicago. The Illinois Department of Transportation (IDOT) was the owner on the project. IDOT employed Plote Construction (Plote) to perform roadway work, which included stripping the road and laying down new asphalt. This work necessitated lane closures and the placement of traffic control devices throughout the area. Plote hired Highway Services Corporation to provide the required traffic control protection. Plote also hired ECS, Plaintiff's employer, to provide quality control services, which included the performance of density tests on newly-laid asphalt in accordance with IDOT specifications. Plaintiff was performing the density tests on the project as an employee of ECS at the time of the accident.

As Plaintiff performed his tests, he was struck by a vehicle driven by Stawinski who was intoxicated at the time of the accident. Stawinski was charged with a felony DUI and pled guilty to that charge. Plaintiff underwent several surgeries as a result of suffering numerous fractures to his right arm and right leg. Plaintiff was subsequently declared to be at maximum medical improvement

with permanent restrictions; however, he could return to work. Plaintiff still alleged that he still suffered from pain, walking restrictions, lifting restrictions, and depression.

Plaintiff filed a lawsuit against Plote, Highway Services Corporation, and the intoxicated driver, Stawinski. Plote then filed a third party action against Plaintiff's employer, ECS. Plote's third-party complaint against ECS alleged that ECS waived *Kotecki* protection in its contract with Plote, exposing ECS to unlimited damages. The court determined that ECS had effectively waived its *Kotecki* protection.

Patton & Ryan prepared a strong defense that Stawinski's conduct of driving while intoxicated was the sole proximate cause of the accident. Patton & Ryan's trial team vigorously defended damages. While Plaintiff suffered severe injuries, he was released to return to work and failed to mitigate his damages.

Plaintiff's pre-trial demand was \$6.1 million.

Immediately prior to jury selection, the parties agreed on a global settlement of \$975,000, resulting in an excellent outcome for our client. The settlement that was effectuated resulted in an amount that was only a fraction of the Plaintiff's initial demand. Moreover, Patton's insurer paid only a token amount towards the settlement.

Jury Awards Half of Demand in Burn Case

Andrzej Plizga and Katarzyna Plizga v. The Euclid Chemical Company

After a three week trial, partner John Ouska and his trial team obtained a favorable jury verdict which was less than their client's last settlement offer. Plaintiffs sought over \$25 million in damages arising out of life-threatening burn injuries Andrzej Plizga sustained while using an extremely flammable concrete sealer. His wife, Katarzyna, had a loss of consortium claim.

Plaintiffs alleged that the sealer was defectively designed in that it was formulated too flammable to be used indoors and the warning label failed to comply with the Federal Hazardous Substances Act and the equivalent Illinois state law. The defense faced some unfavorable liability evidence at trial, with the judge determining, as a matter of law, that the label on the product violated both federal and state laws.

On the eve of trial, the Plaintiffs withdrew their negligence claim and proceeded on a strict product liability count. As a result, the defense was prohibited from introducing any evidence of Plaintiff's own contributory negligence, including his alcohol intoxication, his misuse of the product, and his assumption of risk. Despite these challenges, the jury awarded Plaintiffs \$10.8 million in damages, less than half of what Plaintiffs were requesting in damages, and less than Defendant's last settlement offer.

Construction Risk

Products Liability

Patton & Ryan Drives Home Good Results in Bus Rollover Case

Jacobs v. Walters Bus Service, et al.

Patton & Ryan has successfully resolved all claims in a bus rollover case. The case concerned a motor coach bus accident that occurred on Interstate 55 near Turrell, Arkansas on October 9, 2004. At that time, Walters Bus Service was transporting 28 passengers from Chicago, Illinois to Tunica, Mississippi. The bus veered off of the highway while traveling between 60 to 70 miles per hour, fishtailed, and then rolled over 1 ½ revolutions. The roof of the bus ripped off during this process and multiple passengers were ejected from the bus. The driver and 14 passengers died in the accident. The 14 remaining passengers sustained injuries.

The surviving passengers and estate representatives of the deceased passengers filed numerous actions in Cook County, Illinois against various defendants. Those actions were consolidated into one case consisting of 29 plaintiffs and 13 defendants. Patton & Ryan, LLC represented the bus manufacturer, Motor Coach Industries, Inc. ("MCI"). All defendants except for MCI settled their claims prior to the commencement of expert discovery. We pressed on in our defense of MCI, and our development of expert discovery resulted in a significant drop of the various settlement demands issues by the plaintiffs. As a result, we were able to settle all claims against MCI except for one prior to the commencement of trial.

The remaining plaintiff who proceeded to trial with MCI was Anna Patrick, the most severely injured of the surviving passengers. Ms. Patrick, who sustained paraplegia as a result of the accident, proceeded on claims of negligent design in which she alleged that MCI should have included seatbelts in the bus and should have developed a bus capable of withstanding the accident without the roof tearing off or collapsing. Ms. Patrick asserted that these design issues resulted in an exacerbation of her injuries. The trial commenced with jury selection on May 26, 2015, and opening statements on May 28, 2015. Between May 28, 2015, and June 11, 2015, the case was heard by a 12-person jury and was presided over by Judge Michael R. Panter, Associate Judge, Circuit Court of Cook County. Ms. Patrick was represented by Milo W. Lundblad and Marvin A. Brustin of Brustin & Lundblad, Ltd. Representing MCI were Michael G. Vranicar, Partner, and Faredin D. Ameti, Associate, from Patton & Ryan, LLC.

Ms. Patrick's attorneys presented a total of 21 witnesses in

their case in chief over the course of 11 weekdays. Witnesses included Ms. Patrick, engineering experts, accident reconstruction experts, metallurgy experts, economists, and several witnesses who testified concerning Ms. Patrick's past and future medical care. Plaintiff rested on June 8, 2015. We presented a total of 9 witnesses in our case in chief over the course of 3 weekdays. Witnesses included engineering experts, accident reconstruction experts, economists, and an eyewitness, among others.

On June 11, 2015, with only one day of trial testimony remaining, Ms. Patrick's attorneys reached out to us in an attempt to renew settlement discussions. Ms. Patrick dropped her demand significantly and we were able to secure a favorable settlement for MCI. Following this resolution, we polled the 12 jurors and 2 alternates. A significant number of the jurors indicated that they had sided with MCI.

As a result of our defense efforts and willingness to proceed to trial, we were able to settle all claims against MCI for a mere fraction of the plaintiffs' initial settlement demands.

Transportation





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AREAS OF PRACTICE

Bad Faith Litigation
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Commercial Litigation
Construction Law
Employment Law
Medical Malpractice
Premises Liability
Products Liability
Professional Liability
Trucking and Transportation

Other News Spotlight

Successful Settlement While Jury Deliberated

Teresa Burns and Robert Burns v. New Bern Transport Corporation

In early March, 2015, John W. Patton, Jr. successfully defended a trucking company against enormous lottery-type damages requested by a plaintiff in Cook County.

John W. Patton, Jr. represented New Bern Transport Corporation in a lawsuit filed by Teresa Burns stemming from a car accident in 2012 at Cermak and Wolf in Hillside, IL.

Ms. Burns suffered a spinal cord injury in the accident and was rendered a quadriplegic. At the time of trial, Ms. Burns suffered from a neurogenic bladder, requiring self-cauterization 4-5 times per day. Ms. Burns also suffers from a clawed left hand that is virtually useless and an abnormal gait that leaves her at high risk for osteoporosis and causes her extreme fatigue at just around a quarter mile of walking. Further, Ms. Burns has chronic pain and will likely to suffer from depression due to her physical decline. Ms. Burns' life care planner expert suggested to the jury that her ongoing future medical needs would exceed \$6 million dollars.

After an initial surgery that lasted more than 12 hours, Ms. Burns spent about a week at Loyola Medical Center. She was on a ventilator for a period of that time that left her with chinked vocal cords and an impaired voice. Ms. Burns spent two months in inpatient therapy at Marianjoy Rehabilitation Center and another six months in the outpatient rehabilitation program. She was re-taught to walk, eat, and bath herself.

Ms. Burns is married woman with a 9-year-old daughter, and prior to the ac-



cident was a full-time teacher in the Cicero School District. She was not able to return to work after the accident.

Prior to the trial, New Bern Transport Corporation and Burns entered into a stipulation on liability. Ms. Burns admitted that she was 30 percent at fault for the accident. They further agreed that any jury verdict against New Bern Corporation, which admitted liability, would be reduced by 30 percent. Prior counsel stipulated that Plaintiff's fault would be withheld from the jury and consequently this was a damages only trial. Notwithstanding the foregoing, the matter had to be tried over Plaintiff's substantial non-negotiable eight figure demand.

After two weeks of testimony regarding the damages that Ms. Burns suffered, attorneys reached a \$14 settlement just before a Cook County jury awarded the woman a \$17.9 million verdict.

Plaintiff attorneys Patrick A. Salvi, Patrick A. Salvi II and Brian L. Salvi of Salvi, Schostok & Pritchard P.C. requested that the jury award \$47 million to Burns and her husband.

John W. Patton Jr. successfully anchored the jury in their number by suggesting that the plaintiff should be awarded between \$3.5 million to \$5.5 million in a clear high risk catastrophic loss trial.

Transportation

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