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Judge Asked To Settle Law Firm's Spat

SOURCE: By Andre Jackson

DATE: April 22, 1990

Of the Post-Dispatch Staff

Edition: L5

PUBLICATION: St. Louis Post-Dispatch

Page: 8f

SECTION:

When a law firm locked out three of its lawyers, the lawyers did what came naturally. They sued.

As a result, the three - Joseph L. Leritz, Thomas J. Plunkert and Anthony S. Bruning - have won a temporary order barring the law firm of Leritz, Reinert & Duree from keeping them out of the firm's offices at 812 North Collins Street in Laclede's Landing.

But like an episode from television's L.A. Law, the story has more than a touch of drama.

The law firm alleges that one of the three threw rocks at the firm's windows and that another aimed his fast-moving Porsche at two of the firm's members.

The script is spelled out in court documents, which say the matter began April 13. On that day, the three lawyers announced that they were leaving Leritz, Reinert & Duree to start their own firm.

On Monday, the next business day, officials of Leritz, Reinert & Duree decided to order the three lawyers out immediately. What's more, the firm changed its office locks and hired a security guard.

That evening, the firm alleges in court documents, one of the three lawyers joined two other men in tossing rocks at the office windows. The documents also say that somebody broke off keys in the new locks, locking everybody out.

On Tuesday morning, the firm charges, a Porsche moving "at a relatively high rate of speed" bore down on two of the firm's lawyers as they crossed a street near the office. The firm says in the court papers that the sports car "headed toward them before veering off at the last moment."

The documents allege that one of the three lawyers was driving.

Caption:

Correction:

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Bush Tops Guest List At November Fund-raiser For Bond
SOURCE: By Jerry Berger**DATE:** September 29, 1991**EDITION:** L5**Column****PAGE:** 1G**PUBLICATION:** St. Louis Post-Dispatch**SECTION:** EVERYDAY

IN ONE EAR: Look for the GOP to tout a fund-raiser Nov. 13 for the re-election campaign of Sen. Christopher S. Bond, with no less than President George Bush topping the bill at the Riverport Amphitheatre. Exposure to the fall elements will be no factor, since organizers of the event are scurrying about to install a heated tent (as was once done for a wintertime fund-raiser outdoors for Ronald Reagan). Tix? Don't ask me, ask the president's bro, William T. "Bucky" Bush, who's among the organizers. . . .

"I'm planning to put a 7,500-seat amphitheater in one of our county parks, and right now it looks like Creve Coeur Park is the best alternative, but we're still looking," County Exec Buzz Westfall said Thursday. Westfall made the comment at a meeting of the Counts at the Frontenac Grand Hotel. . . .

On the move are some of our town's real estate speculators, tidying up locations to show scouters for Luby's Cafeterias. The more-than-150-unit chain of cafeterias - with the largest presence in Texas - is focusing on our town for its next invasion. Luby's, by the way, had the largest sales of any cafeteria chain in 1990 - \$330 million, according to National Restaurant News. The chain also loomed largest in sales per unit - \$2.3 million.

IN THE CAMERA'S EYE: Robert de Niro's Tribeca Restaurant in New York is where you'll find our town's Barry Baker and Larry Marcus on Monday night. That's when the twosome, toppers of River City Broadcasting, will close on the \$36 million purchase of WTTV-TV, Channel 4, in Indianapolis from Capitol Broadcasting. The purchase will bring to four the number of television stations under the umbrella of the St. Louis broadcasting company - the largest here. . . .

The Baker-Marcus connection also owns Fox Broadcasting affiliate Channel 30, which carries "America's Most Wanted." And the cameras from that show have been focusing on our environs the last few days to capture the saga of Steve Huffman. Huffman has been on the "wanted list" in Franklin County for skipping bail on kidnapping and rape charges in April 1987.

As "Most Wanted" recounts the case, in January of that year, Huffman's wife, Joyce, left him, citing possessive, violent behavior. He allegedly then kidnapped one of her nieces in an attempt to learn his wife's whereabouts and kept the niece prisoner in a small camping trailer in the woods for two days, but finally dropped her off, unharmed, in St. Louis. Four days later, he allegedly kidnapped another woman and raped her. He was finally captured and reportedly confessed to the crimes. In April 1987, he was released on \$50,000 bond, left our town and hasn't been heard from since. Actor T. Max Graham will portray Huffman in the show's re-creations. . . .

Lawyer Tony Bruning and entrepreneur Richard A. Klein have been interviewed by Chris Wallace of ABC's "PrimeTime Live" for airing at 9 p.m. Thursday on Channel 2. The segment examines an incident that took place in the wee hours of Christmas Day 1980, when a defective General Electric automatic coffee maker became the source of a fire in the home of Klein and his wife, Jinny.

They sued G.E. to recover their financial loss and to pressure the company into recalling that model of coffee maker. In 1984, the Kleins won a jury verdict of \$600,000 against G.E. Based on another incident since the Kleins' victory, G.E. recalled the appliance.

PEOPLE IN PLACES: What do Mets do in the off-season? Well, in the case of New York Mets pitcher Sid Fernandez, he'll be a-strumming, now that he's bought no fewer than six guitars from Dan Martin and Bryan Greene at their Guitar Exchange. . . .

"We're making plans now in anticipation of the Roe vs. Wade decision being overturned in two years," offered B.J. Isaacson-Jones, president and chairwoman of Reproductive Health Services. While dining at Cafe Zoe on Thursday night with her hub, Michael, a computer software consultant, B.J. explained, "We will pay our staff a fair severance, pay all our debts and flip back into a referral service providing counsel to women on going to other states where abortions are legal." B.J. also said that 30 percent of Reproductive's clients have incomes below the poverty line. . . .

Pat and Joe Hanon have topped themselves with the recent completion of a \$1 million renovation of their

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(1895 - 1987)

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THOMAS J. PLUNKERT*
ANTHONY S. BRUNING*
ROBERT P. McCULLOCH
JAMES C. LERITZ
PAUL W. JOHNSON*
NANCY VINCENT-SHELTON*

EDWARD M. ROTH
OF COUNSEL

* ALSO LICENSED IN ILLINOIS

October 21, 1991

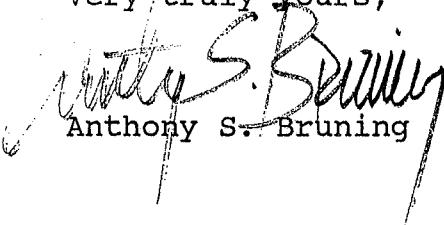
Mr. Chris Wallace
ABC News - Primetime Live
Third Floor
1717 DeSales Street, N.W.
Washington, D.C. 20036

Re: Danger Brewing

Dear Mr. Wallace:

This is a note to thank you for allowing me to participate in your segment shown on Primetime Live on October 17, 1991. The hidden danger presented by the General Electric coffeemaker is something all consumers should be aware of. It was a pleasure working with you and Rick Nelson as you put this piece together.

Very truly yours,


Anthony S. Bruning

ASB/jh

LERITZ, PLUNKERT & BRUNING, P.C.

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OF COUNSEL

* ALSO LICENSED IN ILLINOIS

October 21, 1991

Ms. Betsey Bruce
KTVI - Channel 2
5915 Berthold
St. Louis, MO 63110

Dear Ms. Bruce:

Your segment featured on the October 17, 1991 ten o'clock news concerning Richard and Ginny Klein's home fire and legal battle with General Electric was an excellent production. In a relatively short period of time you reached the heartbeat of this case and relayed this message to KTVI's viewers. You also conducted your interviews in a fair and professional manner. Congratulations on a great job done.

Very truly yours,

Tom Bruning
Anthony S. Bruning

ASB/jh

LERITZ, PLUNKERT & BRUNING, P.C.

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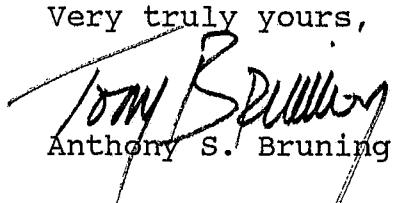
October 21, 1991

Mr. Rick Nelson
ABC News - Primetime Live
Third Floor
1717 DeSales Street, N.W.
Washington, D.C. 20036

Dear Rick:

Congratulations on your excellent production of "Danger Brewing" shown on Primetime Live October 17, 1991. The message that General Electric manufactured a dangerous product but failed to do anything about it was well presented. I enjoyed working with you and I am happy I was able to assist you in your investigation. Again, congratulations on a great job.

Very truly yours,


Anthony S. Bruning

ASB/jh



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Judge OKs Malpractice Settlement**SOURCE:** By William C. Lhotka**DATE:** March 19, 1991**Of the Post-Dispatch Staff****EDITION:** S***PUBLICATION:** St. Louis Post-Dispatch**PAGE:** 1A**SECTION:**

Of the Post-Dispatch Staff

The Washington University School of Medicine has agreed to a \$4.5 million settlement of a medical malpractice claim arising from the birth in 1982 of a boy with a paralyzed left arm. The paralysis resulted from the failure of a doctor to perform a Caesarean section, the family had asserted.

The settlement is one of the largest awards in St. Louis County Circuit Court in recent years, court officials said. Judge Bernhardt C. Drumm Jr. approved the settlement Monday.

David Anderson, 8, and his mother and guardian, Jill Anderson of Creve Coeur, will get \$205,899 immediately; the law firm of Leritz, Plunkert & Bruning will get \$188,632; and the rest of the settlement will be paid to David over the course of his life.

Peter F. Spatero, attorney for the medical school, declined to comment Monday on the settlement of the case.

David was born Oct. 23, 1982, at the St. Louis County Hospital in Clayton, which has since been torn down for an office complex. The St. Louis County Department of Community Health operated the hospital and contracted with Washington University School of Medicine for the medical care.

The suit, filed in 1987, alleged that the resident physician, Dr. Janice Lage, was negligent because she "failed to determine that birth by natural process" would cause serious physical injuries to the baby. Lage then worked for Washington University School of Medicine, but she later left for another medical school. She could not be reached Monday.

The suit said that Lage should have known the baby was too large for Anderson's birth canal and that the doctor failed to perform a Caesarean section to surgically remove the baby.

Anthony S. Bruning, the family's attorney, said Anderson was in labor for 24 hours. David weighed 11 pounds at birth, Bruning said.

During delivery, the baby's shoulders became stuck in the birth canal, Bruning said, and forceps were used to pull him out. The suit said the excessive pressure on the head, neck and shoulders resulted in the life-long paralysis of David's left arm.

Bruning said David has a learning disability, possibly caused at birth, or by trauma from the paralysis.

Bruning quoted Anderson as saying she was "thrilled with the settlement."

Anderson could not be reached for comment.

Caption:**Correction:**

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ST. LOUIS POST-DISPATCH

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TUESDAY, MARCH 19, 1991

(2)

5 - STAR

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By William C. Lhotka
Of the Post-Dispatch Staff

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See LAWSUIT, Page 5

Lawsuit

From page one

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ST. LOUIS/FRIDAY

• FRIDAY, NOVEMBER 10, 1989

3A

Mother Sues Son, Wins \$1.6 Million

By Tim Bryant

Of the Post-Dispatch Staff

A federal jury on Thursday awarded \$1.63 million to a woman who sued her son and a securities firm over what she contended was the looting of her husband's estate.

Jurors awarded Ruth H. Lucas \$610,000 from her son, Wilder G. Lucas, and \$1.02 million from Oppenheimer & Co. of New York. Her husband, Wilder Lucas, was a lawyer here for 58 years.

Anthony L. Bruning, an attorney who represented Ruth Lucas, said the two-week trial had a bittersweet result.

"It was a hard thing for a mother to bring a lawsuit against her son," Bruning said. "But she felt like she didn't have a choice. It would have been easy for her to ignore this — the fact that he took \$610,000 from her. It was much more difficult for her to bring this lawsuit against her own son."

"It was a hard thing for a mother to bring a lawsuit against her son. But she felt like she didn't have a choice."

ANTHONY L. BRUNING, attorney for Ruth Lucas

P. Terence Crebs, an attorney who represented Oppenheimer, said the company was "considering its options" on how to contest the verdict. Wilder G. Lucas, who presented his own case to the jury, was unavailable for comment. He lives in Lookout Mountain, Tenn.

Wilder Lucas was nationally recognized in his specialty, maritime law. He was honorary Austrian consul here for seven years in the 1930s. He died in 1983 at age 82.

Out of his father's estate, worth \$430,000, Wilder G. Lucas took \$371,000, Bruning said.

Ruth Lucas, 81, of St. Louis, alleged in her suit filed two years ago that her son persuaded her to sign numerous blank checks on his father's estate. In 1984 and 1985, Wilder G. Lucas wrote checks totaling \$237,200, the suit contended.

In addition, the suit accused the son of using stocks from the estate to open a

brokerage account with Oppenheimer in Chicago. Oppenheimer was alleged to have never verified the account with Ruth Lucas, even though she was the estate's administrator.

Bruning said Oppenheimer officials disregarded "the common rules of the industry" and ignored their own system of "checks and balances."

"The jury obviously believed that and punished them with punitive damages," he said.

Ruth Lucas learned of her son's actions in November 1985, the suit contended. Because she was the administrator, she was required to pay back money taken from the estate.

Bruning said the \$610,000 in actual damages was computed by combining the money taken and the value of the stocks had they remained in the estate.

U.S. District Judge Stephen N. Limbaugh presided over the trial.

Settlement reached in malpractice lawsuit

CLAYTON, Mo. (AP) — A medical malpractice case has resulted in a \$4.5 million settlement for an 8-year-old St. Louis County boy who was born with a paralyzed left arm.

The family of David Anderson asserted that the paralysis was the result of the failure of a doctor to perform a Caesarean section.

The settlement was agreed to by Washington University School of Medicine. St. Louis County Circuit Judge Bernhardt Drumm Jr. approved the settlement Monday.

The settlement is one of the largest awards in St. Louis County in recent years, court officials said.

David and his mother and guardian, Jill Anderson, of Creve Coeur, will get \$205,899 immediately; the law firm of Leritz, Plunkert & Bruning will get \$188,632; and the rest of the settlement will be paid to David over the course of his life.

Peter F. Spatero, attorney for the medical school, declined to comment Monday on the settlement of the case or on its terms.

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\$15,000 Awarded In Coffee Maker Suit**SOURCE:** DATE: June 26, 1992**PUBLICATION:** St. Louis Post-Dispatch EDITION: 5***SECTION: NEWS** PAGE: 14A

A jury in St. Louis Circuit Court awarded \$15,000 Thursday to a woman who sued the maker of Mr. Coffee coffee makers alleging that one of the machines caused a fire in her condo.

The woman, Cindy Vaughn of Florissant, sued North American Systems Inc., which made the machine. The fire, in 1986, destroyed her kitchen and damaged the rest of her home.

Vaughn's attorney, Anthony S. Bruning, said the coffee maker was the type equipped with a clock and timer so that it could start when the owner was absent. He said the design was inherently dangerous.

The makers of automatic drip coffee makers became aware of fire dangers with the machines in the early 1980s, he said, and began advising consumers to unplug them when not in use. But coffee makers with clocks must be kept plugged in for the clock to work, he noted.

Bruning said he planned to pursue punitive damages through appeals and would ask the federal Consumer Products Safety Commission to investigate the continued marketing of coffee makers with programmable timers.

Caption:**Correction:****today's deal**

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Products Liability - Punitive - Causation - Defective Coffeemaker

By: MO Lawyers Media Staff January 1, 1994

Even though homeowner claimed that the manufacturer of her coffeemaker encouraged her to leave the appliance plugged in when not in use in violation of safety standards by incorporating an electric clock which would go off when the appliance was unplugged, where the fire that damaged her home occurred while she was in fact using the coffeemaker the fact of the incorporated clock was not related causally to her damages and she was not entitled to punitive damages against the manufacturer.

Directed verdict for manufacturer on plaintiff's claim for punitive damages is affirmed.

Causation

"The law has always required that a plaintiff's damages must be the direct result of the wrongful acts alleged. Otherwise, a plaintiff could rove through all of a defendant's conduct that might justify punishment, but that cause plaintiff no injury. If this were the case, our system of tort law would be chaos....

"This Court has recently held that satisfaction of the 'but for' test is an absolute minimum for causation....This is so because satisfaction of the 'but for' test merely establishes cause in fact. Plaintiff's punitive damages claim fails to satisfy the bare minimum 'but for' test of causation."

Affirmed.

Vaughn v. North American Systems, Inc. (MLW No. OC-8501 – 5 pages) (Price, J.; all concur)Appealed from circuit court, St. Louis City, O'Shea, J. (Thomas C. Walsh, Dennis E. O'Connell, Jerome J. Duff and Thomas R. McDonnell, St. Louis, Mo., for appellant) (Edward M. Roth and Anthony S. Bruning, St. Louis, Mo., for respondent).

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Medical Malpractice Award Cap Aids Insurance Industry Here

By Tim Poor
Post-Dispatch Washington Bureau

MISSOURI'S NINE-YEAR experience with capping medical malpractice awards offers lukewarm support for the effort in Congress to limit court awards to patients hurt by sloppy medical care.

After Missouri passed its cap in 1986, malpractice insurance premiums for doctors stabilized, and the number of frivolous suits appeared to decline. But other results were not entirely expected. More claims have gone to court, and jury verdicts have gone up.

Altogether, the biggest beneficiary appears to have been the insurance industry.

In Congress, the original Contract with America proposal did not include a cap on court awards for "pain and suffering" — the big money in malpractice suits. But doctors, hospitals and malpractice insurers have prodded Congress to include the cap in an amendment.

Supporters of malpractice caps say runaway awards have caused insurance premiums to skyrocket, driven up the cost of medical care and caused some specialists to stop practicing altogether.

Opponents say that's exaggerating. Malpractice suits are a useful tool to check a profession that inadequately polices itself, they say.

The ascendance of Republicans in several state legislatures has spawned similar moves to change the civil justice systems in state courts. Last week, the Illinois Legislature approved a \$500,000 cap on awards for "pain and suffering" from most personal-injury suits.

During the debate in the Illinois House, Rep. Ron Stephens, R-Troy, blamed high malpractice premiums for the lack of any obstetrical care in hospitals in 42 counties in Southern Illinois. Stephens said he feared that without malpractice legislation, Illinois would lose doctors to states like Missouri.

The effects of the 1986 Missouri malpractice law are far from clear, however.

In 1986, the Missouri Legislature imposed new requirements on malpractice suits, including a \$350,000 limit on awards for pain and suffering. That cap, which rises or falls with inflation, is now about \$500,000.

One result of the 1986 changes is that insurance companies are flocking to Missouri to do business. It's not

hard to understand why: The amount of money that insurance companies are taking in has continued to rise while the amount they are paying out in claims has declined sharply.

In the two years before the Legislature acted, insurers had paid out more in claims than they got in premiums. After the law passed, that ratio dropped dramatically, evening off in 1988 to 1993 when the companies paid out only 50 cents for every dollar in premiums. That's a much higher percentage than for property, casualty and homeowners insurance, say state insurance officials.

One unexpected result of the 1986 law is that it has helped to more than double the number of cases going to court — from 558 in 1986 to 1,123 in 1993. Also, the average award won in court shot up to about \$145,757.

Dr. Edmond Cabbabe, a plastic surgeon in Bridgeton and president of the St. Louis Metropolitan Medical Society, said that the legislative changes lowered malpractice insurance premiums initially but that they've recently been increasing.

Attorneys for the medical profession say the 1986 law eliminated frivolous cases. But patients' lawyers argue that small but justified claims have suffered as well.

"The 1986 act really overreached," said Anthony S. Bruning, a malpractice specialist in St. Louis. He said malpractice suits are more expensive than other suits for patients because doctors in St. Louis are loath to testify against each other, and out-of-state experts are expensive.

The smaller case, one that might net an injured person \$40,000 to \$50,000, now falls by the wayside. "I have to send them away because they weren't hurt bad enough," he said. "Everyone has a right to his day in court if he's injured at all."

The cap on pain and suffering also penalizes the seriously injured person who cannot show large economic losses, he said. A hypothetical example would be a housewife who loses her eyesight as a result of malpractice and might be limited to \$500,000 in court. "If a truck hit her, there would be no limit," Bruning added.

Dr. Cabbabe voiced the fears of many in the profession that if Congress limits punitive damages without capping awards for pain and suffering damages, doctors will wind up big losers.

SOURCE: Missouri Department of Insurance

"Product liability [limits] alone would expose the physician to hungry lawyers," he said. They're going to be limited in what they can collect from manufacturers and distributors. We're going to be targeted for the big money."

The Health Care Liability Alliance, a group of doctors, drug manufacturers and insurance firms, is lobbying Congress to write malpractice changes into the law. In addition to the pain-and-suffering limits, the group is pushing to require that awards above \$50,000 be paid in periodic installments; and that each of those involved in a malpractice incident be responsible only for the damages he or she caused.

The group's lawyer is Peter M. Leibold, former legislative director for U.S. Sen. John C. Danforth, R-Mo. Leibold argues that the legal system is an inefficient way to discipline negligent doctors and improve the safety of health care.

"We think it's very important to improve quality in a way that's efficient and smart" — such as tightening state licensing procedures, he said. "The litigation system is a dumb way. The only people who profit from it are trial attorneys."



Medical Malpractice - Arm Paralysis

By: MO Lawyers Media Staff January 1, 1994

\$3,211,000

Type of Action: Medical malpractice

Type of Injuries: Right arm paralysis; Erb's Palsy

Court/Case #/Date: St. Louis City Circuit Court/912-02032

Caption: Reece, et al. v. Reed, et al.

Judge or Jury Case: Jury

Name of Judge: Judge Robert Dowd

Damages: Loss of use of right arm

Settlement or Verdict: \$3,211,000 verdict for plaintiff

Allocation of Fault: N/A

Highest Settlement Offer: \$350,000

Last Demand: \$1 million

Attorney for Plaintiff: Anthony S. Bruning

Insurance Carrier: Medical Protective

Plaintiff's Experts: Dr. O'Neal; Dr. Noetzel, P. Cáragonne, D. Kutchbach, L. Grossman

Defendant's Experts: Dr. Nocon, Dr. Gearhart, Dr. Rohrbaugh, J. Callery

Facts of the Case: Failure to diagnose gestational diabetes and macrosomic baby (12 pounds); shoulder dystocia (stuck shoulder) resulted following delivery of baby's head with vacuum extractor.

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Headline: MALPRACTICE CASE AWARDS DWINDLE

'86 LAW ENDED 'FRIVOLOUS' ONES

Correction:

PubDate: Monday, 2/21/1994

Section: WAR PAGE

Page: 05C

Byline: By Tim Bryant\Of the Post-Dispatch Staff

Text: THE LAST FEW weeks of Renetta Reece's pregnancy in 1983 were especially uncomfortable ones. Her husband, Robert Reece Jr., said: "She was really big. You noticed she was getting quite large."

On Nov. 26, 1983, Renetta Reece gave birth to a child - a whopper. Robert D. Reece III weighed 12 pounds, 1 ounce. Shock quickly replaced Robert Reece's joy in watching his son's birth. "He was all black and blue," Reece said. "It looked like he had been through a boxing match."

The infant's left arm was fractured. Doctors quickly discovered something even worse: His right arm was paralyzed.

Now 10, Robert III is a sturdy, happy 100-pound third-grader, despite his disability.

"We mostly play kickball, because I can use my feet," he says.

And he should have enough money to last his whole life.

On Oct. 21, a St. Louis Circuit Court jury awarded Robert \$3.1 million for the lost use of his right arm. His "shoulder dystocia" case got the largest medical malpractice judgment in the state last year, Missouri Lawyers Weekly reported.

Robert's case shows how changes in Missouri law altered lawyers' approach to medical malpractice claims. Fewer lawsuits are being filed, and they're harder to win, lawyers say. The changes also turned malpractice insurance into a big moneymaker, made it more difficult to win lawsuits against doctors and put limits on pain and suffering awards.

"I have no resentment or malice in my heart for the doctors involved," Reece said. "The money was just a reward I thought my son should have for what happened to him. The system worked for me."

Here's a look at that system.

\ A Malpractice Reform 'Pioneer'

Few "medmal" cases were filed in Missouri until 1969. That was when the Missouri Supreme Court abolished "charitable immunity," exposing many more hospitals to malpractice claims.

By the mid-1970s, malpractice insurance was difficult to get because of the growing number of suits. In 1975, a new state law allowed doctors to form their own companies to provide malpractice insurance.

Also in the 1970s, a state law established a legal hoop for plaintiffs to jump through. The law required that six-member review panels screen malpractice claims before suits could be filed. The intent was to limit such medmal suits.

The state Supreme Court threw out the screening panels, ruling they were an unconstitutional restriction on access to the courts.

By the late 1970s and early 80s, medical malpractice insurance was a money loser for insurers, as settlements and judgments outstripped premium payments. In 1984, for example, insurers earned \$39 million in premiums but paid out more than \$53 million as losses.

As a result, the legislature asked doctors groups, hospitals, insurance companies and lawyers to propose a cure.

What emerged, in 1986, was a law that made Missouri "a legitimate pioneer" in medical malpractice reform, said James P. Holloran, a St. Louis lawyer on the advisory group.

The law requires a plaintiff's attorney to file an affidavit in which a doctor says the plaintiff has a good case. The affidavit, less burdensome than the earlier screening panels, must be filed within 90 days of when a medical malpractice suit is filed.

Many states now have such a rule. In Illinois, affidavits must be submitted when a suit is filed and include the medical expert's report.

The biggest change made by the 1986 law the limit put on the amount of money a plaintiff can get for "pain and suffering" resulting from medical malpractice.

The limit, first set at \$350,000, floats with the inflation rate. Currently the cap is \$462,000 in Missouri. Many states have similar caps, although Illinois does not.

Medical malpractice insurance has once again become profitable in Missouri. The state Insurance Department reported two months ago that in 1992 insurers paid out \$51 million as medmal losses, but earned \$96 million in premiums.

Robert G. Burridge, a lawyer who defends doctors, said the changes had eliminated the "really frivolous" and "stupid little cases."

"What we are seeing now are the big, bad cases," he said.

In addition, the cap on pain and suffering means jurors now hear economists as well as medical experts testify about a plaintiff's lost-earning power and other economic damages.

Burridge said the emphasis on these damages, on which there are no limits, brings "a whole different breed of experts" to medmal trials.

\ The Cost of Winning

Medical malpractice cases remain hard to win. Nationwide, doctors prevail in seven of every 10 medmal cases that go to trial - a ratio that's held up for years.

One reason is that the public holds doctors in high esteem, said Robert Reece's

attorney, **Anthony Bruning**.

"People look up to doctors," **Bruning** said. "They help us; they heal us. A jury almost has to believe that a doctor injured the plaintiff on purpose to award any damages."

He noted recently that preparing a plaintiff's medical malpractice case for trial can cost \$50,000.

"I can only afford to take cases that have clear liability and high economic value," **Bruning** said.

As it turned out, Robert's case fit that category.

Bruning alleged that two obstetricians, Dr. Jonathan Reed and Dr. Darwin Jackson, had failed to diagnose that Renetta Reece had developed gestational diabetes or that Robert would be unusually large and should be delivered by a Caesarian section. As a result, Robert has nerve damage that makes his right arm nearly useless. The doctors' attorney lawyer, Ben Ely Jr., declined to discuss the Reece case.

A few weeks after the trial, Robert returned to the courtroom and watched as Circuit Judge Robert G. Dowd Jr. approved a settlement that ended the matter.

The lawyers settled the case for \$2.2 million, the limit of the doctors' medical malpractice insurance policy. Of that amount, Robert's lawyers got about \$775,000 in fees and expenses.

\ The Baby of the Family

Robert III never got to know his mother well. A month before Robert's third birthday, Renetta Reece died of cancer. Although Robert Reece, 45, has since married "a beautiful lady that I love," he still grieves for Renetta.

"I saw my wife gradually, day by day, passing away," Reece said. "I was there in the hospital the night she died, with her."

"One of the things she told me before she died was to make sure I followed through on the suit and took care of her son."

Robert III is the baby of the family. Reece has three older sons and a daughter. He still carries painful memories of Robert's birth.

At the time, Reece worked for Bristol-Myers Co. at its plant in Ladue. He took care of the presses that produced tablets. After Bristol-Myers announced in 1990 it would close the plant here, Reece transferred to a company facility in Raleigh, N.C.

Little things have made a big difference in his son's life. A one-handed Nintendo control, for example, transported Robert III to video-game heaven. A one-handed zipper-pull freed him to use restrooms without help. Robert's self-esteem soared.

Reece says he hopes life deals Robert no other lasting scrapes. The boy has a guardianship estate, although the family continues to live simply.

"I haven't changed my lifestyle any since the award," Reece said. "All the funds I got,

basically, are for my son."

Photo Unique 9402210076

IDs:

Cutline: Photo by Ted Dargan/Post-Dispatch - Robert Reece III, 10, with his dad, Robert Reece Jr., after a St. Louis Circuit Court jury awarded the boy \$3.1 million for the lost use of his right arm.

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Status:

Correction:

Story Unique 9402210076

ID:

THE LIST

LARGEST MISSOURI JURY VERDICTS

(RANKED BY ACTUAL DAMAGES IN 1993 CASES IN MISSOURI PORTION OF METRO AREA)

| Plaintiff and Defendant(s) | Actual damages Punitive damages | Apportionment of fault assigned to plaintiff ¹ | Venue | Plaintiff's attorney | Defendant's attorney |
|---|---|---|----------------|--|-----------------------------------|
| 1. Robert Reece III and Robert Reece Jr. vs. Dr. Darwin Jackson and Dr. Jonathan Reed | \$3,211,000 none | none | St. Louis city | Anthony Bruning | Ben El... |
| 2. Louise Bass, Christopher Bass & Maurice Bass vs. National Supermarket | \$3,000,000 none | none | St. Louis city | Leonard Cervantes, Edward Degrooney | Ronald Willenbr... |
| Charles Lambert Jr. vs. Garlock Equipment Co. Inc., Stevenson & Associates vs. Clearview Equipment | \$3,000,000 ² none | 25% | St. Louis city | James Godfrey Jr. | Donald Va... |
| 4. John Lynn vs. Westfield Industries, Floyd Leake & Mary Leake | \$2,500,000 none | 90% | St. Louis city | Sanford Goffstein | Christine Miller, Vandove... |
| Billy Beard vs. Kut-Kwik, TNT Speed & Sport Center Inc./dba TNT Golf Car & Equipment Co. vs. Missouri Highway & Transportation Commission | \$2,500,000 none | none | St. Louis city | Mark Goodman, Gary Growe | David Crane, Terra Jeffry Thom... |
| 6. Thomas Wyatt, Ruth Wyatt and Blake Wyatt vs. D&L Towing, Dobbs Tire & Auto Centers Inc., Goodyear Tire & Rubber Co. | \$2,000,000 plus \$250,000 ³ no punitive | 40% | St. Louis city | Alan Popkin, David Boresi | David Duree, Ge... |
| 7. Louise Bennett vs. Celotex, Owens Corning Fiberglass et al | \$2,119,000 none | none | St. Louis city | Mark Bronson, Brian Weinstein and Amy Blumenthal | Lawrence Leon... |
| 8. Jerry Creason vs. Norfolk & Western Railroad | \$935,833 none | none | St. Louis city | David Blunt and Jay Leskera | Peter Kran... |
| 9. Jean Kinder vs. Hively Corp. dba Domino's Pizza, Domino's Pizza and Tracy Burkett-Gobel | \$750,000 \$78,000,000 | none | St. Louis city | Paul Kovacs, David Ott | Ruth Przyber... |
| 10. Peggy Cline vs. William Friedman M.D. & Associates Inc. | \$674,750 none | none | St. Louis city | Melissa & Morris Chapman | Dale Kwarci... |

¹ Apportionment of fault decreases plaintiff's actual damages by the percentage listed.² Verdict only applies to defendant Garlock Equipment. Other defendants settled before trial.³ \$250,000 verdict was for 6-year old brother's emotional distress from 4-year old brother's death. Apportionment only applies to the \$2 million verdict.

LARGEST ILLINOIS JURY VERDICTS

(RANKED BY ACTUAL DAMAGES IN 1993 CASES IN ILLINOIS PORTION OF METRO AREA)

| Plaintiff and Defendant(s) | Actual damages Punitive damages | Apportionment of fault assigned to plaintiff ¹ | Venue | Plaintiff's attorney | Defendant's attorney |
|--|--|---|---|--------------------------------|----------------------|
| 1. Patricia Holten vs. Memorial Hospital | \$8,706,500 none | none | St. Clair County | Bruce Cook | John Sandbe... |
| 2. Reece vs. Heck, Hogan Trucking | \$4,702,816 none | none | St. Clair County | John Gunn | Brian Plegg... |
| 3. Don Thomas vs. National Steel Corp., Crouse-Hinds, Davey McKee | \$2,920,000 none | none | Madison County | Bruce Cook | Mark Enright... |
| 4. James Daugherty (minor), via Brenda Pace vs. 2 BASF Corp., Fruit of the Loom Inc., Granite City Cycle Sales | \$2,000,000 none | none | Madison County | Michael McGlynn | Robert Shultz... |
| 5. Larry Brown & Shirley Brown vs. Marathon Petroleum, Superior Hardsurfing Co. vs. Morris Construction | \$550,000 plus \$500,000 no punitive | 35% 60% ³ | U.S. District Court-Southern District of Illinois | Thomas Keefe Jr. | John McMull... |
| 6. Jerold Edwards vs. Alton and Southern Railway | \$1,454,000 none | none | Madison County | Bruce Cook | Thomas Jones... |
| 7. Alva Thomas vs. Norfolk & Western Railroad | \$1,255,500 none | none | Madison County | Lance Callis, Keith Jensen | Karl Dexheimer... |
| 8. David Lilly vs. Marcal Rope & Rigging, Granite City Steel | \$1,200,005 none | none | Madison County | Bruce Cook | John McMull... |
| 9. James Green vs. Union Pacific Railroad | \$1,100,000 none | none | St. Clair County | John Kujawski | Patricia Carag... |
| 10. Brian Banovz vs. Mickow Corp., David Lynn Wittaker, Raymond Rantanen | \$1,005,120 none | none | Madison County | Matthew Padberg, James Leonard | John McMull... |

¹ Editor's Note: Verdict amounts are original damages and may have been or may be reduced on appeal. Lists only include cases that ended in a verdict so if a settlement was reached between the class-action suits.² Apportionment of fault decreases plaintiff's actual damages by the percentage listed.

Source: Verdict Reporter Inc.; d/b/a Jury Verdict Reporting Service

² A minor cannot bring a lawsuit alone.

List compiled December 1994

³ Two verdicts had two

THE LIST

LARGEST MISSOURI JURY VERDICTS (RANKED BY ACTUAL DAMAGES IN 1993 CASES IN MISSOURI PORTION OF METRO AREA *)

| Plaintiff and Defendant(s) | Actual damages Punitive damages | Apportionment of fault assigned to plaintiff ¹ | Venue | Plaintiff's attorney | Defendant's attorney | type of case |
|---|--|---|----------------|--|--|---|
| 1. Robert Reece III and Robert Reece Jr. vs. Dr. Darwin Jackson and Dr. Jonathan Reed | \$3,211,000 none | none | St. Louis city | Anthony Bruning | Ben Ely | medical malpractice; baby injured during delivery |
| 2. Louise Bass, Christopher Bass & Maurice Bass vs. National Supermarket | \$3,000,000 none | none | St. Louis city | Leonard Cervantes, Edward Degroooney | Ronald Willenbrock, Ann Marie Pinan | premises liability; wrongful death, negligent security, employees murdered during robbery |
| Charles Lambert Jr. vs. Garlock Equipment Co. Inc., Stevenson & Associates vs. Clearview Equipment | \$3,000,000 ² none | 25% | St. Louis city | James Godfrey Jr. | Donald Vasos | product liability; defective equipment caused plaintiff to fall from roof |
| 4. John Lynn vs. Westfield Industries, Floyd Leake & Mary Leake | \$2,500,000 none | 90% | St. Louis city | Sanford Goffstein | Christine Miller, Samuel Vandover | product liability; sustained injuries from defective farm tractor |
| Billy Beard vs. Kut-Kwik, TNT Speed & Sport Center Inc. dba TNT Golf Car & Equipment Co. vs. Missouri Highway & Transportation Commission | \$2,500,000 none | none | St. Louis city | Mark Goodman, Gary Groves | David Crane, Terrance Good, Jeffry Thomsen | product liability; defective design of slope mower caused injury |
| 6. Thomas Wyatt, Ruth Wyatt and Blake Wyatt vs. D&L Towing, Dobbs Tire & Auto Centers Inc., Goodyear Tire & Rubber Co. | \$2,000,000 plus \$250,000 ³ no punitive | 40% | St. Louis city | Alan Popkin, David Boresi | David Duree, George Kosta | auto; wrongful death and negligence against tow truck driver |
| 7. Louise Bennett vs. Celotex, Owens-Corning Fiberglass et al | \$2,119,000 none | none | St. Louis city | Mark Bronson, Brian Weinstein and Amy Blumenthal | Lawrence Leonard and Kay Noonan | product liability; wrongful death due to prolonged exposure to asbestos products |
| 8. Jerry Creason vs. Norfolk & Western Railroad | \$935,833 none | none | St. Louis city | David Blunt and Jay Leskera | Peter Krane | Federal Employers' Liability Act; railroad engineer injured by defective handbrake |
| 9. Jean Kinder vs. Hiveley Corp. dba Domino's Pizza, Domino's Pizza and Tracy Burkett-Gobel | \$750,000 \$78,000,000 | none | St. Louis city | Paul Kovacs, David Ott | Ruth Przybeck, Lawrence Grebel | auto; accident causing closed head injury and brain damage |
| 10. Peggy Cline vs. William Friedman M.D. & Associates Inc. | \$674,750 none | none | St. Louis city | Melissa & Morris Chapman | Dale Kwarclany | medical malpractice; negligent cosmetic eyelid surgery |

1 Apportionment of fault decreases plaintiff's actual damages by the percentage listed.

2 Verdict only applies to defendant Garlock Equipment. Other defendants settled before trial.

3 \$250,000 verdict was for 6-year old brother's emotional distress from 4-year old brother's death. Apportionment only applies to the \$2 million verdict.

LARGEST ILLINOIS JURY VERDICTS (RANKED BY ACTUAL DAMAGES IN 1993 CASES IN ILLINOIS PORTION OF METRO AREA *)

| Plaintiff and Defendant(s) | Actual damages Punitive damages | Apportionment of fault assigned to plaintiff ¹ | Venue | Plaintiff's attorney | Defendant's attorney | type of case |
|--|------------------------------------|---|------------------|----------------------|----------------------|---------------------|
| 1. Patricia Holten vs. Memorial Hospital | \$8,706,500 none | none | St. Clair County | Bruce Cook | John Sandberg | medical malpractice |
| 2. Reece vs. Heck, Hogan Trucking | \$4,702,816 none | none | St. Clair County | John Gunn | Brian Plegge | automobile injury |