

CASE: 09-CV-215-JHP, USDC Eastern District

Paula J. Nutley, *Plaintiff*

v.

River Falls Machinery Sales, Inc., and Randall S. Bowling, *Defendants*

JUDGE: James Payne

ATTORNEYS: *For the Plaintiff:*

Michael Pierce and Christopher Spain
Arnold & Itkin, LLP
Houston, TX

Tim Maxey
Stipe Law Firm
McAlester, OK

For the Defendants:

Paul Kolker and Brad Roberson
Pignato Cooper Kolker & Roberson, PC
Oklahoma City, OK

ISSUES: *Negligence (Motor Vehicle/Truck)*

SUMMARY: Plaintiff alleged that on April 26, 2007, on US Highway 75 near Coalgate, OK, while she was operating an eighteen-wheeler in the course of her employment, the Defendant was operating an eighteen-wheeler which was towing a 45,000 pound commercial wood-chipper and coming from the opposite direction. Plaintiff alleged that moments before the accident the coupling device provided by the manufacturer of the wood-chipper sheared in two causing it to detach from the Defendant's truck and swerve into the Plaintiff's lane of travel and strike Plaintiff's truck. The truck then went off the side of the road and rolled over. As a result, Plaintiff claimed that she had incurred approximately \$113,000.00 in past medical bills for a lumbar fusion surgery. She also claimed past lost wages in excess of \$43,000.00 and because of her resulting disability would incur future medical expenses and a loss of earning capacity.

(Prior to trial, the manufacturer and supplier of the coupling device settled and the case went to trial only against the truck driver and his employer.)

Defendant denied the allegations of the Plaintiff and alleged that the wood-chipper had originally been manufactured with safety chains on it but that those chains were not on it when it was purchased by the Defendant and state law did not require chains. Defendant claimed that they took all reasonable action to secure the device but the device came loose because of the fault of the manufacturer of the coupling device. Defendant also denied the nature and extent of Plaintiff's injuries and resulting disability.

**EXPERT
WITNESSES:**

For the Plaintiff:

Dr. Kenneth Lee
Houston, TX
Orthopedic Opinion

Tom Curtis
McAlester, OK
Accident Reconstruction Opinion

Cline Young, PhD, PE
Dallas, TX
Mechanical Engineering Opinion

Dr. Joe Gonzales, MD
Houston, TX
Life Care Plan Opinion

Dr. Richard Helton
McAlester, OK
Treating Emergency Room Physician

For the Defendant:

Dr. Reynold L. Rimoldi
Las Vegas, NV
Orthopedic Surgeon
(Plaintiff's doctor called by the Defense)

VERDICT: *Jury Trial (Five Days)*

The Jury found in Favor of the Plaintiff and Against the Defendant and awarded damages in the amount of \$200,000.00.

(Defendants asked to award a setoff or credit in the amount of the prior settlement from the amount of damages awarded by the Jury. A motion is currently pending before the Court on this issue.)