

Persoon v. Conoco Phillips and Carpinteria Car Care
 SANTA BARBARA SUPERIOR COURT, ANACAPA DIVISION

CASE NUMBER: 1371085
 TYPE OF CASE: Premises Liability
 TYPE OF PROCEEDING: Jury trial
 JUDGE: Hon. Thomas P. Anderle
 LENGTH OF TRIAL: 4 days
 LENGTH OF DELIBERATIONS: 8 hours
 DATE OF VERDICT OR DECISION: July 26, 2011
 PLAINTIFF: Christian Persoon
 PLAINTIFF'S COUNSEL: Eric Woosley of the Law Office of Eric A. Woosley and Bradford Brown of the Law Office of Bradford Brown
 DEFENDANTS: Conoco Phillips and Carpinteria Car Care
 DEFENDANTS' COUNSEL: Lisa Shyer of Procter, Slaughter & Reagan
 EXPERTS: *For Plaintiff:* William Gallivan, MD (orthopedic surgeon), Roy Hawthorn (code violations), David Weiner (economist), and Jeffrey Weinstein (architect); *For Defendants:* Mark Rieser (code expert and traffic safety engineer)

OVERVIEW OF CASE: Plaintiff was injured when he was crushed between two cars while putting air in his tire at Defendants' gas station.

FACTS AND CONTENTIONS: On August 12, 2008, Plaintiff was filling the tires on his car when non-party Katrina Zermeno backed up and crushed Plaintiff between his car and her rear bumper. Plaintiff settled his claim against Zermeno prior to trial. Plaintiff thereafter maintained that Defendant gas station owner/operator created and maintained a dangerous condition by placing the air pump in a dangerous high traffic area without a permit and further failed to monitor traffic after it had undertaken a duty to do the same.

Defendants argued that the third party driver was the sole cause of the accident, that in the 22 years since the pump was placed at its current location there were no other accidents, and that no building permit was required by the City of Carpinteria for placement of the air pump.

SUMMARY OF CLAIMED DAMAGES: Plaintiff, 18, suffered a grade 3 acromioclavicular joint (ACL) separation. Plaintiff underwent two ACL reconstructions, the first 18 months after the accident and the second 27 months after the accident. Past medical bills totaled \$103,000.00. Future medical specials totaled \$3,200.00. Past loss of earnings totaled \$9,700.00. Future loss of earnings consisted of 6 months loss of earnings and a 3 year delay in starting employment as an automobile mechanic totaling \$97,000.00. Plaintiff requested total past and future economic damages of \$216,000.00.

RESULT : By a vote of 12 to 0, the jury found non-party driver Zermeno 90% liable, Defendant Conoco Phillips 5% liable and Defendant Carpinteria Car Care 5% liable and awarded Plaintiff a total of \$616,000.00, including \$109,000.00 in medical specials, \$107,000.00 in lost income and \$400,000.00 in general damages. Plaintiff's award will be increased by the award of expert costs based upon the rejection of Plaintiff's section 998 Offer to Compromise.

Office of Design & Construction
Business Development LEED Design-Build Expert Witness

JEFFREY PHILLIP WEINSTEIN, AIA
Architecture/Engineering/Construction Project Management

(310) 795-0652
 wenwilpc@aol.com
 jeffweinsteinaia.com

353 Montana Road
 Ojai, CA 93023