



## **Districts of Kansas & Western Missouri**

### **Civil Jury Verdict Report**

**D. Kan. & W.D. Mo.**

**Issue 10 – May 2023**

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#### **MAY 2023 CIVIL VERDICT SUMMARY**

Parties: *Harris v. City Cycle Sales, Inc.*  
Case No.: 2:21-cv-02264-EFM Judge: Hon. Eric F. Melgren  
Location: D. Kan.  
Attorneys: (P) – Thomas J. Dickerson, Jeffrey D. Rowe & Daniel A. Kopp  
(D) – Cynthia J. Sheppard

In this combination negligence & Kansas Consumer Protection Act (KCPA) case, the plaintiff took his motorcycle in for service at the defendant Harley Davidson motorcycle dealership, based in Junction City, Kansas, for a flashing ABS warning light. The plaintiff crashed the motorcycle shortly after the motorcycle was picked-up while attempting to stop at an intersection. The defendant had advised the motorcycle was safe to ride. It was alleged that the defendant had failed to identify and properly fix a pinched ABS wire.

**Verdict:** **NEGLIGENCE:** The jury found the defendant 75% at fault and the plaintiff 25% at fault. **KCPA:** The jury found the defendant had engaged in deceptive act and practice of making misrepresentations (2 claims); but had not engaged in the deceptive act and practice of willful misrepresentation of a material fact or the deceptive act and practice of willful failure to state or willful concealment of a material fact. The jury further found that the KCPA violations caused or contributed to cause plaintiff's damages. **DAMAGES:** The jury awarded \$225,000 in noneconomic loss to date; \$1,275,000 in future noneconomic loss; \$0 in future medical expenses; \$443,000 in economic loss to

date & \$2,538,200 in future economic loss, for a total gross verdict (pre-fault reduction) of \$4,481,200.

Parties: *No Spill, LLC & TC Consulting, Inc. v. Scepter Canada, Inc. & Scepter Manufacturing*

Case No.: 2:18-cv-02681-HLT-KGG Judge: Hon. Holly L. Teeter

Location: D. Kan. (KC, KS)

Attorneys: [28 attorneys listed as counsel for a party]

Plaintiffs hold two patents relating to preventing the explosion of portable fuel containers ('075 and '132 patents) and brought numerous claims under both patents for Direct Infringement and Indirect Infringement by Active Inducement.

**Verdict:** The jury found in the defendants' favor in every claim under both patents, finding no infringement was proven by a preponderance of the evidence. The jury also found that defendant Scepter Canada had not proven by clear and convincing evidence that either patent was invalid under any of the numerous claims.

Parties: *Lambing v. Berkley Insurance Company*

Case No.: 2:21-cv-02184-JWB Judge: Hon. John W. Broomes

Location: D. Kan.

Attorneys: (P) – Larry M. Schumaker & Eric W. Smith

(D) – Kimberly A. Jones & Daniel O. Ramon

In this employment discrimination/retaliation case, plaintiff asserted the defendant insurance company terminated her employment due to her sex/pregnancy (discrimination) and because of her opposition to unlawful employment practices (retaliation).

**Verdict:** The jury found in favor of plaintiff on the discrimination claim and on behalf of the defendant on the retaliation claim. The jury awarded \$43,462.03 in back pay; \$100,000 in pain, suffering & mental anguish and \$220,000 in punitive damages for a total verdict of \$363,462.03. Attorney's fees and costs were also awarded pursuant to statute.

Parties: *Rollstock, Inc. v. SupplyOne, Inc.*

Case No.: 4:21-cv-00395-RK Judge: Hon. Roseann A. Ketchmark

Location: WDMO (KC, MO)

Attorneys: (P) – Bruce A. Courtade, Laura Kane & William C. Odle

(D) – Allison Brauns Spors & John S. Kingston

Plaintiff and defendant entered into a contract wherein plaintiff agreed to manufacture a RC-300 Rotary Chamber Vacuum Packing System. Defendant refused to pay the second half of the contract price, alleging that the machine did not function as intended. Plaintiff

sued for breach of contract. Defendant also filed a counterclaim for breach of contract, claiming the machine failed to serve its intended function, resulting in significant repair costs.

**Verdict:** The jury found in favor of the plaintiff on both the claim for breach of contract and the defendant's counterclaim.

### **DID YOU KNOW?**

The *Federal Judicial Caseload Statistics* for the 12-month period ending March 31, 2022, reflect that there were a total of 209,568 civil cases in the federal courts, with 1,127 in D. Kan. and 1,750 in WDMO. Total median time interval in months from filing to disposition was 9.2 – 8.3 months in D. Kan. and 7.8 months in WDMO. Median time to disposition via trial in D. Kan. was 26.5 months and 32.1 months in WDMO. Overall median time to disposition via trial in the federal courts was 29.8 months.

**Source:** <https://www.uscourts.gov/statistics/table/c-5/federal-judicial-caseload-statistics/2022/03/31>

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