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Gary L. Stec

AREAS OF PRACTICE:

Commercial Litigation
Civil Litigation
Insurance Coverage
Construction Accidents
Product Liability
Premises Liability
Third-Party Auto
First-Party Auto

EDUCATION:

University of Detroit School of Law (J. D., 1980)
Class President (1978 and 1979)
Executive Vice President, Moot Court (1980)
Moot Court Board of Directors (1980)
Order of Barristers (1980)
University of Michigan, Dearborn (BSA, Business
Administration, 1977)

BAR ADMISSIONS:

State Bar of Michigan 1980
U.S. District Court for the Eastern District of Michigan 1980
U.S. District Court for the Western District of Michigan 1989
U.S. Court of Appeals for the Sixth Circuit 1988
U.S. District Court for the Eastern District of Wisconsin 1996

EMPLOYMENT:

Managing Partner, Grand Rapids Office, Harvey Kruse, PC.,
1986-Present
Board of Directors at Harvey Kruse, PC 1996-Present
Shareholder at Harvey Kruse, PC 1987-Present
Associate Attorney at Harvey Kruse, PC 1980-1986

ACKNOWLEDGMENTS:

Martindale Hubbell Rating: A/V
Fellow, Michigan State Bar Foundation
Who's Who in American Law

EXPERIENCE:

Trial and appellate attorney, successfully represented numerous clients in circuit courts throughout the State of Michigan,

United States District Court for both Eastern District and Western District of Michigan, Eastern District of Wisconsin, Michigan Court of Appeals, Michigan Supreme Court and the United States Court of Appeals for the Sixth Circuit, in addition admitted *pro hac vice* to handle cases in other states including Indiana, Ohio, Illinois and Wisconsin.

Obtained fifteen (15) to twenty (20) summary dispositions, directed verdicts and/or successful trial verdicts *every* year for the past twenty-five (25) plus years.

Obtained successful verdicts and appellate decisions in numerous cases with substantial importance to Michigan jurisprudence, as well as outlined in a following section of this resume.

Served as a mediator/case evaluator, including for the Kent County Circuit Court, for eighteen (18) plus years

Served as an arbitrator in numerous insurance coverage and tort liability cases.

Presented seminars to insurer claims staff.

REPRESENTATIVE CLIENTS:

Meijer, Inc.
Steelcase, Inc.
Black & Decker
Crane Co.
Boy Scouts of America
Allied Insurance Company
Nationwide Insurance Company
Titan Insurance Company
Amerisure Insurance Company
GMAC Insurance Company
Liberty Mutual Group
Wausau Insurance Company
Scottsdale Insurance Company
Bituminous Insurance Company

MEMBER:

State Bar of Michigan
Kent County Bar Association
Practice and Procedure Committee (1989-1990)
Member of the Michigan Inn of Court (1985-1987)
Member of the Defense Research Institute
St. Thomas the Apostle Parish Pastoral Council (2002-Present)
St. Thomas the Apostle Finance Council (1997-2002)

**TRIAL RESULTS AND
APPELLATE DECISIONS:**

Sherry v Massey Ferguson, United States District Court, Western District of Michigan. This was a product liability claim for a 5-year old child who suffered a permanent brain injury as a result of falling from the fender of a tractor. The injury left the minor wheelchair bound for the rest of his life. Plaintiff's request to the jury was for a verdict of \$10,000,000. The jury returned a verdict of no cause in favor of the defendant. The Sixth Circuit Court of Appeals affirmed the lower court's granting of a partial directed verdict in favor of the defendant.

Ashford v Herin Trucking, Ionia County Circuit Court Trial. This was a wrongful death case arising from a multi-vehicle accident. Plaintiff sought a multimillion dollar verdict from the jury. The jury returned a no cause for action in favor of our client trucking company.

Kasul v Snap-On Tools, Ottawa County Circuit Court Trial spanning three weeks, arising from an accident in which a Snap-On truck struck a 14-year old bicyclist, causing severe and permanent brain injuries. The injuries left a 14-year old minor wheelchair-bound for the rest of his life. Multiple million dollar verdict request from plaintiff's counsel, jury verdict of no cause in favor of the defendant Snap-On Tools.

Joseph Eldridg v Crane Company, United States District Court, Western District of Michigan Trial. This involved a product liability claim wherein a 31-year old maintenance employee suffered a complete craniofacial separation with a Lefort III fracture, underwent facial rebuilding using a portion of his skull bone, suffered loss of visual acuity and permanent closed head injury including loss of short and long term memory when a large valve exploded, striking him directly in the face, alleged defective design, \$1,500,000 settlement demand, \$4,200,000 request from the jury, jury verdict of no cause in favor of our client.

Treat v City of Battle Creek, et al, Calhoun County Circuit Court wrongful death case involving a 39-year old construction worker, who was backed over by a semi truck on a project in the City of Battle Creek. Mediation award of no cause for action, motion for summary disposition granted on the basis of governmental immunity and an owner not being responsible for the negligent acts of sub-contractors.

Rodney Slater, PR of the Estate of Joy Slater, Deceased v Sharp Buick, Inc., Ionia County Circuit Court. This wrongful death case alleged a Chrysler Minivan had a defective lift gate latch, which opened during the course of a roll-over accident, allowing the decedent to be ejected and killed. Summary disposition was granted in favor of our defendant on the basis that no credible evidence existed that the dealership modified the van from its original condition, and had no knowledge of any alleged dangerous condition.

Christensen v Jaguar, Berrien County Circuit Court, severely brain injured plaintiff involved in a single vehicle accident. The plaintiff alleged that the Jaguar in question experienced sudden acceleration, causing a loss of control and subsequent accident. Motion for summary disposition granted, following a successful *Daubert* challenge of plaintiff's expert witness.

Fischer v Amurcon Corporation, Eaton County Circuit Court, premises liability claim, 41-year old legally blind man, suffering a fracture of the left wrist, with permanent loss of motion. Jury verdict of no cause.

Townes v Kool Chevrolet, Inc., Kent County Circuit Court product liability case involving quadriplegic injuries to the plaintiff. Voluntary dismissal obtained prior to arguments on our motion for summary disposition for Kool Chevrolet due to lack of evidence of modification or alteration of the automobile's design.

Amy Tetreault, Personal Representative of the Estate of Shawn Tetreault v Ferguson Enterprises, Inc., Ionia County Circuit Court. This wrongful death action was dismissed by way of summary disposition on the basis that Ferguson Enterprises did not owe a duty to the decedent with regard to alleged violations of Federal Motor Carrier Safety Regulations and further, that the alleged FMCS violations were not a proximate cause of the decedent's death. Offer of judgment sanctions became available when the estate refused Ferguson's offer to enter judgment in the form of no cause for action.

Scott Jesko v Kent Companies, Inc., et al., Kent County Circuit Court. Plaintiff sustained electrocution injuries when a long-handled bull bloat came in contact with overhead electric lines. Summary disposition was granted on the basis that the injured employee failed to meet the standard for liability pursuant to the intentional tort exception to the exclusive

remedy provision MCLA 14.131(1), despite the MIOSHA willful/serious violation.

Hegwood v Diamond Triumph Auto Glass, Barry County Circuit Court Trial involving allegations of personal injury resulting from an altercation occurring during the course of termination proceedings of an employee. A jury verdict of no cause for action was entered and the defendant received mediation of judgment sanctions.

Warren v Triangle Associates, Kent County Circuit Court, serious and disabling construction site injury. Plaintiff alleged that the general contractor was negligent for failing to properly supervise construction activities. The plaintiff's employer was brought in as a third-party defendant. We were successful in obtaining summary disposition against the third-party defendant, for indemnification, including all defense costs.

Cheney v LCN Closers, Otsego County Circuit Court case, product liability action alleging a defective door closer, which resulted in a severe hand injury to the plaintiff, including multiple hand surgeries resulting in a fusion complicated by severe reflex sympathetic dystrophy (RSD), rendering the plaintiff's hand functionally useless for purposes of employment or recreational activities. Disposition motion and mediation were held on the same day. A mediation award of \$600,000 was entered in favor of the plaintiff, with the mediators entering a no cause in favor of LCN Closers. The court granted our motion for summary disposition.

Shepherd v Meijer, Inc., Calhoun County Circuit Court case involving slip and fall injuries to plaintiff. Summary disposition upheld on appeal on the open and obvious issue.

Wood v Meijer, Inc., Kalamazoo County Circuit Court premises liability case involving a slip and fall on a grape. Plaintiff sustained a patellar fracture of her left knee that resulted in permanent impairment. Motion for summary disposition granted.

Osborn v Meijer, Inc., Calhoun County Circuit Court slip and fall case involving fracture of arm and elbow. Summary disposition granted for defendant on the open and obvious doctrine.

TIG v Carrier Corporation, Marquette County Circuit Court

action, seeking recovery of property damages caused by an allegedly defective furnace. Summary disposition granted in favor of the defendant following deposition of plaintiff's expert, based upon the expert's failure to provide a feasible alternative design. Affirmed by the Michigan Court of Appeals.

Loser v Boy Scouts of America, Southwest Michigan counsel, Kalamazoo County Circuit Court. Plaintiff alleged negligence for failing to supervise scouting activities, which plaintiff alleges resulted in inappropriate sexual relationships with an adult volunteer. Motion for summary disposition was granted, on the basis that the volunteer was not under the direction or control of the Boy Scouts.

Gibler v Discount Tire, Kent County Circuit Court case involving a slip and fall at a Discount Tire location. Plaintiff sustained a fractured hip, which resulted in extensive hospitalization and degradation of lifestyle. Motion for summary disposition was granted, on the open and obvious doctrine.

Michael Swift v Stokes Metal, et al., Ionia County Circuit Court, product liability lawsuit alleging negligence in the heat treatment process of a tree step used by hunters to gain access to hunting tree stands, which broke while the plaintiff was descending from his tree stand. Summary disposition was granted in favor of Stokes Metal on the basis that no evidence was presented establishing that Stokes failed to properly heat treat the screw tip in question, and that the allegations that improper heat treating with a proximate cause of the accident were based solely upon speculation and conjecture.

Pioneer State Ins. Co. v Titan Ins. Co., 252 Mich App 330, 652 NW2d 469 (2002). This case involved injuries to a pedestrian, who was struck by a van owned by an insured of Pioneer, but which was not among the automobiles covered by Pioneer's policy. Summary disposition was granted in favor of our client, Titan Insurance Company, the assigned claims carrier. First appellate case in Michigan holding that the insurer of the owner or registrant of a motor vehicle involved in the accident is responsible for first-party benefits even where the motor vehicle is not listed as a "covered auto" in a policy of the owner or registrant.

Hastings v Wolverine, Mecosta County Circuit Court. This

action was brought by the insurer of a building owner who sustained significant property damage and business interruption loss, following a flood caused by burst water pipes in its commercial building. Summary disposition was granted in favor of our client, Wolverine Construction Management, on the basis that the contract between the owner and the general contractor contained a mutual waiver of subrogation clause, which prohibited the owner's insurer from pursuing any claims against the general contractor.

Indiana Lumberman's v American Publishing Co., United States District Court. Western District of Michigan. This case involved an alleged breach of contract against the employer of a decedent, who failed to obtain mandatory insurance coverage for loss arising during the course of his independent contractor relationship with the defendant. Summary judgment was granted for our client, American Publishing Company, on the basis that the defendant owed no duty to the plaintiff to ensure that the independent contractor secured the insurance coverage required.

McNeill v Crane, United States District Court. Western District of Michigan. This case involved allegations of wrongful termination, negligence, RICO violations, conspiracy and fraud. Summary judgment was granted in favor of our client, Crane, on the basis that plaintiff's complaint failed to state a recoverable cause of action and that no questions of material fact existed. Summary judgment was upheld by the Sixth Circuit Court of Appeals.

Watts v Caledonia Farmers Elevator Co., Clinton County Circuit Court. This case involved collapse of a catwalk, resulting in bilateral lower extremity fractures to the plaintiff. Summary disposition was granted in favor of our client, Caledonia Farmers Elevator Company, on the basis that the defendant was not in possession or control of the premises at the time of the accident.

Guevara v Martinez, Muskegon County Circuit Court. This case involved a motor vehicle accident, with plaintiff sustaining injuries including a fracture dislocation of the humerus, with surgery. Summary disposition was granted in favor of our clients, Eric Martinez and Filibito Garcia, on the basis that the plaintiff's injury, although objectively manifested, did not prevent the plaintiff from being able to lead a "normal life." The plaintiff's ability to return to his pre-accident physical

activities including basketball, shooting pool, running, cycling, and performing yard work, demonstrated that his injury did not meet the threshold.

Feeley v Sheraton, United States District Court. Western District of Michigan. This case involved a slip and fall at a resort in the Fiji Islands, with plaintiff sustaining a fractured femur. Summary judgment was granted in favor of our client, Sheraton Corporation, on the basis that the defendant did not own or operate the resort, and that no duty was owed to the plaintiff to ensure that the resort complied with the operating recommendations published by the defendant.

Sayfie v Meijer, Kent County Circuit Court. This case involved a slip and fall on a rubber strip separating a tiled floor from carpeting. Plaintiff suffered a significant knee injury involving multiple surgical operations, which significantly impacted the plaintiff's ability to perform recreational and other activities. Summary disposition was granted for our client, Meijer, Inc., on the open and obvious issue, with the court agreeing that a black rubber strip used to hold down the edge of a carpeted area was open and obvious to a reasonably prudent observer. The court rejected the plaintiff's claim that a shopper should be excluded from the open and obvious doctrine, if the shopper's attention is drawn to merchandise displayed in the store.

Cobb v Nationwide, VanBuren County Circuit Court. This case involved a claim by an attorney for first-party no-fault benefits, including significant wage loss from her legal practice. Surveillance of the plaintiff revealed business operations being conducted out of her home. A search of the internet located a website for her business, which contained a "testimonial" of the lucrative nature of her business, which was not disclosed during discovery or the plaintiff's deposition. When this evidence was presented, a voluntary dismissal was obtained for our client, Nationwide Insurance Company.

Barks v Meijer, Inc., Kalamazoo County Circuit Court case involving a claim for burn and other related injuries, allegedly caused by a hair treatment product applied at the hair salon located in a Meijer store. A jury verdict of no cause for action was entered and the defendant received costs under the mediation court rule.

O'Patik v Meijer, Inc., Kent County Circuit Court case involving a 4-year old boy who fractured his femur as a result

of a shopping car accident. The plaintiff's claim against the defendant involved allegations of negligence for failing to properly maintain their premises and for providing a defective shopping cart. Mediation award of \$12,000. A jury verdict of no cause for action was entered and the defendant received costs under the Offer of Judgment court rule.