



Plaintiff: Head injury due to falling infrastructure

Type: Verdict-Plaintiff

Amount: \$22,596,875

State: California

Venue: Los Angeles County

Court: Superior Court of Los Angeles County, CA

Injury Type(s):

- *head* - fracture, skull
- *brain* - traumatic brain injury
- *mental/psychological* - dementia

Case Type:

- *Dangerous Condition of Public Property*
- *Worker/Workplace Negligence* - Negligent Maintenance

Case Name: Ismael Soto Luna v. City of Los Angeles, No. 22STCV01171

Date: November 06, 2023

Plaintiff(s):

- Ismael Soto Luna, (Male, 59 Years)

Plaintiff Attorney(s):

- Arash H. Zabetian; The Zabetian Firm, PC; Woodland Hills CA for Ismael Soto Luna
- Haytham Faraj; Law Offices of Haytham Faraj; West Hollywood CA for Ismael Soto Luna
- Tomik Vertanous; Martinian & Associates, Inc.; Los Angeles CA for Ismael Soto Luna

Defendant(s):

- city of Los Angeles

Defense Attorney(s):

- Karen E. Woodward; Office of the City Attorney; Los Angeles, CA for city of Los Angeles
- Stephanie B. Gonzalez; Office of the City Attorney; Los Angeles, CA for city of Los Angeles

Facts:

On Nov. 14, 2020, plaintiff Ismael Luna, 59, unemployed, was standing at the corner of Noble Avenue and Roscoe Boulevard in Van Nuys waiting to cross the street when a two-pound metal cap from a light pole he was standing next to fell 30-feet and struck him on the head. The impact knocked him to the ground. Luna sustained injuries to his head, which he attributed to the incident.

Luna sued the city of Los Angeles, alleging the city had allowed for a dangerous condition to exist, and were negligent in their inspections.

Plaintiff's counsel noted that throughout the city, light poles have aluminum caps, that weigh about two pounds each, are attached to the pole by slipping the cap onto the pole and affixing it in place with four set screws that tighten against the metal pole, but do not go into the metal and there is nothing to anchor the other side of the screw. These are not the only type of poles in the city, but do constitute a significant percentage.

Plaintiff's counsel argued that while the pole design was adequate as designed, over time, the poles became dangerous and the city should have had an inspection system, as it was foreseeable that the screws would come loose over time and fall. Plaintiff's counsel further contended that the city was on actual and constructive notice that the caps were in danger of falling because city employees worked on or inspected similar poles on the same street that the accident occurred on, and thus should have noticed that caps were missing off other poles.

Plaintiff's counsel added that caps falling 30-feet creates a very dangerous condition, and the likelihood of serious harm should have resulted in an inspection system and that notice need not necessarily be as to the specific pole, but could be the result of notice of caps missing from other poles.

Defense counsel contended that the city has never had a complaint of one of the caps coming off a pole prior to this incident and that it was not foreseeable that the cap would have injured someone.

Defense counsel contended that the city had no duty under the government code to inspect or maintain the caps on the poles, because it was not a dangerous condition and that, even if it was a dangerous condition, the remoteness of the likelihood of harm, along with the lack of any notice, meant the city was not liable under the government code.

Injury:

It was unclear whether Luna lost consciousness or not as a result of the cap striking his

head. After being struck, he was transported by ambulance to a local hospital where it was determined that he had suffered a skull fracture. He also claimed to have suffered a moderate traumatic brain injury, however it had gone undiagnosed in the ER.

Luna claimed that since being injured, he has experienced a steady decline in his health, and that he was suffering from a severe neurocognitive disorder that presented as dementia.

At the hospital, he complained of headaches and neck pain, and a CT scan of the head and neck were ordered. The CT of his head showed a skull fracture approximately four inches long, but no brain bleed.

Luna was released from the hospital about two hours after he arrived. In the days and weeks that followed, he reported confusion, headaches, disorientation, blurred vision and general malaise. About three months after he was struck in the head, he saw a neurologist, who diagnosed him with a mild traumatic brain injury.

In the year that followed, Luna reported getting lost going to stores or returning home. In one instance, he says that he became lost for three days and was found many miles from his home on the freeway in Calabasas.

In mid-2023, Luna's diagnosis changed to severe neurocognitive disorder secondary to brain trauma and he was diagnosed with dementia.

Luna claimed that diffusion tensor magnetic resonance imaging indicated traumatic injury and disruption in the cingulum. Luna's fractional anisotropy values, which were used as an MRI biomarker of white matter microstructure in diffusion MRI studies of neurodevelopment, brain aging, and neurologic injury, were below the norm and Luna's tractography indicated traumatic disruption.

Plaintiff's counsel contended that Luna was fine before the November 2020 incident and that the absence of any medical records was strong evidence of his health before the incident.

Luna was reportedly no longer able to care for himself in any way, and required 24-hour attendant care. At the time of trial, Luna was in diapers, was using a walker, reported having difficulty recognizing his wife and children and was susceptible to becoming combative if he was not on anti-psychosis drugs. Luna could no longer work, though he was not working at the time of the incident due to COVID. He sought recovery for his past and future medical costs.

Defense counsel contended that Luna suffered a head injury but not a brain injury, adding

that even if Luna had suffered a traumatic brain injury, it would have been mild and should have resolved within weeks.

The defense noted that the Los Angeles Fire Department and emergency department records indicated Luna had a Glasgow Coma Scale of 15 throughout the period of care that he had received and that Luna 's CT scan at the ER indicated a preexisting and preexisting brain atrophy.

Defense counsel contended that Luna saw a chiropractor, but never complained to the chiropractor in the months before he saw his neurologist of any headaches, confusion or disorientation.

Defense counsel maintained that the treatment Luna received was attorney driven and that the absence of any preexisting medical records of Luna was suspicious because it seemed unlikely that an individual could go so long without having ever seen a doctor.

Defense counsel conceded that Luna had become demented, but that his dementia was known as behavioral variant frontotemporal dementia, which was not caused by trauma.

Defense counsel concluded that DTI-MRI testing presented by the plaintiff was "junk science," and was only used by some doctors in litigation.

Result: The jury found in favor of the plaintiff, awarding him \$22,596,875.

Ismael Luna

Trial Information:

Judge: Frederick C. Shaller

Trial Length: 14 days

Trial Deliberations: 4 hours

Jury Vote: 11-1 (liability), 10-2 (damages)

Post Trial: In April 2024, the parties agreed to settle the case.

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel. Additional information was gleaned from an article that was published by the Los Angeles Times. Defense counsel did not respond to the reporter's phone calls.

Writer Priya Idiculla