



## Failure to perform tree inspection resulted in injuries: motorcyclist

**Type:** Verdict-Plaintiff

**Amount:** \$16,420,725

**State:** California

**Venue:** San Diego County

**Court:** Superior Court of San Diego County, San Diego, CA

**Injury Type(s):**

- *leg* - fracture, leg; fracture, femur
- *neck* - fracture, neck; fracture, C2; fracture, neck; fracture, C3; fracture, neck; fracture, C4; fracture, neck; fracture, C5; fracture, neck; fracture, C6; fracture, neck; fracture, C7; fracture, cervical; fracture, vertebra; fracture, C2; fracture, vertebra; fracture, C3; fracture, vertebra; fracture, C4; fracture, vertebra; fracture, C5; fracture, vertebra; fracture, C6; fracture, vertebra; fracture, C7
- *brain* - internal bleeding
- *paralysis/quadriplegia* - paraplegia

**Case Type:**

- *Premises Liability* - Tree; Falling Object; Negligent Repair and/or Maintenance
- *Motor Vehicle* - Motorcycle
- *Government* - Municipalities; State and Local Government
- *Dangerous Condition of Public Property*

**Case Name:** Jane Neeley v. State of California acting by and through the Department of Transportation, No. 37-2021-00016990-CU-PO-CTL

**Date:** May 11, 2022

**Plaintiff(s):**

- Jane Neeley, (Female, 75 Years)

**Plaintiff Attorney(s):**

- Brett J. Schreiber; Singleton Schreiber, LLP; San Diego CA for Jane Neeley

**Plaintiff Expert  
(s):**

- Amy L. Magnusson M.D.; Physical Medicine; San Diego, CA called by: Brett J. Schreiber
- Lorra M. Sharp M.D.; Orthopedic Surgery; San Diego, CA called by: Brett J. Schreiber
- Doreen Casuto R.N., C.L.C.P.; Life Care Planning; San Diego, CA called by: Brett J. Schreiber
- Eugene M. Vanderpol, II M.S.M.E., P.E.; Biomechanical; Carlsbad, CA called by: Brett J. Schreiber
- Kristin Spoon; Economics; San Diego, CA called by: Brett J. Schreiber

**Defendant(s):**

- State of California

**Defense  
Attorney(s):**

- Stacy M. Dooley; State of California, Department of Transportation - Legal Division; San Diego, CA for State of California
- John Frederick Smith; State of California, Department of Transportation - Legal Division; San Diego, CA for State of California

**Defendant  
Expert(s):**

- Paul A. Zimmer M.B.A.; Economics; San Diego, CA called by: for Stacy M. Dooley, John Frederick Smith
- Jerome C. Stenehjem M.D.; Physical Medicine; San Diego, CA called by: for Stacy M. Dooley, John Frederick Smith
- Jennifer Craigmyle R.N.; Life Care Planning; Mira Loma, CA called by: for Stacy M. Dooley, John Frederick Smith

**Facts:**

On Aug. 19, 2020, plaintiff Jane Neeley, 75, a retail clerk, was motorcycling on northbound State Route 79, near Warner Springs, in San Diego County, when a large tree branch, weighing several thousand pounds, detached from a tree and fell onto the roadway, crushing Neeley beneath it. Neeley sustained injuries to her head, neck and leg.

Neeley sued the owner and maintainer of the roadway and the subject tree, the state of California, acting by and through Department of Transportation. Neeley alleged that the State of California, Department of Transportation (Caltrans) failed to properly maintain the roadway and trees along it, creating a dangerous condition of public property.

Neeley was granted trial preference under Code of Civil Procedure § 36, as she was over 70 years old.

Plaintiff's counsel argued that the state's documents showed that it failed to follow its own requirements of performing an adequate annual tree inspection along SR-79 and that had the state done so, it would have discovered the likelihood of potential failure of the subject tree limb.

The state originally claimed that it had no notice that the subject tree would fail at the time and place it did and that it was immune from liability pursuant to the natural condition immunity, which eliminates liability for public entities if the injury is caused by the natural condition of unimproved property. However, following completion of percipient witness and expert witness depositions in the weeks before the initial trial date, the state admitted liability and causation. Thus, the matter proceeded to a trial on damages only.

**Injury:**

Neeley suffered a brain bleed, a femur fracture, and cervical fractures at C2, C3, C4, C5, C6, C7 and C8. She also suffered a burst fracture, which is an injury to the spine in which the vertebral body is severely compressed. As a result, Neeley was rendered her a paraplegic. She was taken to a hospital, where she spent nearly a month, and then to a rehabilitation facility, where she spent over six weeks, before being discharged home.

Neeley contended that she would live a full life expectancy of 11.5 years, as she was working four days a week as a retail clerk at Julian Pie Co. and riding her Harley Davidson motorcycle 40 miles round-trip each day to work.

Neeley sought recovery of past and future care expenses, including the cost of 24-hour attendant care into the future. Specifically, the parties stipulated that Neely's past medical expenses totaled \$1,837,142.36. Neeley also claimed that her future medical costs totaled between \$5 million and \$6.5 million. In addition, she sought recovery of damages for her past and future pain and suffering. According to defense counsel, plaintiff's counsel asked the jury to award Neeley \$38 million in total damages, including \$30 million in noneconomic damages for Neeley's past and future pain and suffering.

At trial, the state's counsel contended that Neeley's life expectancy would be shortened from 11.5 years to 8 years as a result of her injuries and that Neeley's future care expenses only totaled between \$3.5 million and \$5 million.

Thus, the state's counsel asked the jury to award Neeley up to \$11.8 million, including \$5 million for her past and future pain and suffering.

**Result:**

The jury determined that Neeley's damages totaled \$16,420,725.36.

Jane Neeley

\$ 5,083,583 Future Medical Cost

\$ 7,800,000 Future Pain Suffering

\$ 1,700,000 Past Pain Suffering

\$ 1,837,142.36 Past Medical Costs Stipulated to by Parties

**\$ 16,420,725.36 Plaintiff's Total Award**

**Trial Information:**

**Judge:** Kevin A. Enright

**Demand:** \$15 million

**Offer:** \$10 million

**Trial Length:** 6 days

**Trial Deliberations:** 1 days

**Jury Vote:** 12-0 and 11-1 (all items of damage)

**Jury Composition:** 5 male, 7 female

**Post Trial:** Defense counsel noted that Neeley's past medical costs were reduced to \$230,674.79 after the verdict by stipulation of parties before trial. The parties are not pursuing post-trial motions or appeals.

**Editor's Comment:** This report is based on information that was provided by plaintiff's and defense counsel.