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Boy Awarded \$2.36 Million for Horse Kick to Face

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Of the Legal Staff

A Philadelphia jury has awarded \$2.36 million to a boy kicked in the face by a horse at a program famous for involving inner-city youths in horseback riding and polo matches.

Plaintiff Pharaoh Williams and Williams' mother, Callie Williams, of North Philadelphia, sued Work to Ride Inc. — a nonprofit created in 1994 to provide urban youths with activities centered around horses — for the broken jaw and other injuries Williams suffered after he was kicked in the face by a horse being loaded into a trailer, according to court papers. Work to Ride operates out of Chamounix Equestrian Center in Fairmount Park.

The jury found in its Sept. 22 verdict that Work to Ride's negligence was a factual cause of Williams' injuries, awarding \$2.5 million in damages and \$117,000 in medical bills, according to the verdict sheet. The jury also found that 10 percent of the negligent conduct that led to Williams' injury was attributable to Pharaoh Williams and that 90 percent of the negligent conduct was attributable to Work to Ride.

The jury award of more than \$2.6 million was reduced to nearly \$2.36 million because 10 percent negligence was attributed by the jury to Williams.

Judge Joseph I. Papalini presided over the trial.

Work to Ride has a \$1 million policy with Lloyds of London, said plaintiffs' attorney Ken Fulginiti of Duffy & Partners.

Work to Ride will not be put out of business because of the excess verdict because the next step will be a bad faith case, Fulginiti said.

Fulginiti said a bad faith claim would stem from the fact the jury returned a verdict for \$1.6 million above Work to Ride's policy limit.

Fulginiti explained that the plaintiffs were willing to settle for the \$1 million policy limits, but Work to Ride offered only \$150,000. Both the settlement master and the judge in the case recommended that Work to Ride settle the case, Fulginiti said.

Fulginiti said his clients could pursue a bad faith claim in Work to Ride's stead against Lloyds if Work to Ride assigns its interest in a bad faith claim against its insurer.

Work to Ride has filed post-trial motions, Fulginiti said.

Walter S. Jenkins of Wilson Elser Moskowitz Edelman & Dicker was Work to Ride's defense counsel. Jenkins declined comment. Work to Ride



TOM DUFFY



KEN FULGINITI

founder Lezlie Hiner could not be reached for comment Friday.

Thomas Duffy of Duffy & Partners was lead trial counsel on the case, Fulginiti said.

Williams, then 12, was asked to help Work to Ride employee Shadaria Shuler load a horse onto a trailer on July 1, 2006, according to the plaintiffs' pretrial memorandum. The defense pretrial memorandum said that Williams asked Shuler if he could help load the horse onto the trailer.

Both the plaintiffs and defense papers said that Williams hit the horse with a stick on the hindquarters and the horse kicked Williams in the face after being hit with the stick. But the plaintiffs said Williams was asked by Shuler to use the stick on the horse's hindquarters to get the horse to go onto the trailer. And the defense said that Williams hit the horse without any instruction from Shuler, Shuler commanded Williams to not hit the horse and Williams then hit the horse a second time in defiance of Shuler's command.

Plaintiff's equine expert Jill Cooke told the jury that, in her opinion, a 12-year-old child should not have been involved in loading a horse onto a trailer, Fulginiti said.

The plaintiffs argued that it didn't matter if the jurors believed Williams that Shuler asked him to hit the horse or if the jurors believed that Williams hit the horse on his own volition, Fulginiti said.

"Our position was that it doesn't matter whose version you believe," Fulginiti said. "It goes back to the initial decision to load this 2-year-old thoroughbred horse onto a trailer without a plan. ... If Ms. Shuler had planned this out better, then Pharaoh would never have been involved."

The defense pretrial memorandum said that through his involvement in the program Williams had received instructions on where to stand in proximity to horses and how to load a horse onto a trailer. Williams participated in many events where he assisted in loading and unloading horses from

trailers, the defense memorandum said.

The horse that kicked Pharaoh was not one used in the Work to Ride program, Fulginiti said, and was being loaded onto the trailer because it had been sold.

Shuler was not on-the-clock for Work to Ride when she was trying to load the horse onto the trailer, Fulginiti said. It was stipulated for purposes of the trial that Shuler was in the scope of her employment, or at least an "apparent agent," Fulginiti said.

Fulginiti said his co-counsel Duffy argued to the jury that Shuler had credibility issues with her testimony because she had said at trial that Williams admitted at the emergency room that being kicked in the face was his fault. But the jury was shown that Williams was never in the emergency room because Williams had been intubated in the ambulance on the way to the hospital and taken in for surgery as soon as he got to the hospital, Fulginiti said.

Shuler's testimony was also undermined, Fulginiti said his co-counsel Duffy argued to the jury, because she testified she was not aware that riding crops were used to strike horses to compel them to go onto trailers in the Work to Ride program, while Hiner testified that crops were sometimes used in that way.

When Pharaoh Williams was kicked, his jaw was broken and he was knocked unconscious, according to the plaintiffs' memorandum. Williams spent 11 days at Children's Hospital of Philadelphia and he needed surgery on his mouth, including the insertion of 25 screws, the memorandum said. Williams has had memory loss, problems concentrating and migraines, the memorandum said. Williams has receding gums due to his injuries, and he will likely lose some of his teeth in his 20s, the memorandum said.

Williams' medical expenses were stipulated at \$120,000, Fulginiti said.

Williams loved the program and was even recommended by Hiner for the television show "Kid Nation," Fulginiti said.

Williams returned to the program for a while, but he couldn't ride anymore because his head would throb when he got back on horses, Fulginiti said.

All of the other defendants — Chamounix Equestrian Center, the city of Philadelphia, Hiner and the owner of the horse that kicked Pharaoh Williams — were dismissed by voluntary nonsuit, according to the court docket.