

# Missouri Lawyers WEEKLY

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## ■ \$250,000 VERDICT

# Jury awards woman in minor traffic accident

BY HEATHER COLE

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Plaintiff Janice Burris started crying silently in court after a plaintiff's expert described how Burris' work as a nurse ended after another driver rear-ended her car.

Burris also looked physically uncomfortable in U.S. District Court in St. Louis early this month. Her right shoulder hung lower than her left, and she shifted as if she found it difficult to sit for long, just as vocational rehabilitation expert James England Jr. described.

Burris, who is in her 50s, was a nurse at Landmark Hospital of Cape Girardeau at the time of the December 2010 accident. She stopped working a year later because of injuries suffered in the accident, according to a Jan. 14 plaintiff's trial brief.

Burris has been unable to work or do much cooking or cleaning, sleep well, or sit quietly and read, England testified. She also has been depressed, he said.

A plaintiff's tears in the courtroom can be a two-edged sword, plaintiff's attorney James Krispin said later in a phone interview. A juror who was not "buying it" might think crying is overly dramatic, Krispin said.

"But I got the feeling with this gal, as hard a worker as she had been all along, that [jurors thought] she was genuine," Krispin said.

"She cried lots," defense attorney Amy Simkins said in a phone interview. "I'm not sure how that played."

The defendant, Directech Development Corp., whose driver hit Burris' car, admitted liability for the accident before trial. Burris' neck hurt and she had a muscle spasm that became chronic after the accident, according to a description of the case Krispin provided. Whether the minor impact could have caused Burris' injuries was the real issue in the case, he said.

Burris was eventually diagnosed with right carpal tunnel and unconfirmed thoracic outlet syndromes and placed on disability,

Krispin's description said. Thoracic outlet syndrome, caused by compression, injury, or irritation of nerves or blood vessels in the lower neck and upper chest area, can cause neck, shoulder and arm pain, according to a Cleveland Clinic website description.

But a defense expert, Dr. Richard Katz of St. Louis, said Burris' condition was conversion disorder, Simkins said. The Mayo Clinic website describes the disorder as a condition in which the patient shows psychological stress, such as from a scary or stressful incident, in physical ways.

"He did not think she was faking or malingering, but that this minor accident did not cause that condition," Simkins said.

The Directech driver's van suffered no damage in the accident, and Burris' car had a \$1,069 repair estimate, according Krispin's description of the case.

The driver died in March 2014 of natural causes unrelated to the accident and the plaintiff's attorneys later dropped him as a defendant, Simkins said. Because of his death, the defense was unable to offer testimony about the crash's force, she said.

Simkins asked for a mistrial after Burris mentioned insurance coverage when she testified, which wasn't allowed. U.S. Chief Magistrate Judge Thomas Mummert III denied the motions. He didn't think the mentions prejudiced the case, Simkins said.

The parties, only \$50,000 apart in settlement negotiations before the trial, reached a "high-low" agreement of \$250,000 and \$75,000 the night before closing arguments, Krispin said. Under the agreement, the defendant would pay at least \$75,000 even if the verdict was below that amount or any verdict above that amount up to \$250,000. Even if the verdict was larger, the maximum the defense would pay was capped at \$250,000, which turned out to be exactly what the jury awarded after a three-day trial and about an hour of deliberation.



James G. Krispin



John H. Lake

Simkins said she didn't know how the jury came up with the verdict amount: Burris had alleged \$625,000 in lost wages.

Krispin put the award, paid within eight days of the verdict, in the "win" category for the plaintiff's side.

"We beat our last demand [of \$200,000], and that's always a win," Krispin said.

Burris is living with her daughter in Las Vegas and getting by. She receives Social Security disability payments, which couldn't be mentioned in court, Krispin said.

"She's happy" with the verdict, Krispin said. "She's not going to work again, though." **MO**

## MOTOR VEHICLE COLLISION

■ **Venue:** U.S. District Court for the Eastern District of Missouri

■ **Case number/date:** 4:13-cv-1910/Feb. 4, 2015

■ **Judge:** Thomas Mummert III

■ **Last pretrial demand:** \$200,000

■ **Last offer:** \$150,000

■ **Plaintiff's experts:** Dr. Garth Russell, Columbia (orthopedic surgery); James M. England Jr., St. Louis (vocational)

■ **Defendant's expert:** Dr. Richard T. Katz, St. Louis (rehabilitation)

■ **Insurer:** Liberty Mutual

■ **Caption:** Janice Burris v. Directech Development Corp.

■ **Plaintiff's attorneys:** James G. Krispin, St. Louis; John H. Lake, Lake Law Firm, Jefferson City

■ **Defendant's attorney:** Amy Simkins, Rouse & Cary, St. Louis