

Pedestrian struck by bus: Failure to maintain clearance, call police: Respondeat superior: Tibial fracture: Degloving injury: Verdict.

Kuprianczyk v. Chicago Transit Auth., Ill., Cook County Cir. Ct., No. 98 L 3204, Jan. 25, 2002.

Kuprianczyk, 35, approached a bus parked in a terminal to ask the driver for directions. As he came to the open passenger door, the driver suddenly accelerated. The bus knocked Kuprianczyk down and ran over his left leg with its right rear dual tandem wheels. He suffered a tibial fracture and an open and closed degloving injury on his leg requiring five surgeries. His medical expenses total about \$259,900. He is a crane operator and missed about 30 months from work. His lost income totaled \$162,000.

Kuprianczyk sued the transit authority and the bus driver. Plaintiff claimed the driver violated transit authority operating procedures by failing to maintain a three-foot clearance between the bus and a pedestrian. Plaintiff also claimed the driver failed to warn him before moving the bus and was negligent in driving with the doors open. Suit against the transit authority alleged it violated its operating procedures by failing to call the police after plaintiff was injured. Plaintiff also claimed the transit authority was liable under a respondeat superior theory of liability.

Defendants argued plaintiff was intoxicated at the time of the incident and could not have accurately perceived the events as they occurred.

A jury awarded about \$4.18 million, reduced by 15 percent for plaintiff's negligence to approximately \$3.55 million. The transit authority paid the entire award.

Plaintiff's experts included Mariusz Ziewewski, biomechanical engineering, Fargo, N.D.; John S. Fabian, bus safety, Schenectady, N.Y.; Dirk Nelson, orthopedic surgery, Chicago, Ill.; James Radke, vocational rehabilitation, Northbrook, Ill.; and Charles Linke, economics, Champaign, Ill.

Plaintiff's Counsel

*Antonio M. Romanucci,

*Stephan D. Blandin, and

Frank DiBella, all of Chicago, Ill.

*An asterisk appearing beside the name of plaintiff's counsel indicates that the attorney is an ATLA member.