

# LAWYERS WEEKLY USA



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## TOP TEN JURY VERDICTS OF 2005

### #5

## Giants Stadium Beer Vendor Held Liable In \$135 Million Auto Accident Case

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*By Natalie White*

In the largest liquor liability verdict in the nation, a New Jersey jury last January found the beer concession at Giants Stadium in New York liable for a drunken football fan who caused a car crash that paralyzed a 2-year-old girl.

After a month-long trial, the jury ordered the beer vendor and the driver to pay \$135 million, including \$75 million in punitive damages. The vendor was responsible for half of the compensatory damage and all of the punitives, for a total of \$105.5 million. The drunk driver was responsible for the remainder.

Although the case was in some ways a simple dram shop case, the fact that it was a stadium vendor rather than a small bar made it more difficult, according to plaintiffs' lawyer David Mazie.

"These cases are never easy because juries tend to put the lion's share of the blame on the drunk driver," he said.

Bringing a lawsuit against a large event vendor is particularly difficult because customers are virtually anonymous among the crowds and drinkers are not necessarily visibly drunk when served. However, in this case, Mazie said the fan was visibly drunk and slurring his words and he returned the same concession table for his beer several times. In addition, they were able to show that the vendor's own policies called for special training to spot drunkenness, but the company did not make sure that all of its servers had the training before selling beer.

Mazie attributed the large verdict to the combination of a convincing liability case, catastrophic injuries and a defendant with deep pockets.

"All three things came together for this verdict," said Mazie. "I think it was a reasonable verdict, even conservative. This case is the perfect argument against caps on anything. Here is a case of a victim who can't move or breathe. It would be wrong to have any type of cap on pain and suffering. People like her would be hurt by such legislation."

Philadelphia-based Aramark Corp., which operates the concessions at Giants Stadium and several other sports facilities, has appealed the verdict, said Mazie. He said mediation talks have been scheduled for later this month.

### **Drunk As A Skunk**

Daniel Lanzaro was driving home from a Giants football game in October 1999 when he lost control of his truck and slammed, head-on into a Toyota Corolla, paralyzing 2-year-old Antonia Verni from the neck down. Verni, now 8, is unable to move her arms or legs or breathe on her own and needs round-the-clock care.

While Lanzaro was drinking at the football game, the Vernis were picking out a pumpkin for Halloween.

Although stadium rules prohibit vendors from selling more than two beers at a time to one person, Lanzaro testified that he bribed one of the beer sellers with \$10 to ignore the rules. He said he bought six beers at halftime and that he had already drunk several before that.

Following the accident, Lanzaro's blood-alcohol level measured 0.266, more than twice the legal limit of .10. Lanzaro, who settled for his insurance limits of \$100,000, pleaded guilty and was sentenced to five years in prison, which he is currently serving.

### **Focusing Blame On The Vendor**

Clearly, a substantial portion of the blame rested with Lanzaro for driving while he was extremely drunk. But with the driver settled for his policy limit, Mazie focused on the responsibility of the beer vendor.

He showed the jury through documents and testimony that Aramark had created a "culture of intoxication" that contributed to the accident that robbed Antonia of her ability to move and breathe.

"The name of the game here was selling beer, and that was the bottom line," he said.

Mazie said that one of the primary challenges for the plaintiffs was reconciling the inconsistencies in Lanzaro's accounts of how much he drank at the game. His versions varied significantly between what he said immediately after the accident and what he said in subsequent depositions.

"That was a concern because he was my primary witness," said Mazie. "But in the end, at trial, he was very honest. He said that he was guessing in the earlier statements. At trial he said, 'I know I drank a lot but I cannot tell you how much.'"

The defense argued that Aramark did nothing wrong. Witnesses said that the company has a two-beer limit and trains its employees to spot problems and refuse to serve those that are intoxicated.

But Mazie said internal Aramark documents and witnesses demonstrated that more than half the servers on duty that night never had the training. Over several years, the company logged thousands of violations, but few people were disciplined - an indication that the company was not serious about its policies.

"Another thing they were arguing was that tolerance was an issue," said Mazie. Because Lanzaro was a heavy drinker, Aramark claimed their employees could not tell he was intoxicated.

The plaintiffs responded to that argument by calling a toxicologist to testify that, with a blood alcohol level that was twice the legal limit at the time of the accident, there was little doubt Lanzaro would have showed signs of intoxication when he bought the beers at halftime. In fact, Lanzaro himself testified that he was slurring his speech by halftime and his brother and sister-in-law testified that they noticed he was showing signs of being intoxicated at halftime.

"They argued that they don't serve people who are visibly intoxicated, but we were able to show that they weren't very vigorous in enforcing that," said Mazie. "Their own witnesses testified that they did

serve people who are intoxicated and only refuse when people are causing a problem. It comes down to the bottom line. They want to sell as much beer as possible. The bottom line is making a buck. That's why punitives were so high in this case."

The plaintiffs also noted that several years of Aramark records went missing, prompting the judge to tell jurors they could infer that the evidence would have been bad for the defense, Mazie said.

"Everything came together in our case to establish this culture of intoxication," he said.

In a bizarre setback, a half-hour of the trial has had to be reconstructed for the record because the tape recorder in the courtroom was not turned on during jury instruction, said Mazie.

"It was a critical part of the trial because it was during the charge to the jury on the punitive damages," Mazie said.

Fortunately, much of the charge was preserved in writing because the jury had asked for clarification and received some of its instructions in writing, he said.

Using the written jury instructions and testimony from lawyers, the missing half-hour was reconstructed and is under review.

Antonia's parents, Ronald and Fazila Verni, said they plan to use some of the award for stem cell research that might some day provide information useful in curing cases such as their daughter's.

They also said they hope the verdict will force vendors to put in place policies to prevent people from overdrinking and driving.

*Questions or comments can be directed to the features editor at: [bill.ibelle@lawyersweekly.com](mailto:bill.ibelle@lawyersweekly.com)*

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**Verdict:** \$135 million

\$75 million in punitive damages.

**State:** New Jersey

**Type of Case:** Liquor liability

**Trial:** 4 weeks

**Deliberations:** 2 days

**Status:** On appeal. Mediation scheduled for January.

**Case Name:** Verni v. Lanzaro

**Date of Verdict:** Jan. 19, 2005

**Plaintiffs' Attorneys:** David A. Mazie and David Freeman of Nagel, Rice & Mazie in Roseland, N.J.

**Defense Attorney:** Brian C. Harris of Braff, Harris & Sukoneck in Livingston, N.J.

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