

Cook County & Illinois
JURY VERDICT REPORTER

Publication: Illinois Jury Verdict Reporter -- Urban Ring Edition Published: 4/15/1994

PRODUCT LIAB.--SLACK ADJUSTER BLAMED FOR TRUCK FIRE, INJURIES

(94 Mr/26) *Paul Wise, Rose Wise v Paccar Inc., doing business as Kenworth Truck Co., Whiteford Kenworth Inc.* 37D01-9112-CT-309 Tried: Feb. 15-17, 1994 (11)

Verdict: Not Guilty to Paul v both defts; Not Guilty to Rose v both defts on consortium claim.
 Judge: J. Phillip McGraw (Indiana, Jasper Cir Ct)
 Pltf Atty: Terrance Smith of *Smith & DeBonis* (East Chicago, IN) for Paul, Rose Demand: PW \$800,000;
 Deft Atty: P. Mark Crane and Martin A. Dolan of *Segal, McCambridge* for both defts (Self-Insured) Offer: none Offer: WKI \$0
 Pltf Medl: Dr. Richard Loeffler (Orthopedist) for Paul
 Pltf Expert: Paul Strotman, 5295 Plaza Avenue, Portage, IN (219-762-2750) (Truck Mechanic) for Paul
 Deft Expert: David Dagenstein, in-house Kenworth Truck Co., Seattle, WA (206-828-5000) (Mechanical Engineer) for both defts

Sept. 4, 1989 trucker Paul Wise, eastbound on the Indiana Toll Road near Hammond, was flagged down by a motorist who spotted a fire in a wheel of his Kenworth tractor. Wise stopped the tractor-trailer rig safely, but injured both knees while climbing over a guardrail as he extinguished the fire. Claims torn right medial meniscus and chondromalacia (2 surgeries done, with future replacement costing \$25,000 possible) plus aggravation of pre-existing left knee problem (\$16,183 past medl. exp.; \$61,400 for 68 weeks LT). Wise alleges, in product liability action against the manufacturer Paccar and distributor Whiteford, that the fire was due to a defective automatic slack adjuster (brake component)--noting that the Whiteford service manager in Toledo cited "slack adjuster failure" on the truck's post-incident repair record. Defts attributed the fire to Wise inadvertently driving the tractor with the parking brake applied (he drove 200 miles to Toledo immediately after the incident with no braking problems evident). Whiteford's service manager testified that the "slack adjuster failure" report had been made solely for the purpose of submitting a warranty claim for Wise since his truck was relatively new. Contended that pltf's injuries were not proximately caused by the condition of the truck.