

## Motor Vehicle

### Govt worker ran light, causing crash that paralyzed 4-year-old

Decision: (P) \$55,184,288.00

Case Type: Broadside, Motor Vehicle - Red Light, Motor Vehicle - Intersection, Government

Case Name: Leilani Gutierrez, a minor, by and through her Guardian ad Litem, and June Gutierrez v. the United States of America, No. SA CV 04-1045-AHS

Venue: United States District Court, Central District, Santa Ana, CA

Judge: Alicemarie H. Stotler

Date: 09-27-2007

Plaintiff(s):

Attorney(s):

- Wylie A. Aitken; Aitken, Aitken & Cohn; Santa Ana, CA, for Leilani Gutierrez, June Gutierrez
- Darren O. Aitken; Aitken, Aitken & Cohn; Santa Ana, CA, for Leilani Gutierrez, June Gutierrez
- Steven D. Lansford; Stody Mills Lansford Wlaker & Doyle; Newport Beach, CA, for Leilani Gutierrez, June Gutierrez

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Expert(s):

- Jan Roughan; Life Care Planning; Arcadia, CA called by: Wylie Aitken, Darren Aitken, Steven Lansford  
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- Wayne Lancaster Ph.D.; Economics; Fullerton, CA called by: Wylie Aitken, Darren Aitken, Steven Lansford  
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- **Edward Fatzinger Jr.; Accident Reconstruction**; Los Angeles, CA called by: Darren Aitken, Wylie Aitken, Steven Lansford  
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- Jeffrey Wheeler M.S.; Injury Biomechanics; Los Angeles, CA called by: Wylie Aitken, Darren Aitken, Steven Lansford  
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- Colin Koransky; Post Traumatic Stress Disorder; Newport Beach, CA called by: Wylie Aitken, Darren Aitken, Steven Lansford  
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- Joel Rosen; Physical Medicine; Northridge, CA called by: Wylie Aitken, Darren Aitken, Steven Lansford  
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- William Loudon M.D.; Pediatric Neurosurgery; Orange, CA called by: Wylie Aitken, Darren Aitken, Steven Lansford  
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- Robert Feldman; Video Production; Pasadena, CA called by: Wylie Aitken, Darren Aitken, Steven Lansford
- Keiko Johnson; Video Production; Pasadena, CA called by: Wylie Aitken, Darren Aitken, Steven Lansford

Defendant(s):

Attorney(s):

- Keith M. Staub; Hewitt & Prout; Los Angeles, CA, for United States of America

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Expert(s):

- None

Facts:

On May 12, 2002, June Gutierrez, 26, a waitress, was driving southbound on Newport Boulevard in Costa Mesa, with her 4-year-old daughter, Leilani Gutierrez in the back seat on the driver's side. She entered Newport's intersection with Wilson Street on a green light, and was hit by Michael Leinert, who, while driving east on Wilson, ran a red light. Leinert was in the course and scope of his employment with the United States Department of Defense. Leinert hit Gutierrez's vehicle on the right passenger side at a speed of about 30 mph, causing Gutierrez to lose control of her car. The car left the road, struck a utility pole on the passenger side and turned onto the driver's side. Gutierrez and her daughter sued the United States for negligent operation of a motor vehicle by its employee. They alleged that Leinert violated California Vehicle Code 21453(a) in running the red light.

After several depositions, the U.S. admitted liability.

Injury:

As a result of the accident, Leilani suffered a number of injuries. She had a head injury with subarachnoid and intraventricular hemorrhages, a right brain stem contusion, a craniocervical dislocation at the atlanto-occipital and atlanto-axial areas, diffuse cerebral edema, a parietal lesion. She suffered a spinal cord injury the cervical C2 disc which led to tetraplegia. She also suffered traumatic instability at C6-7, severe respiratory failure, a collapsed left lung, chest wall trauma, abdominal trauma, a pulmonary contusion, splenic laceration and right hip bruising.

After the crash, Leilani spent the next six months at a series of hospitals and rehabilitation centers. In total, she has had 25 surgeries and medical procedures and spent approximately 250 days in the hospital since the accident. She requires a ventilator to breathe.

The plaintiffs contended that due to her permanent disability, Leilani will never be able to work, will require continuous medical care and will suffer emotional distress over her condition. They submitted a life care plan.

Gutierrez claimed that she developed severe post-traumatic stress disorder as a result of seeing her daughter injured.

The U.S. disputed the need for an extensive life care plan and argued that Leilani has a life expectancy of no more than 32.5 years.

**Verdict Information:**

Following a bench trial, Judge Alicemarie Stotler awarded \$54,143,370 to Leiliani and \$1,040,918 to Gutierrez.

**June Gutierrez**

\$29,132 Personal Injury: Past Medical Cost

\$212,500 Personal Injury: Future Medical Cost

\$49,286 Personal Injury: Out of Pocket Expenses

\$750,000 Personal Injury: Non-Economic Damages

**Leilani Gutierrez**

\$3,840,350 Personal Injury: Past Medical Cost

\$18,667,553 Personal Injury: Future Medical Cost

\$635,467 Personal Injury: FutureLostEarningsCapability

\$31,000,000 Personal Injury: Non-Economic Damages