



Trial Style

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Take The Trash Out

Roger L. Gordon and Vincent Vallin
Bennett Win \$1.7 Million For Injured
Sanitation Worker

Style Stars
Roger L. Gordon
Vincent V. Bennett





ROGER L. GORDON

Currently in his 33rd year of practice, Roger L. Gordon's verdicts in toxic tort, products liability, construction accidents, premises liability, and medical malpractice have garnered him the respect of his peers in the legal community. He has been named a Los Angeles "Super Lawyer" for three consecutive years and is a member of the American Board of Trial Advocates.

His success in toxic tort cases has exposed critical links between environmental exposure and negative effects on human health. In **Franco v. O'Hommel**, Gordon recovered nearly \$4 million for a plaintiff exposed to lead in utero.

Gordon's product liability cases include toxic chemical exposure and improperly designed products. In **Miller v. Amro Fabricating**, the plaintiff fell six feet from scaffolding onto a concrete floor. Demonstrating that the fall resulted from a scaffolding design that did not provide sufficient warning about properly latching a guardrail, the jury returned a verdict of \$3.7 million.

In medical malpractice cases, he focuses on his clients' future medical needs along with liability associated with the original event. In **Romero v. Queen of the Valley**, the jury returned a verdict of \$24 million in future damages (\$7.1 million present value) to a plaintiff rendered quadriplegic and developmentally delayed due to an obstetrician's negligence.

Gordon at a Glance

Education: J.D., Loyola University School of Law, 1972

Admissions: California United States District Court, Central District of California Ninth Circuit Court of Appeals, United States Supreme Court

Affiliations: Los Angeles County Bar Association, American Bar Association, Consumer Attorneys Association of Los Angeles and Consumer Attorneys of California Association of Trial Lawyers of America

Special Skills: Arbitrator, medical malpractice cases

VINCENT VALLIN BENNETT

Practice Focus: Medical malpractice, products liability, toxic torts, major personal injury, civil rights, wrongful death, class actions

Affiliations: Los Angeles County, San Fernando Valley and Mexican American Bar Associations, American Trial Lawyers Association, Consumer Attorneys of California and Consumer Attorneys Association of Los Angeles

Special Skills: Can communicate with clients in Spanish



Bennett at a Glance

Education: J.D., University of California at Los Angeles, 1988

Admissions: California United States District Court, Central District of California.

Full Frontal Assault

Roger L. Gordon and Vincent Vallin Bennett Win \$1.7 Million For Sanitation Worker Injured by Front-Loading Trash Truck

By Lisa Miller

It wasn't just "trash talking" when plaintiff's counsel Roger L. Gordon and co-counsel Vincent Vallin Bennett decided to ask a Malibu jury for millions in damages for their client Ramiro Serrano. They believed that Serrano, disabled for life, was injured because of a design flaw in the front-loading waste-disposal truck to which he was assigned.

The award compensated Serrano for injuries he sustained when a trash bin fell on him as it was emptying into a trash truck. The defendant, Amrep, Inc., offered \$150,000 before trial, and the plaintiff demanded \$750,000 via CCP 998.

"This may be the first case to expose a very dangerous, but easily remedied, design flaw in waste-disposal trucks," Gordon, named partner with Los Angeles' Gordon, Edelstein, Krepack, Grant, Felton & Goldstein, says.

Defense attorneys Michael Ayres and Timothy X. Lane of Orange's Brady, Vorwerck and Ryder argued that the design is not flawed, but is fundamentally safe, it is accepted as the standard in the industry, and design alternatives are not practical. The defense asserted that the accident was the fault of the plaintiff, for not being attentive and being in a position where he could be hit by the load. The defense further contended that a co-employee was responsible because he did not properly operate the fork controls.

The defenses' motions for new trial and also judgment notwithstanding the verdict on behalf of Amrep were denied.

According to Gordon, a personal injury attorney for 35 years whose firm focuses its practice on personal injury, the bin slid off a forklift and broke Serrano's neck, leaving him permanently disabled. Serrano continues to struggle with the demands of daily living, such as putting on his socks.

"The manufacturer of the truck, Amrep Inc., was well aware that such an accident could easily occur," Gordon says. "But (they) did nothing to prevent it."

continued page 4



• M A T T E R

According to Bennett, an associate at Gordon, Edelstein and co-counsel, the entire tragedy could have been avoided. And the jury saw this in the course of the plaintiff's case-in-chief. The entire trial lasted 12 days, with deliberation completed in just one. "We presented testimony that Mr. Serrano's crippling injuries could have been avoided entirely by a few simple design considerations," Bennett says.

Gordon, with numerous multi-million dollar trial verdicts, is a member of the prestigious American Board of Trial Advocates, and a Loyola Law School graduate.

"This devastating injury could have been prevented with some forethought by the manufacturer," Gordon says. "We hope this decision gives companies pause before releasing potentially hazardous products."

The trash bin, which weighed 500 pounds, was being hoisted so that its contents could be deposited in the hopper on the truck. It fell from the front loader and struck Serrano, a 45-year-old father of four. Serrano was knocked unconscious. The impact broke his neck.

"We presented evidence on Mr. Serrano's behalf showing the jury that the truck design of the front-loading lift did not incorporate any hooks, latches, self-leveling devices or even a non-slip surface on the forks of the forklift," Gordon says. "Any of these would likely have prevented the accident."

Amrep's waste disposal trucks rely on gravity to keep the bins in place, according to Bennett, which poses an easily foreseeable risk of serious harm.

Gordon says that this risk extends to workers who use the trucks, pedestrians, and drivers who might be in the vicinity.

"One of Mr. Serrano's co-workers testified that everyone who operates such a truck drops bins by mistake from time to time," Gordon says. "The defendant's own experts acknowledged in trial that operator errors are inevitable, yet the defendant incorporated no safety devices to protect against the eventuality."

Gordon and Bennett demonstrated for the jury, empanelled by Judge Cesar C. Sarmiento, that any of several simple, inexpensive safety devices could eliminate the risk that trash bins may slide off the forks of the forklifts. Patents are on file for several types of safety devices that could have prevented the accident, they asserted.

The trial involved a number of experts. The plaintiff's called Fred Smith, mechanical engineer; Harvey Cohen, human factors; Martin Siegel, mechanical engineer; Dr. Phil Sobel, orthopedic surgeon; Dr. Donna Barras, life care planner; Dr. Alfred Bloch, psychiatrist; and Tamara Hunt, economist. The defense called Mack Quan, mechanical engineer; and Anthony Stein, human factors.

The gross jury verdict totaled nearly \$4 million for medical expenses, loss of earnings and pain and suffering. The jury concluded that Serrano was partly responsible for the accident for standing too close to the truck as the trash bin was lifted. The manufacturer was held liable for 30 percent of the damage, resulting in a net verdict of \$1.75 million for the plaintiff. The CCP 998 was worth an additional \$195,000 in costs to the plaintiff.