

## JONES, SKELTON & HOCHULI ATTORNEYS JAY ROSENTHAL AND JOHN LIERMAN CONQUER FOUR-DAY JURY TRIAL

February 8, 2018 | Case Summaries, News



*Sulkowski v. Skanon Investments, Inc.* – Jones, Skelton & Hochuli Partner [Jay](#)

[Rosenthal](#) and Associate [John Lierman](#) recently obtained a favorable verdict after a four-day jury trial in Maricopa County Superior Court. The client, a supplier of concrete and construction materials, had been sued after a hydraulic hose on one of its cement mixer trucks failed, spraying the plaintiff's BMW convertible with hydraulic fluid. At the time, the top of the convertible was down and it was alleged that fluid landed on the plaintiff and injured his eyes, resulting in dry-eye syndrome. The plaintiff had about \$3,600 in proven medical expenses for the initial injury to his eyes, and claimed about \$129,000 in anticipated care for the rest of his life, plus pain and suffering. The defendant concrete company admitted fault for the accident and liability for cleaning the defendant's car, as well as treatment expenses for the initial personal injury, but challenged whether it violated any trucking regulations and disputed the severity and permanency of the claimed injuries.

The defense was based on the general rule that damages are limited to those proximately caused by the negligence of a defendant. The defense argued that the plaintiff had pre-existing and unrelated eye problems, and that the plaintiff failed to act reasonably after the incident to mitigate his damages. Evidence showed that after the accident, the plaintiff rushed his vehicle to the BMW dealership to have it cleaned, but did not wash himself off until several hours later. He consulted an optometrist later that day, but after the initial injury healed, the plaintiff refused standard treatments for dry-eye syndrome—including tear duct plugs routinely used in such cases—and failed to follow doctor recommendations for using eye drops. Expert testimony on dry-eye syndrome related it to various factors, including age and climate, and cast doubt on any link to the accident.

After the parties presented their cases, the plaintiff asked for an award of \$684,000; the defense recommended the jury award the plaintiff \$35,000 to \$40,000. After deliberating for two hours, the jury awarded the plaintiff \$35,000.

[Jay Rosenthal](#) represents clients in the areas of commercial litigation, catastrophic injury, tort, construction defect and insurance defense. He is committed to providing exceptional client service, consistently communicating and providing status updates for clients regarding their matters and plans for further handling.

[John Lierman](#) focuses his practice in the areas of premises liability, personal injury and general civil litigation. He represents clients primarily in the retail and hospitality, light industry, insurance, and education fields.