

# CHICAGO LAWYER®

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## SHELTER COLLAPSE SETTLEMENT SETS RECORDS

A \$115 million settlement for a paralyzed dancer was the year's top deal

Potential jurors might have suspected this case was different during voir dire.

In addition to the usual questions on bias and conflicts of interest, they were asked if they could sign off on a verdict of \$150 million or more, should the evidence support it.

"I knew I could deliver on that evidence," said Patrick Salvi Sr., the managing equity partner and chairman of Salvi, Schostok & Pritchard.

The jurors ended up finding for plaintiff Tierney Darden and awarding her \$148 million. It was the largest Cook County personal-injury verdict ever reported and the largest verdict ever reported against the city of Chicago, according to John L. Kirkton, editor of *Jury Verdict Reporter*. Rather than face appeal, they chose to settle for \$115 million, itself the largest reported personal-injury settlement for an individual in Illinois history.

But any big win takes strategy, so *Chicago Lawyer* talked to Salvi to see how this record-breaking result came to pass.

Darden, 24 at the time, was a dance student waiting out a storm at an O'Hare International Airport pedestrian shelter in August 2015. The shelter collapsed on her, leaving her paralyzed. Later investigation showed the shelter contained jerry-rigged parts and was missing most of the seven anchors that typically secure the structure to concrete.

From a plaintiff's lawyer perspective, the case had three main things going for it: A likable, credible victim; a family of caretakers "That you couldn't help but love," Salvi said; and a defendant both at fault and with \$500 million in insurance coverage.

The trial team decided they could ask for a figure approaching \$200 million without it being too much or having a negative impact on Darden's or the lawyers' credibility. They asked for \$174 million.

"From the standpoint of the underlying case, even though the verdict was high and the settlement was high, you have to remember that Tierney's injuries unfortunately amounted to what would be regarded as one of the worst possible injuries you could sustain," Salvi said.

It wasn't just the dancer's paralysis.

"The nature of that trauma resulted in a horrific neuropathic pain syndrome, which was proven to be constant, unrelenting and lifelong and only partly aided by opioid medication," he said.

During trial, the focus wasn't on fault, but on whether treatments like a spinal cord stimulator or intrathecal drug pump could alleviate the pain. The jury decided it couldn't, deliberating for five hours before awarding \$148 million.

Salvi looked at three factors in deciding to settle.

First, \$115 million, the team decided, was enough to take care of Tierney Darden for the rest of her life.

Second, the jury awarded \$32 million for future medical expenses. The Salvi, Schostok & Pritchard lawyers estimated her actual costs would be closer to \$15 million.

Third, risk. Although Salvi believes the amount would have been affirmed on appeal, the previous relevant record verdict was \$64 million for a paralyzed iron worker in 2012's *Ronald Bayer v. Panduit Corp.* — less than half of what the jury awarded in *Tierney Darden v. City of Chicago, et al.*

They decide to settle, setting records in the process.

"If ever I was going to try a case and try to hit a home run, this was it," Salvi said.