

Balanced Trees on Balance Beams!

You represent the defendant, American Steel Company, in a case involving the collapse of a civic center during a gymnastics competition. The plaintiff, Robin Lancer¹, a 12 year old gymnast was performing a balance beam routine at the time of the collapse. She sustained numerous cuts and bruises and was hospitalized for three days following the incident. She also suffered the emotional trauma of the event, particularly from watching her best friend (another talented gymnast) die as a section of the roof crashed upon her. Robin's lasting injuries appear to be to her wrist. Her primary care physician diagnosed carpal tunnel syndrome and Robin underwent surgery for the condition, which seems to have been only marginally successful. Based upon further expert review of Robin's medical records and the condition of her wrist, one expert has stated that he believe she suffered a disc injury in her back, which is causing weakness in her wrist and arm. The expert report discussing this analysis was provided to the plaintiff and her counsel just days prior to the mediation. The plaintiff plans additional tests regarding her medical condition, but all parties decided to go ahead with the mediation process. If the disc is determined to be causing or contributing to Robin's symptoms, she may or may not decide to have disc surgery, depending upon the precise diagnosis and physician's recommendations.

The plaintiff sued American Steel Company under a strict liability theory - that its steel bars failed, causing the accident. American Steel Company brought in the concrete supplier, Acme Concrete, alleging that faulty mixing and inappropriate installation of the concrete caused the accident - that there was nothing wrong with the steel reinforcing bars. Acme Concrete is insolvent, and filed for bankruptcy protection prior to this litigation.

Draw the neutral tree - get the structure.

Supply some wildly hypothetical numbers, whatever sounds right! Calculate - roll back the tree.

¹This fact pattern is derived from Janet G. Perry, "Counseling and Negotiation - The Settlement of Lancer v. American Steel," in Professional Responsibility for Lawyers, A Guided Course (Published by Commerce Clearinghouse, Inc. in cooperation with the Center on Professionalism of the University of Pennsylvania Law School, 1991).