

## Recent Burn Injury Pain and Suffering Verdicts Upheld between \$300,000 and \$3,600,000

Posted on April 8, 2009 by [John Hochfelder](#)

Burn injuries are without doubt among the **most painful injuries a person can experience**. They come from a wide variety of accidents such as fires in the home or a car, electrical shocks on the job and even operating room lights during surgery. Recent court decisions in New York have upheld verdicts for pain and suffering damages in burn injury cases from \$300,000 to \$3,600,000.

In **Hawthorne v. Vehicle Asset Universal Trust** (Index # 16721/04; Supreme Court, Queens County; 12/11/08), a 40 year old construction worker, James Stanton, was literally burned alive in his car when he could not escape after a motor vehicle accident.

He sustained deep burns of his entire body and endured 10 minutes of conscious pain and suffering before death. A Queens County jury awarded Mr. Stanton's estate \$10,000,000 for his pain and suffering but the trial judge found that the jury had been over-emotional and rendered an excessive award. The judge ordered a reduction to **\$2,500,000**.



In another recent big damage burn injury case, a Columbia County jury awarded a 24 year old electrician **\$3,600,000** for his pain and suffering (\$300,000 past, \$3,000,000 future). Jordan Neissel was attempting to repair a college's circuit breaker when he was shocked and severely burned. Although only about 7% of his external skin was damaged, the jury's award was upheld in full by the appeals court in [Neissel v. Rensselear Polytechnic Institute](#). The appeals court took into account the fact that plaintiff sustained significant and permanent muscle and nerve loss, lacks feeling in his arms and suffers from post-traumatic stress including flashbacks, nightmares, social isolation and panic attacks.

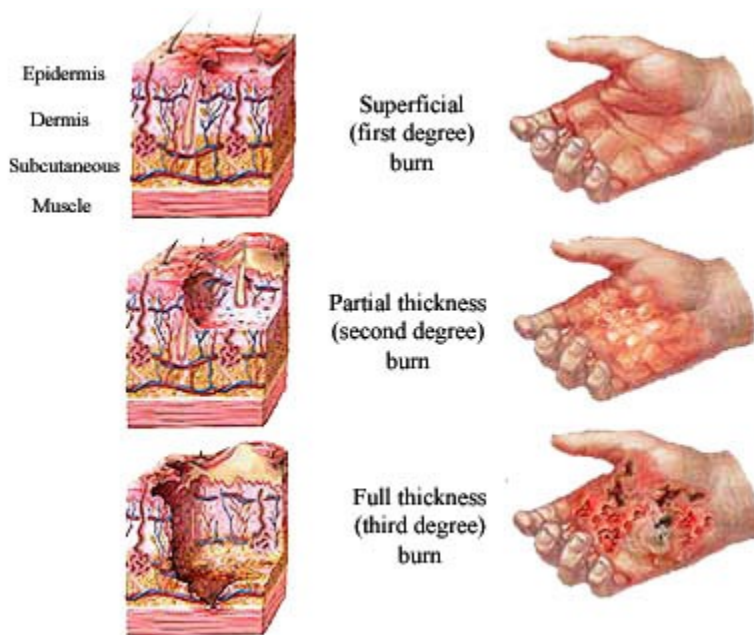
Two less gruesome recent cases show that even without massive injuries, burn cases result in significant pain and suffering verdicts that will be upheld by the courts.

In [Paruolo v. Yormak](#), a 50 year old school guidance counselor suffered from elbow pain that was ultimately diagnosed as a chondral injury requiring surgery to remove loose bone fragments. During the surgery, an operating room light was negligently maintained and caused third degree burns on Mr. Paruolo's elbow and arm. He didn't even know he had burn injuries until there days after surgery when his bandages were removed and there was visible blistering. He had infections, underwent six days of hospitalization to administer antibiotics and he needed a debridement and skin graft from his thigh.

Mr. Paruolo sued and liability was conceded but the amount of damages could not be agreed upon and trial ensued in Westchester County. The jury returned a verdict of \$300,000 for pain and suffering (\$275,000 past, \$25,000 future). Plaintiff appealed claiming the future damages award was too low and the appeals court agreed finding that the future pain and suffering sum should be increased to \$150,000 with the result that the final award was **\$425,000** (\$275,000 past, \$150,000 future).

The court was moved by the facts that plaintiff had two permanent and embarrassing scars on his elbow and thigh, the scars could not be exposed to sunlight and posed a heightened risk of skin cancer, he had to wear long sleeve shirts in warm weather and would suffer from all of these for 25 years.

### Burns are classified according to degrees:



In [Stefanescu v. City of New York](#), a 30 year old transit authority track worker was working in the subway when contact with a metal plate energized the third rail and caused a flash fire. Mr. Stefanescu was set on fire and suffered second degree burns to his entire face. While he claimed residual symptoms such as tightness, heightened sensitivity to temperature and sunlight and post-traumatic stress, plaintiff required minimal hospitalization, standard care and no skin grafts or surgery. At the time of trial, his scars were no longer visible. The Kings County jury awarded plaintiff \$750,000 (\$650,000 past, \$100,000 future) for his pain and suffering but the trial judge reduced the verdict to \$200,00 (\$150,000 past, \$50,000 future).

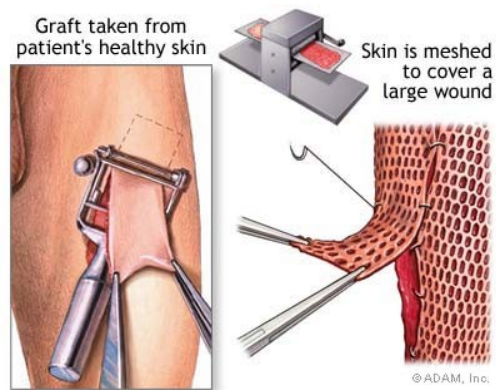
The appeals court finally set the verdict at **\$300,000** (\$250,000 past, \$50,000 future) finding that \$250,000 for Mr. Stefanescu's past pain and suffering was reasonable because of the great deal of pain he suffered in the four year period from the accident to the trial. As to future damages, though, the court found \$50,000 reasonable in view of plaintiff's minor treatment and lack of residual damages or permanent injury.

Pain and suffering verdicts in burn injury cases are evaluated by the appellate courts in most respects similar to the way they evaluate damages in other pain and suffering scenarios - what's reasonable depends on the severity of the injury, the type and length of treatment (especially surgery), the activities the plaintiff can no longer do or can do only with limitations or pain and the expected period of future pain and suffering (when permanent, the period is the number of years plaintiff is expected to live).

In **burn cases**, there are several **unique additional factors** that the courts (and juries) consider:

- post-traumatic stress - with credible psychological testimony and a gruesome mechanism of injury (e.g., fire causing facial burns)
- scars - burns leave some of the ugliest permanent scars and when in the face they can be shocking
- skin graft procedures - which can be excruciatingly painful and leave scars on other parts of the body

Here's what the **skin graft procedure** looks like:



As the cases demonstrate, verdicts for pain and suffering damages in burn injury cases vary widely, just as the **types of burn injuries vary** (i.e., based on the degree - 1st, 2nd or 3rd, based on the number of skin grafts required and whether there is permanent scarring). We will continue to report on burn injury cases as they come to trial and are ruled on by juries and judges.