

LOUISIANA COURT OF APPEAL, THIRD CIRCUIT

Jake Carmouche, et al. v. National Union Fire Insurance Company of Pittsburgh, PA, et al.

No. 25-638 (La. Ct. App. 3d Cir. 2026) · No. 25-638; CA-0025-0638 · Decided May 27, 2026

SUMMARY

The Louisiana Court of Appeal, Third Circuit, reviews a jury verdict awarding damages to Jake and Katie Carmouche and their minor children after a cement truck rear-ended their vehicle, killing their daughter and injuring other family members. The defendants challenged the wrongful-death, bystander-trauma, and pain-and-suffering awards as excessive and sought judgment notwithstanding the verdict. The court affirmed in part and reversed in part, including reversing Jake Carmouche’s award for future mental pain and suffering because he was not involved in the crash.

CASE DETAILS

COURT	Louisiana Court of Appeal, Third Circuit
WRITING FOR THE COURT	Gary J. Ortego; Candyce G. Perret; Charles G. Fitzgerald
JURISDICTION	Louisiana Court of Appeal, Third Circuit
DECIDED	May 27, 2026
DOCKET	25-638; CA-0025-0638
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendants appealed from a jury verdict awarding more than \$34 million in damages and from the trial court's denial of their motion for judgment notwithstanding the verdict. The appeal challenged the amount of wrongful-death, bystander, and pain-and-suffering awards.
STANDARD OF REVIEW	General damages are reviewed for abuse of discretion, with the appellate court considering the particular facts and circumstances of the case together with awards in similar cases. If an abuse of discretion is found, the court then determines the highest or lowest award reasonably within the factfinder's discretion. Factual findings are reviewed under the manifest-error standard, and a JNOV is reviewed under the applicable Louisiana JNOV standard.
PRECEDENTIAL VALUE	Unknown; the source metadata identifies the precedential status as Unknown, and the opinion text does not state whether it is published or unpublished.

PARTIES

Bayou Ready Mix, LLC, Gene Lemoine, National Union Fire Insurance Company of Pittsburgh, PA v. Jake Carmouche, Katie Carmouche, Cole Carmouche, Bennette Carmouche

TOPICS

damages

wrongful death

personal injury

standard of review

appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the jury abused its discretion by awarding Jake and Katie Carmouche \$5 million and \$15 million, respectively, for the wrongful death of Hayzel Carmouche.
2. Whether the jury abused its discretion by awarding Jake \$3 million and Katie \$1 million for mental anguish and emotional distress arising from witnessing Hayzel's injury and death.
3. Whether the jury abused its discretion by awarding Katie physical and mental pain-and-suffering damages in addition to wrongful-death and bystander damages, and by awarding Jake \$250,000 for future pain and suffering despite his not being physically involved in the accident.

HOLDINGS

1. The \$15 million wrongful-death award to Katie and the \$5 million award to Jake did not constitute an abuse of the jury's discretion because, considering the particular facts and circumstances and comparable awards, they did not shock the conscience.
2. The \$3 million bystander award to Jake and the \$1 million bystander award to Katie were supported by the record and did not constitute an abuse of discretion.
3. Katie's awards for past and future mental pain and suffering and physical pain and suffering were distinct from her wrongful-death and bystander awards and were not abusively excessive.
4. Jake was not entitled to the \$250,000 future pain-and-suffering award because he was not involved in the crash and did not sustain a physical injury compensable under that award category.

KEY QUOTATIONS

"The question of whether the trier of fact abused its discretion in assessing the amount of damages remains the initial inquiry. However, to evaluate this issue, an appellate court is to include a consideration of prior awards in similar cases, as well as the particular facts and circumstances of the case under review." (14)

"It is only when the award is, in either direction, beyond that which a reasonable trier of fact could assess for the effects of the particular injury to the particular plaintiff under the particular circumstances that the appellate court should increase or decrease the award." (15)

“We find the jury’s general damages award was not “the result of passion or prejudice,” but rather bore a reasonable relationship to the damages which are supported in the evidence presented at trial.” (31)

FACTUAL BACKGROUND

On November 22, 2021, a cement truck traveling at a high rate of speed rear-ended Katie Carmouche's stopped vehicle as she waited to turn into a daycare. The impact pushed the vehicle into oncoming traffic, caused serious injuries to Katie and her sons Cole and Bennette, and fatally trapped eight-year-old Hayzel Carmouche in the rear seat. Jake Carmouche arrived shortly afterward and, along with first responders, attempted to free and resuscitate Hayzel; both Jake and Katie later experienced permanent PTSD and continuing emotional trauma.

PROCEDURAL HISTORY

The trial court granted plaintiffs partial summary judgment on liability, finding the cement-truck driver solely at fault for the accident. After a four-day damages trial, the jury awarded plaintiffs more than \$34 million. The trial court denied defendants' JNOV motion, and defendants took a partial suspensive appeal. The court of appeal affirmed the challenged awards except for Jake Carmouche's \$250,000 future pain-and-suffering award, which it vacated and reversed.

DISPOSITION

reversed

CASES CITED

- Jeffries v. Prime Insurance Co., 334 So. 3d 761 (La. App. 3 Cir. 2021), writs denied, 333 So. 3d 433 (La. 2022)
- Mistich v. Volkswagen of Germany, Inc., 666 So. 2d 1073 (La. 1996)
- Bouquet v. Wal-Mart Stores, Inc., 979 So. 2d 456 (La. 2008)
- Baack v. McIntosh, 333 So. 3d 1206 (La. 2021)
- Riley v. Maison Orleans II, Inc., 829 So. 2d 479 (La. App. 4 Cir. 2002), writs denied, 833 So. 2d 345 (La. 2002)
- Pennison v. Carrol, 167 So. 3d 1065 (La. App. 1 Cir. 2015)
- Pete v. Boland Marine & Manufacturing Co., LLC, 379 So. 3d 636 (La. 2023)
- Renfro v. Burlington Northern Santa Fe Railway Co., 193 So. 3d 1192 (La. App. 3 Cir. 2016)
- Hutto v. McNeil-PPC, 79 So. 3d 1199 (La. App. 3 Cir. 2011), writ denied, 86 So. 3d 628 (La. 2012), cert. denied, 568 U.S. 959 (2012)
- Cox v. Moore, 805 So. 2d 277 (La. App. 3 Cir. 2001)
- Rideau v. State Farm Mutual Automobile Insurance Co., 970 So. 2d 564 (La. App. 1 Cir. 2007), writ denied, 972 So. 3d 1168 (La. 2008)
- Anderson v. New Orleans Public Service Inc., 583 So. 2d 829 (La. 1991)
- Tingle v. American Home Assurance Co., 40 So. 3d 1169 (La. App. 3 Cir. 2010)

- *Maldonado v. Kiewit Louisiana Co.*, 152 So. 3d 909 (La. App. 1 Cir. 2014)
- *Guillot v. DaimlerChrysler Corp.*, 50 So. 3d 173 (La. App. 4 Cir. 2010), writ denied, 58 So. 3d 461 (La. 2011)
- *Trahan v. McManus*, 728 So. 2d 1273 (La. 1999)
- *Berg v. Zummo*, 786 So. 2d 708 (La. 2001)
- *Kennedy-Fagan v. Estate of Graves*, 993 So. 2d 255 (La. App. 1 Cir. 2008), writ denied, 996 So. 2d 1073 (La. 2008)
- *Barber Bros. Contracting Co., LLC v. Capitol City Produce Co., LLC*, 397 So. 3d 404 (La. 2024)
- *Lantier v. Caskey*, 308 So. 3d 758 (La. App. 3 Cir. 2020)
- *Cormier v. CITGO Petroleum Corp.*, 228 So. 3d 770 (La. App. 3 Cir. 2017), writ denied, 237 So. 3d 491 (La. 2018)
- *Levine v. Nationwide Agribusiness Insurance Co.*, 381 So. 3d 908 (La. App. 3 Cir. 2024), writ denied, 386 So. 3d 310 (La. 2024)
- *Miller v. Gorski Wladyslaw Estate*, 338 F. App'x 454 (5th Cir. 2009)
- *Stauder v. Shell Oil Co.*, 409 So. 3d 1 (La. App. 4 Cir. 2024)
- *Allen v. Department of Wildlife & Fisheries*, 407 So. 3d 23 (La. App. 3 Cir. 2025), writ denied, 410 So. 3d 145 (La. 2025)
- *Morgan v. Willis-Knighton Medical Center*, 456 So. 2d 650 (La. App. 2 Cir. 1984)
- *Sayre v. PNK (Lake Charles), LLC*, 188 So. 3d 428 (La. App. 3 Cir. 2016), writ denied, 192 So. 3d 780 (La. 2016)
- *Bourg v. Cajun Cutters, Inc.*, 174 So. 3d 56 (La. App. 1 Cir. 2015), writs denied, 190 So. 3d 1205 (La. 2016)
- *Norfleet v. Lifeguard Transportation Services, Inc.*, 934 So. 2d 846 (La. App. 4 Cir. 2006)

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