JERRY KENNEDY'S
SIGNIFICANT JURY TRIALS AND CASE EXPERIENCE

1. ***Rice v Paramount Building Solutions, Inc. and American Drug Stores, LLC.***
Cook County, Jury Trial ~ April 2015

The plaintiff, Rice, an employee of American Drug Stores, LLC, ("ADS") was walking through the double doors of the Jewel Osco grocery store where he was employed on September 20, 2010, when he slipped and fell on RipSaw floor stripper leaking from a box in a corner of the back room behind the double doors. Rice was diagnosed with CRPS. He had $300,000.00 in past medical, a projected $750,000.00 to $900,000.00 in future medical and over $2,000,000.00 in future lost wages.

Plaintiff sued Paramount Building Solutions, Jewel Osco's floor cleaning vendor, alleging it negligently caused the accident and allowed the floor stripper to spill. Paramount had total coverage of $6,000,000.00, which was the plaintiff's demand. Paramount's last offer before trial was $750,000.00. Several store witnesses testified they saw a Paramount employee working on a floor cleaning machine in the back room for several hours that day and last about 30 minutes before the accident. Paramount's mechanic testified, in Polish, he was at the store for 15 minutes to remove a machine from the store and he left over 3 hours before the accident. There was no testimony the box was hit or struck or dropped. The plaintiff's theory was that the mechanic ran the machine into the box of RipSaw when he was leaving the store.

After three years of Paramount's endless barrage of "scorched earth" discovery and multiple baseless, repetitive motions serious issues were raised regarding Paramount's own discovery responses, which resulted in a 5.01 jury instruction, and its late or improper disclosures of documents, surveillance video and witnesses. ADS's motion for summary judgment on Paramount's baseless count for spoliation of evidence against ADS was granted prior to trial.

As the trial of the plaintiff's completely circumstantial case began, Rice's workers compensation case against ADS remained open. As trial progressed, Paramount steadily increased its settlement offers. In our third week of trial, while on the stand the 20th witness, Paramount's medical expert, was barred from testifying when during direct exam, the doctor testified that Paramount's attorney provided him with the trial testimony of the plaintiff's treating physician, a severe violation of a boilerplate motion in limine.

The expert being barred pushed Paramount to finally settle the case for a confidential amount the night before closing argument. As part of the resolution of the case, Paramount's third party complaint for contribution against ADS was dismissed with prejudice, the future medical on the work comp case was settled for a $1.00 contract and the plaintiff would fund his own MSA and ADS waived only its lien paid to date, a fraction of the last pretrial offer on the work comp case withdrawn when the trial started. An excellent result for ADS after a very hard fought battle.

Pursuant to the services agreement between the Paramount and ADS, three

times ADS tendered to Paramount its defense and request for indemnification was denied each time. ADS recently filed a declaratory action against Paramount and its insurer for breach of contract.

2. ***Estate of Timothy M. Moynihan, Jr. v. Floyd J. Crane and Western Sand & Gravel Company, L.L.C.***
LaSalle County, Jury Trial ~ October 2014

Moynihan was a passenger in a pick-up truck being driven by George Sbalchiero and traveling eastbound on I-80 in LaSalle County west of Ottawa, Illinois on January 31, 2008. Defendant, Crane, a 27 year driver for Western Sand & Gravel Company, L.L.C., was operating a fully loaded 70,000 pound cement truck in the right westbound lane of I-80. Sbalchiero, pulling a trailer and traveling too fast, lost control, careened through the median and entered westbound I-80 directly in front of Crane's cement truck and the impact occurred. The cement truck came to a rest facing northeast, on its side in the ditch and on the north shoulder. Both Sbalchiero and Moynihan died in the accident. Moynihan was working for Sbalchiero at the time of the accident and was limited to a workers' compensation recovery against Sbalchiero.

The Estate sued Crane and Western Sand alleging that Crane failed to keep a proper lookout, was driving too fast for conditions and failed to reduce his speed to avoid the accident. The defense contended Floyd Crane did nothing wrong and that no alleged act or omission on his part was a proximate cause of the accident or any claimed damages. Western Sand & Gravel Company sued Sbalchiero for contribution. Sbalchiero waived its workers' compensation lien and was dismissed.

Due to the impact, Crane did not recall many facts of the accident. An independent eye witness, Brian Dovin, was traveling approximately ten car lengths behind Crane. When the pick-up was in the median, Dovin saw Crane's brake lights activate and saw Crane swerve to the right to try to avoid the accident. Dovin stopped to help the drivers, but was not on the police report. Crane could not identify Dovin as the man who stopped. Dovin was identified by us from Crane's employer's and Crane's family member's phone records because Crane asked the stranger to contact those people immediately after the accident. Dovin was our star witness.

The plaintiff's expert, Nathan Shigemura was barred from offering any accident reconstruction opinion testimony and his credibility to offer trucking safety opinions was attacked and his lack of expertise in this field was exposed.

The defendant's well qualified trucking expert testified Crane was an exemplary employee and truck driver any trucking company would want to hire and that Crane took the actions drivers are trained to take in such a situation and took that action as quickly as he possibly could.

The plaintiff asked $3,625,000.00 of the jury. The jury returned a not guilty defense verdict after deliberating approximately forty-five minutes.

3. ***Reynolds v. Daniel Young and Rolling Frito-Lay Sales, L.P.***,
Cook County, Jury Trial ~ September 2013.

The plaintiff and defendant were involved in a motor vehicle accident in Chicago on May 4, 2009. Defendant, Daniel Young, was a delivery driver for Rolling Frito-Lay Sales, L.P. at the time of the accident.

The plaintiff alleged he was driving his car in the right westbound lane on Chicago Avenue when Young pulled his Frito-Lay delivery truck out of the parking lane on the north side of the street and struck Reynolds. Reynolds M-45 claimed the collision aggravated pre-existing disc herniations, resulting in cervical fusion at C5-6, lumbar fusion at L5-S1, and future surgery at the next disc levels, leaving him unable to continue working as an over-the-road truck driver.

The plaintiff claimed special damages totaling $1,770,235.00 to $1,970,592.00, including $507,371.00 in past medical bills, $750,000.00 to $950,000.00 for future surgeries and $512,864.00 past and future lifetime lost wages. The plaintiff asked the jury to award the plaintiff damages of $3,500,000.00.

Young testified he was stopped at the time of the accident and the plaintiff sideswiped the left front corner of his delivery truck at the time of the accident. The defense asserted the plaintiff was not injured in the very low-speed side swipe contact, denied his pre-existing condition became symptomatic after the occurrence, and denied his pre-existing condition made him more susceptible to injury.

The defendants' retained biochemical engineer testified that the forces experienced by the plaintiff during the accident were less than those experienced during the plaintiff's daily activities of living. The defendants' retained neurosurgeon testified the plaintiff's pre-existing cervical and lumbar herniations could not have been and were not aggravated by the subject accident. The defense also called the plaintiff's ex-supervisor who testified that the plaintiff continued his long-haul truck driving from the day after the accident for over 73,000 miles until he was fired on Jan. 31, 2010, one week before he first saw Dr. Malek who performed cervical fusion surgery a few weeks later. The defense also called the plaintiff's DOT examining physician who examined the plaintiff in September 2009 and found him fit to drive over-the-road. Reynolds was repeatedly impeached with numerous prior inconsistent and incorrect statements.

The jury deliberated less than an hour before returning with a not guilty verdict in favor of the defendants.

4. ***Sabrina Jones v. Dart Transit and Michael Dickens***
Henry County, IL
Third Appellate District Court
Illinois Supreme Court

Sabrina Jones was a passenger in the tractor trailer being operated by her boyfriend, Michael Dickens, on I-74 near Rock Island in western Illinois. Jones is

the sister of Michael Dickens' ex-wife, Margaret Dickens. After Jones and Dickens stopped driving for the night near Davenport, Iowa, they began drinking heavily. At some point in the early morning hours of April 10, 2004, they left the bar, got in the tractor and started driving again on I-74. After driving several miles at highway speed, Jones inexplicably exited the tractor, coming to rest on the shoulder of I-74 after sustaining some horrific injuries including an amputation of one of her legs. Neither Jones nor Dickens could recall in their testimony how the subject accident took place or why Jones exited the tractor. Dickens continued on several miles to a rest area where he called Margaret Dickens and told her that Sabrina had jumped from the tractor. During an interview in the hospital a few days later with an Illinois state trooper, Jones admitted to the trooper that she had jumped from a moving vehicle before during an argument with a past boyfriend. Dickens was charged with driving a commercial vehicle under the influence, served prison time and was released.

Both Dart and Dickens, through separate counsel, brought motions for summary judgment based on the testimony of the only two witnesses, Jones and Dickens, that the plaintiff was unable to prove that any act of Dickens in operating his motor vehicle was the proximate cause of Jones' accident and her injuries. While Dickens was clearly intoxicated at the time of the accident, there was no evidence that any negligent act of Dickens caused Jones to exit the tractor. The motions argued that Dickens' and Jones' intoxication were conditions, but not the cause, of Jones' accident and injuries and that no one could deem Jones' actions as reasonably foreseeable. The motions for summary judgment were granted, the plaintiff appealed, the Third Appellate District Court affirmed and the plaintiff petitioned to the Illinois Supreme Court which denied the plaintiff's petition for leave to appeal.

5. ***In Re: Wilcox***
LaSalle County, Illinois

A Crete Carrier Corporation tractor/trailer was involved in a motor vehicle accident at a rural intersection in Marseilles, Illinois (about 80 miles from Chicago) with a passenger car in which the mother and daughter in the car were killed. On the date of accident, we retained an accident reconstruction expert and met with him and the Crete driver at the scene before the vehicles were moved. We also met with the Crete driver at the scene before we presented the driver to the police for an interview. We coordinated with a field adjustor on the date of the accident and took the necessary steps to preserve evidence. We talked to local and state investigating police and the tow driver. We were able to locate witnesses to the accident very early and establish that the Crete Carrier driver had the right-of-way at the time of the subject accident and was not speeding or otherwise driving carelessly and that the driver of the car failed to stop at her stop sign and entered the intersection directly in front of the truck. Shortly after the accident, we learned the estate of the passenger retained an attorney. We contacted the attorneys representing the estate and learned their theory would be that the Crete driver may have been speeding, should have seen the claimants' vehicle, and had the opportunity to stop or slow down. We put forth the results of our investigation that there was no fault on the part of Crete Carrier or its driver, identifying photos of the scene and witness statements. We were able to settle this matter for a very low, less than cost of

defense amount and obtain a full release of all claims from the estate, without a lawsuit being filed and without incurring the expense of discovery.

6. ***Ward v. Frito-Lay, Inc., et al.***
Winnebago County, Illinois

The plaintiff was allegedly injured biting down on a "metallic object" while eating potato chips and filed a lawsuit against the manufacturer, the distribution company, the grocery store chain which sold the potato chips and the owner of a trademark related to the potato chips. A separate six-figure demand was made to each defendant. From the outset, the plaintiff's attorney filed numerous frivolous, harassing and baseless pleadings and discovery requests and significant motion practice was conducted attacking the actions of the plaintiff's attorney and his filings.

A motion to dismiss was granted in favor of the distributor of the potato chips. Additionally, the manufacturer and the grocery store chain were dismissed as a discovery sanction. Through diligent investigation and significant motion practice, the injuries alleged by the plaintiff were found to be a result of his own extremely poor dental hygiene and the "metallic object" was identified as the plaintiff's own dental filling and not related to the potato chips. As a result, the owner of the trademark related to the potato chips was dismissed on summary judgment. A post-judgment motion to sanction the plaintiff's attorney for filing a frivolous lawsuit in bad faith was granted and the defendants were awarded $10,000.00. The plaintiff appealed the dismissal of the distributor, the manufacturer and the grocery store chain. The appellate court affirmed the dismissal. The plaintiff's petition to the Illinois Supreme Court was denied. Additional sanctions are expected to be sought and awarded against the plaintiff. The trial judge initiated a complaint with the ARDC against the plaintiff's attorney.

7. ***William P. Sonnenberg v. RMDS, et al.,*** *06 LA 213 McHenry County, Illinois – Jury Trial in October, 2009*

The lawsuit arose as the result of a head-on collision that allegedly occurred when an RMDS truck pulled into traffic at right from a hospital parking lot. The RMDS truck did not make contact with any vehicles but the plaintiff pulled into oncoming traffic to avoid the truck. Several independent witnesses and the investigating police officer testified that the plaintiff had the right-of-way and the RMDS driver pled guilty to exiting from a prohibited emergency vehicle entrance. The plaintiff was found to be intoxicated upon admission to the hospital but, interestingly, none of the witnesses had any criticism of the plaintiff's driving and there was no evidence he was speeding or driving erratically. A defense retained toxicologist reviewed the plaintiff's lab work and, after the plaintiff's attorney disputed the relevance and validity of the blood test results and sought to have the evidence excluded, the court allowed the expert to testify to the plaintiff's diminished reaction time and perception. The court also granted the defendants' motion in limine to exclude the RMDS driver's plea of guilty to the traffic violation. The plaintiff sustained significant injuries, had three surgeries, presented verified special damages exceeding $150,000.00 and asked for $680,000.00 from the jury in closing. After a 50% reduction for the plaintiff's contributory negligence, the net verdict was $130,000.00, the exact midpoint

between the last demand ($200,000.00) and the last offer ($60,000.00) at the mediation prior to trial.

8. ***McReynolds v. Penske Truck Leasing Corporation, et al.***
Madison County, Illinois

McReynolds was employed as a delivery driver with Genuine Parts. Penske had a contract with the plaintiff's employer to perform maintenance on Genuine Parts' fleet including the plaintiff's delivery truck. Plaintiff was unloading a pallet of oil at a Napa store when he fell off the back of the liftgate of the truck and landed on his back on oil drums behind the truck. The plaintiff initially reported to his employer that the accident occurred when the employer's pallet jack he was using malfunctioned. Plaintiff sustained disc herniations in his cervical and lumbosacral spine and will never work again. The plaintiff's medical bills totaled $370,000.00 and the plaintiff's projected wage loss was in excess of $1,000,000.00. Plaintiff alleged that Penske failed to properly perform maintenance on the truck and lift gate. Evidence was developed that the majority of liability lie with the plaintiff's employer and with the plaintiff. The plaintiff's settlement demand against all defendants was $2,500,000.00 Penske settled the matter for $115,000.00, a very favorable settlement given the nature and extent of the plaintiff's injury and claimed damages.

9. ***Hatton, Jesse v. United Parcel Service & Victor McIntosh***;
Madison County, Illinois

The Plaintiff, Jesse Hatton, was injured when a UPS package car operated by Victor McIntosh pinned Hatton's legs while backing into a loading dock at the Bethalto School District. Hatton sustained a torn ligament in his knee which was treated conservatively. After being laid off from the school district in May 2001, he started working as a security guard in October, 2002. Hatton had medical bills and lost time totaling about $8,500.00. For UPS's defense, we presented three witnesses who testified that shortly after the accident Hatton admitted to them that the accident was not the UPS driver's fault, that Hatton did not see the UPS package car backing in and that he was not paying attention. We also presented the testimony of his supervisor at the security company who testified that Hatton boasted to her that he had faked claims before, that there was nothing wrong with his knee and that he was going to get $2,000,000.00 from UPS from this suit. Hatton's attorney asked the jury for over $90,000.00, we suggested a figure of $4,200.00. After an hour of deliberating, the Madison County jury returned a verdict of $8,400.00. The employer was not a third party defendant and there was an $11,000.00 workers' compensation lien to be resolved from the judgment amount.

10. ***Vanliner Insurance Company v. Rollins Leasing Corp.,***
consolidated with ***Michael Rennie v. Rollins Leasing Corp.*** and
Vanliner Insurance Company and McCollister's Moving & Storage, Inc. v. Rollins Leasing Corporation

Vanliner, the workers compensation insurer of McCollister's, sued our client, Rollins Leasing, for recovery of a workers compensation lien of over $200,000 which arose when McCollister's employee, Rennie, was injured while unloading a large, wheeled crate from a McCollister's trailer. Rennie sustained a fractured

tibia and an L3 compression fracture requiring a spinal fusion. Rennie also sued Rollins in a personal injury suit. Rollins twice tendered its defense of both suits to Vanliner and Rennie's employer, McCollister's, with whom Rollins had a maintenance agreement requiring McCollister's to insure, defend and indemnify Rollins under certain circumstances. Vanliner's and McCollister's attorney twice denied the tender and filed a declaratory judgment against Rollins in the Chancery court. Due to the employer's attorney's handling of the tenders, Rollins filed a motion to disqualify that firm. In response, the original firm withdrew and two new firms appeared on behalf of Vanliner and McCollister's. Rollins filed a counterclaim in the personal injury case against McCollister's for contribution, breach of contract for failure to defend and indemnify and breach of contract for failure to procure insurance and a counterclaim in the declaratory judgment case for the same breach of contract counts, attorneys fees and penalties for the insurer's vexatious and unreasonable conduct regarding the tenders and for attorneys fees pursuant to the maintenance agreement.

Rennie's personal injury case settled with Vanliner/McCollister's paying $65,000 to Rennie with Rollins paying nothing and Vanliner waived the $200,000 lien they originally sued Rollins to recover. After the original declaratory judgment complaint was dismissed on Rollins' motion, Vanliner agreed to voluntarily dismiss its amended complaint for declaratory judgment against Rollins with our motion to dismiss and our counterclaim pending. McCollister's agreed to voluntarily dismiss its contribution action against Rollins in the personal injury case after its initial counterclaim for contribution against Rollins was dismissed on Rollins' motion rather than file an amended pleading. Lastly, Vanliner and McCollister's agreed to pay the amount of attorneys fees awarded by the court on Rollins' petition. After a hearing on the petition for attorneys fees, the court awarded, and Vanliner paid, all of Rollins' attorneys fees.

11. ***Bryant v. Walton and Carter's Excavating***
Cook County

Five City of Chicago summer employees in the Jumping Jack Program in the Mayor's Office of Special Events were involved in a very serious auto accident on July 29, 2000. The dump portion of the trailer being operated by Walton and owned by Carter's elevated to a raised position while northbound on the Dan Ryan Expressway through downtown Chicago. The dump trailer struck the overpass, detached from the tractor and landed on the van in which the City workers were riding, killing two occupants, severely injuring a third and injuring two others. Personal injury and wrongful death cases were filed against Walton and Carter's and they filed a third party complaint against the City of Chicago for contribution alleging that the City negligently provided the employees with a cargo van providing only two seats and seatbelts forcing the other occupants to sit on the floor or on folding chairs. Our firm represented the City of Chicago. The City filed a motion for summary judgment arguing that the lack of seats and seatbelts was a condition, but not the proximate cause, of the accident. The intervening act of the dump trailer striking the overpass and crushing the van was completely unforeseeable and superseded any potential negligence of the City of Chicago in failing to provide adequate transportation. The motion also argued that Carter's failed to produce any evidence that the lack of the correct number of seats or seatbelts made any difference in the injuries sustained or the deaths occurring. The motion was

granted. A jury trial was held and, due to the City being dismissed from the case, the defendants admitted liability and the jury returned a verdict of over $63,000,000.00. While declaratory judgment actions on coverage are pending, the motion being granted facilitates recovery of the City's seven-figure workers compensation lien that would likely not have been possible if the motion had been denied.

12. ***Willis v. Transamerica et al.***,
Cook County

Independently managed defendant's case in Willis v. Transamerica a complex suit arising from a multiple fatality accident which settled for $100,000,000.00 with seven defendants. Conducted extensive written discovery and over 70 fact witness and expert witness depositions. Responsible for court appearances, file management and indexing, media contact, pleadings, motions and regular reporting and case evaluations to the insurer. Prepared case for trial and extensively participated in $24,500,000.00 contribution trial including motions in limine, opening statement, examinations of dozens of witnesses, prepared over 200 trial exhibits, coordinated testimony of over 60 witnesses, closing argument and prepared and argued jury instructions.

13. ***Westfield Insurance Co. a/s/o F&M Building Partnership v. Winston Company, Inc. and Jacobson Transportation Company, Inc.***
U.S. District Court, Northern District of Illinois (Summary Judgment)

Plaintiff filed a three million dollar subrogation lawsuit against Winston Company, Inc. and Jacobson Transportation Company, Inc. Kennedy & Associates, P.C. represented Jacobson Transportation Company, Inc. Plaintiff alleged that Winston Company, Inc. manufactured a reactive chemical product which caused an explosion and burned its insured's facility located in Franklin Park, IL. Plaintiff alleged that Jacobson transported the chemical product which it knew, or should have known, was reacting at the time of transport.

Jacobson filed a motion for summary judgment and the court granted summary judgment in Jacobson's favor.