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TOP 100 2021

DANA A. FOX

LEWIS BRISBOIS BISGAARD
& SMITH LLP
LOS ANGELES
LITIGATION

— TOP 100 —



Fox, the co-chair of Lewis Brisbois' general liability practice, is no fan of the courtroom restrictions imposed by Covid-19 safety measures. In a trial in Los Angeles County Superior Court, he said in early August, it took eight days to pick a jury.

"Eight days is long enough to try a whole other case," Fox noted. "These are hard days for everyone in court, especially for jurors. We've been hearing comments like, 'We're packed in tight and there are no windows in the room, so we're concerned.' It makes a trial, which is difficult and clunky to begin with, even more clunky. Everyone wears a mask, which makes it difficult to hear. The most common question in court is, 'What?'"

The Los Angeles trial, over negligence claims against a school district stemming from the sexual molestation of students by a teacher, paused while the plaintiffs sought to appeal the judge's ruling over cumulative emotional trauma evidence. Fox represents the district. "We spent a lot of time and effort to pick a jury and now this has thrown a monkey wrench into the proceedings," Fox said. *Jane Doe v. Mountain View School District*, BC712514 (L.A. Super. Ct. filed July 2, 2018).

Still, Fox proceeds. "Some of these cases have to be tried," he said. In one of Orange County's first in-person trials during the pandemic, Fox pre-

vailed with a 12-0 complete defense verdict in a \$60 million case against his hotel client. The plaintiff was the mother of a 6-year-old girl who suffered near drowning and serious brain damage in a Howard Johnson water-park hot tub. *Hudson v. Great American Land Co.*, 30-2019-01052572-CU (O.C. Super. Ct., filed Feb. 19, 2019).

Fox argued that the mother failed to properly supervise her daughter and that the child's fainting spell, leading to her immersion in the hot tub, was due to a viral infection. The parties reached a confidential "high/low" agreement during jury deliberations that led to a post-verdict settlement.

"By everyone's agreement this was a tragic accident," Fox said after the trial. "That said and recognized, I am extremely pleased with the outcome of the trial and the jury's verdict."

Fox said he was surprised to learn the trial would be webcast on Courtroom View Network. "At first I couldn't understand why they would choose this trial to televise. Then I realized that we were the only show in town," he said.

— John Roemer