

# Daily Mail

## **Welcome to 'spin to win' justice: Mother awarded record \$15MILLION compensation after hurting her back when bus hit speed bump - even though she can still walk**

- **Video shows the moment Maria Francisco, 20, is thrown in air when bus hits speed bump while on shopping trip with daughter, Mia, 4**
- **Francisco can still walk - but is in chronic pain and claims it has affected ability to have children**
- **Payout includes \$10m for pain and suffering, \$1m for her daughter's distress**
- **But critics branded it 'irrational' and highlights how the American legal system is a case of 'spin to win'**

By Richard Alleyne

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A mother and her daughter have been awarded more than \$15m in compensation after the woman hurt her back as the bus she was traveling in went over a speed bump, it merged today. Maria Francisco, 20, on a shopping trip with her four-year-old daughter Mia, jumped in her seat as the coach hit the traffic speed bump and landed so badly on her back she damaged one of her vertebrae.

No-one else was injured in the incident and at first the bus driver refused to believe she was in pain. Eventually she was taken to hospital where she had to have back surgery.

Now three years later, a jury has ordered the transit company to pay the unemployed mother \$14.3m in compensation, including \$10m for her emotional pain and suffering.

Her daughter was awarded a further \$1m for past and future emotional pain caused by witnessing the incident.

Ms Francisco, who can still walk, said she was pleased to have received the money as the incident had put 'a tremendous strain on her and her family'.

But others criticised the size of the pay out, the biggest in the transit company's history. Walter Olson, Senior Fellow at the Libertarian think tank the Cato Institute, branded the pay out as 'spin to win'.

'Why \$10 million for pain and suffering in this one case?' he said.

'Why \$1 million, paid by taxpayers, to a 4-year-old for seeing her mother fall off a bus seat?

Why not \$100,000 and \$10,000 instead?

'In a case like this the American legal system has no real reason for picking one number rather than the other and no real consistency between cases. It's just spin to win.

Ms Francisco, her daughter and other members of her family were travelling to buy birthday presents at a mall in Richmond, California, when the incident happened in August 2011.

The Alameda-Contra Costa bus driven by Dollie Gilmore hit the speed bump at 30mph – twice the limit as it was a school zone – and the impact catapulted Ms Francisco into the air.

The jury were shown a video of Ms Francisco flying up and then as she lands hitting her back on the edge of the plastic seat.

The film then shows Ms Gilmore stopping the bus and walking down the aisle accusing Ms Francisco of faking the pain. She threatens to prosecute her for wasting time.

Ms Francisco, whose boyfriend and father-of-her child works in a coffee shop, was taken to hospital where she was found to have suffered a burst fracture of her back.

She had to have three surgeries, including the fusion of a lower vertebra, and medical bills so far nearing \$1 million. It is estimated she will need a further \$2.4m worth of treatment throughout her lifetime.

At the time, AC Transit refused to admit any liability until it was time and then offered \$2.75m out-of-court settlement.

It conceded that Francisco's injuries were its fault but argued that they, along with Ms Francisco's inability to work, were exaggerated.

But Ms Francisco, represented by Los Angeles-based firm Panish Shea & Boyle, fought the case and this month a jury at Alameda Superior Court jury awarded her and her daughter \$15.3m.

The pay out included \$10m for her past and future pain and suffering, \$3.3m in past and future medical expenses and \$800,266 for future loss of earnings.

Ms Francisco's daughter was awarded \$1m for past and future emotional distress relating to her witnessing the incident.

'I am happy to have been able to show the jury I was seriously hurt and was unjustly attacked by AC Transit,' she said. 'I pray they do something so this never happens to anyone else as it has been a tremendous strain on me and my family with more to come.'

Ms Francisco is able to walk but says the injury leaves her in constant pain and that the condition will get worse in the future. It has also affected her sex life and she is unlikely to have more children.

Brian Panish, her leading attorney, defended the pay out.

'She wasn't looking for this to happen,' he said. 'She has chronic pain for life. She has a fused spine and she is going to need to have future surgeries.'

'It has severely damaged her quality of life and it is only going to get worse. She can walk but she struggles to bend and stoop.'

'It is going to be hard for her to get a job. Rather than accepting responsibility for its negligence, AC Transit instead chose to challenge Ms Francisco's credibility. That tactic didn't work, and the jury did the right thing with this verdict.'

Fellow attorney Spencer Lucas added: 'This verdict will ensure that Ms Francisco is able to get the long term treatment that she needs and will be able to take care of herself and her daughter.'

'That is what this case was about.'

Meanwhile, Mr Olson added: 'What I can say is this: no rational system would give out this much money for every incident like this, even accepting the plaintiff's claims'.

AC Transit spokesman Clarence Johnson said it was still looking over the details of the pay out. 'We are still mulling over the verdict as it were and deciding what the steps may be,' he said. 'We have no comment in the meantime.'

It is not the first time the law firm Panish Shea & Boyle has obtained big pay outs.

In 2011, it obtained a \$10.5m settlement against AC Transit when a bus knocked a woman over on a crossing. She now has to walk with a cane.

In 2005, it obtained a \$27.3m verdict against the City and County of San Francisco after a four-year-old girl was crushed to death against a wall following a crash between a municipal truck and two cars.

This was the largest personal injury verdict ever against the City and County of San Francisco.