

Hopes for a Jury Award Disappeared

By Reg P. Wydeven
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When I was a kid, magicians were a big deal. You could routinely see Doug Henning, Penn and Teller, or Harry Anderson of 'Night Court' fame, perform on late night television, such as 'The Tonight Show' with Johnny Carson.

But the biggest magician of the 1980s was definitely David Copperfield. He performed some amazing tricks, including levitating over the Grand Canyon, walking through the Great Wall of China, and escaping from Alcatraz. He even made the Statue of Liberty disappear in front of a live audience.

Except for a brief resurgence of street magic a decade ago from the likes of David Blaine and Chris Angel, magicians have mostly receded from the national stage to Las Vegas, and David Copperfield is no exception.

Since the turn of the century, Copperfield has set up permanent shop at the MGM Grand Hotel, where he has been performing up to 3 shows a day, 7 days a week. With so much practice, he has obviously perfected his craft, resulting in his net worth of sleight-ly less than a billion dollars.

Having done so many shows, however, something was bound to go wrong.

In November of 2013, Gavin Cox and Minh-Hahn Cox, a British couple vacationing in Vegas, attended Copperfield's show. Cox, along with a dozen other audience members, was chosen to participate in a trick where Copperfield made them "disappear," only to later materialize in the back of the theater waving flashlights.

Cox claimed that he suffered brain and other injuries after falling while stagehands urged him and the other participants to run past dark curtains, down passageways, around corners, outdoors, indoors and through an MGM Grand resort kitchen to re-enter the theater for the trick's finale. He asserted that an outdoor alleyway was coated with construction dust and fell hard on his right side and didn't remember getting up to finish the illusion in November 2013.

Afterward, Cox said he received medical treatment from paramedics and at a hospital for his injuries and has incurred about \$400,000 in total medical bills. So Cox sued Copperfield and two of his business entities, the MGM Grand, and a construction company that was renovating the hotel, alleging their negligence caused his injuries. His lawyer, Benedict Morelli, told jurors that the trick was inherently dangerous and that Copperfield should be held at least partially liable for Cox's injuries.

The judge denied Copperfield's lawyers' request to close the courtroom to the public to prevent disclosure of secrets of the illusion. According to the show's executive producer, Chris Kenner, at least 55,000 audience volunteers had taken part in this trick over 17 years, and Cox was the only person Copperfield was aware of who was ever injured.

After several weeks of testimony but only about two hours of deliberation, the jury returned an unusual verdict. While they found Copperfield and Backstage Disappearing Inc. were negligent, Cox was determined to be 100% liable for his own injuries. Therefore, Cox could not seek monetary damages from any of the defendants.

For a personal injury lawsuit to succeed, the plaintiff must prove the defendants had a duty of care to the plaintiff, the defendants breached that duty, the plaintiff was injured and the injury was caused by the defendant's breach. So it appears the jury here didn't find a link between Copperfield's negligence and Cox's injuries.

While Copperfield is pleased with the outcome, the trial was apparently so stressful the magician was ready to pull his hare out.

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