

5th Circ. Reinstates \$1M Verdict In LSD Injury Coverage Suit

By Hope Patti

Law360 (December 10, 2025, 3:56 PM EST) -- A split Fifth Circuit reversed a Texas federal court's decision undoing a jury verdict that put a home insurer on the hook for a \$1 million injury settlement between a man who became a quadriplegic after taking LSD and the owners of the home where he ingested the drugs.

In a **published opinion** filed Tuesday, a 2-1 panel majority held that the lower court erroneously granted Occidental Fire & Casualty Co. of North Carolina's renewed motion for judgment as a matter of law under Federal Rule of Civil Procedure 50(b).

There was legally sufficient evidence supporting the jury's finding that Christoffer Cox's spinal injury did not arise out of the use of drugs, thus meaning that a controlled substance exclusion in the homeowners policy issued by Occidental did not shield the insurer from coverage, the majority concluded.

"We hold that the requisite threshold for granting a renewed motion for JMOL and upending the jury's verdict was not met," U.S. Circuit Judge Dana M. Douglas said.

According to court filings, Cox was injured after he fell off a bed and hit his head on a nightstand after he and a friend, Ryan Zinkweg, took LSD tablets and THC gummies at Zinkweg's home in July 2019. Zinkweg thought Cox was unable to move because he was high, but later called another friend, Sammy Azhar, to help transfer Cox from the floor to the bed.

Several hours later, after Zinkweg said he sobered up and realized something was wrong, he informed his parents that the two had taken LSD, and Cox's parents and paramedics were called, court documents stated.

Cox and his parents sued Zinkweg in Texas state court in the summer of 2021. Occidental, which issued the homeowners policy held by Zinkweg's parents, filed the action against Cox and his parents while the underlying suit was pending, asserting that the policy's controlled substance exclusion barred coverage for Cox's injuries.

The underlying suit eventually settled for \$1 million in May 2023, according to court filings.

A Texas federal jury **found** in the February 2024 coverage action that Cox's injuries didn't arise from the use of a controlled substance. U.S. District Judge George C. Hanks Jr. **overturned** the verdict in August 2024, saying Occidental should not have to bear the burden of the settlement because of the policy's controlled substance exclusion.

The panel first found Tuesday that Cox and his parents did not forfeit their **argument** that judgment should be entered in accordance with the settlement agreement and stipulations. While their opposition to Occidental's renewed Rule 50(b) motion did not mention the settlement, Cox and his parents had raised an argument in the district court regarding the effect of the settlement on the outcome of the dispute.

As for the argument, the panel rejected Cox's contention that the settlement and related stipulations barred Occidental from challenging the jury verdict via its renewed Rule 50(b) motion.

Such an interpretation of the settlement and stipulations would have essentially nullified Occidental's right to appeal, the panel said. Moreover, the panel agreed with the insurer that the language of the settlement and stipulations was not designed to stop the parties from filing post-verdict motions.

While the majority found that the district court erroneously granted the insurer's Rule 50(b) motion, they declined to adopt Cox's contention that the court applied the wrong standard under Texas law to interpret the Occidental policy's controlled substance exclusion.

Rather, the majority held that the evidence was sufficient to support the jury's verdict.

Though the district court acknowledged the opinion of Cox's medical expert that there were two factors contributing to his injury, the court's analysis focused on its view that LSD was a but-for cause of the delay in medical treatment and did not mention the movement of Cox, the majority said.

"First, there was ample evidence from which reasonable jurors could infer that Zinkweg and Azhar's movement of Christoffer, not the delay in time until treatment, was the prime factor that resulted in his bilateral jumped facets, the severe injury that left him a permanent quadriplegic," Judge Douglas said.

The parties' medical experts agreed that Cox's final diagnosis was bilateral jumped facets, which is typically caused by a high-speed impact while the neck is in a flexion position, the majority said. Based on the testimony at trial, the majority found that reasonable jurors could conclude that Cox's short-distance fall did not comport with the type of impact said to cause bilateral jumped facets, but that the "frantic movement" of Cox from the floor to the bed did.

"Second, and most importantly, the movement of Christoffer by his friends is imperative because there is evidence denoting a conflict as to whether the drugs ingested by Christoffer and Zinkweg were a but-for-cause of, or even incidental to, this catalyst of Christoffer's bilateral jumped facets," Judge Douglas said. Rather, it is plausible from the testimony that the movement of Cox was a "poor judgment call made by teenagers."

In a partial dissent, U.S. Circuit Judge Irma Carrillo Ramirez said she would have affirmed the order granting Occidental's renewed motion for judgment because the uncontroverted testimony established that the use of LSD was at least a "but for" cause of Christoffer Cox's injuries.

"The district court did not err in finding that there is insufficient evidence as a matter of law to support the jury's verdict that Cox's injuries did not arise out of the use by any person of LSD, and that the controlled substance exclusion applies," Judge Ramirez said. The judge added, however, that she agrees with the majority opinion in all other respects.

Counsel for Cox and his parents, Joan Lucci Bain of Lucci Bain Law PLLC, told Law360 that she was pleased with the result for her clients.

A representative of the insurer did not immediately respond to a request for comment Wednesday.

U.S. Circuit Judges Jacques L. Wiener Jr., Dana M. Douglas and Irma Carrillo Ramirez sat on the appeals panel.

Cox and his parents are represented by Joan Lucci Bain of Lucci Bain Law PLLC and Robert E. Lapin of Lapin & Landa LLP.

Occidental is represented by Joseph A. Ziemianski, Bryan P. Vezey and Gregory S. Hudson of Cozen O'Connor PC.

The case is Occidental Fire & Casualty Co. of North Carolina v. Cox et al., case number 24-20388, in the U.S. Court of Appeals for the Fifth Circuit.

--Additional reporting by Catherine Marfin. Editing by Amy Rowe.