

# TLA Transportation Verdicts

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**ALABAMA****DISTRICT COURT****MOTOR VEHICLE**

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**Head-on Collision — Motor Vehicle**

Driver of tractor trailer blind in one eye, collision injures one plaintiff, kills the other

<b>Verdict/Settlement</b>	\$12,000,000 settlement
<b>Case</b>	Haddox v. Crain Plumbing LLC
<b>Court</b>	United States District Court for the District of Alabama
<b>Judge</b>	None reported
<b>Date</b>	9/23/2004

<b>Plaintiff Attorney(s)</b>	Larry Morris
<b>Defense Attorney(s)</b>	None reported

**Facts & Allegations**

Two tractor trailers collided near Madison, GA on July 23, 2003. The employee of Crain Plumbing driving the northbound tractor trailer claims that he slammed on the brakes when a small black pickup truck pulled out in front of him. His tractor trailer entered the southbound lane, colliding with the tractor trailer driven by Sandra Patricia Haddox, 44, and in which Buford Haddox, 45, her husband, was sleeping. The collision left Buford Haddox injured and killed Sandra Haddox. The Crain driver was blind in his right eye, ruining his depth perception.

**Injuries/Damages**

No specifics reported other than injuries to Buford Haddox and the death of Sandra Haddox

**Result**

The parties reached a \$12,000,000 settlement, the limit of the trucking company's insurance, \$6,000,000 to go to Buford Haddox and the other \$6,000,000 to go to his wife's estate.

<b>Plaintiff(s)</b>	Buford and Sandra Haddox
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	None reported
<b>Defense Expert(s)</b>	None reported
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	Buford Haddox, 45; Sandra Patricia Haddox, 44
<b>Occupation</b>	None reported
<b>Gender</b>	Buford Haddox, male; Sandra Patricia Haddox, female
<b>Married</b>	Husband and wife
<b>Children</b>	None reported
<b>Children Description</b>	None reported

<b>Written By</b>	Frank Sherer
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**ILLINOIS****DISTRICT COURT****MOTOR VEHICLE****Motor Vehicle — Tractor Trailer — Product Liability — No Back-Up Alarm****Tractor trailer crushes plaintiff between trailer and loading dock**

**Verdict/Settlement** \$14,000,000 verdict  
**Case** Baltzell v. Freightliner  
**Court** District Court for the Southern District of Illinois  
**Judge** None reported  
**Date** 4/2005

**Plaintiff Attorney(s)** Thomas Q. Keefe, Jr., Thomas Q. Keefe, Jr., P.C., Belleville, IL  
**Defense Attorney(s)** Robert McNamara and John Bell, Johnson & Bell, Chicago, IL; Lawrence R. Smith, O'Hagan, Smith & Amundsen, Chicago, IL; Michael J. Nester and Kristine Mack, Donovan, Rose, Nester & Joley, P.C., Belleville, IL; G. Keith Phoneix, St. Louis, MO; Ted Harvey and Michael Donelson, Freark, Harvey, Mendillo, Dennis, Wuller, Cain & Murphy, P.C., Belleville, IL

**Facts & Allegations**

On May 22, 2000, a 55-year old warehouseman for Ensign-Bickford Company was crushed between the rear of a truck and a loading dock. Plaintiff claimed there was a miscommunication between himself and his co-worker, the operator of the truck. Plaintiff filed suit alleging that the product manufactured and supplied by each of the defendants was defective and unreasonably dangerous in that it lacked a back-up alarm, and that the absence of the back-up alarm was the proximate cause of his injuries.

The cab chassis was manufactured and sold by Freightliner; the trailer box was manufactured and sold by Lufkin; and the truck trailer was supplied to plaintiff's employer, Ensign-Bickford, by R&R Trucking Company.

**Injuries/Damages**

Crushed pelvis, severed ureter and colostomy.

**Result**

\$14,000,000 verdict. Special damages: \$715,000 in medical expenses, \$250,000 in past and future wage loss

**Plaintiff(s)** Baltzell  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** Mark Ezra, products specialist, Maryland Heights, MO; Dr. Bradley Sewick, neuropsychologist, Shoutfield, MI; Dr. Robert Voogt, life care planner, Virginia Beach, VA  
**Defense Expert(s)** Frank Entwisle; Norris Hoover; Richard Katz; Thomas McNish; William Leisure; Jerry Purswell; and Chris Ferrone  
**Post-Trial** None reported  
**Editor's Note** None reported  
**Plaintiff(s)**  
**Demographics**  
**Age** 55  
**Occupation** Warehouseman  
**Gender** Male  
**Married** None reported  
**Children** None reported  
**Children** None reported  
**Description**  
**Written By** Frank Sherer

**MOTOR VEHICLE****Tractor Trailer — Wrongful Death — Left Turn**

**Tractor trailer collides with decedent's vehicle while making left turn across two lanes of traffic**

<b>Verdict/Settlement</b>	\$1,486,400 verdict
<b>Case</b>	Docket information withheld
<b>Court</b>	Cook County
<b>Judge</b>	None reported
<b>Date</b>	1/21/2000

<b>Plaintiff Attorney(s)</b>	Louis C. Cairo, Goldberg, Weisman & Cairo, Chicago, IL
<b>Defense Attorney(s)</b>	Alton C. Hayes, Williams & Montgomery, Chicago, IL

**Facts & Allegations**

Claim brought by decedent's son against defendant trucking company and defendant driver. The defendant driver was operating a tractor trailer, traveling westbound on Indiana State Route 2, when he decided to turn around and head in the opposite direction. He pulled into a parking lot on his right to turn his truck around. Facing south, the defendant driver proceeded to make a left turn across two westbound lanes and a 30-foot median into the inside lane of eastbound Route 2. The decedent was traveling eastbound on Route 2, the same direction the defendant truck driver wished to travel, in the inside lane, too. The front fender of the decedent's vehicle came into contact with the front passenger side tire of the defendant's truck, causing the decedent's vehicle to flip over and slide approximately 150 feet on its roof and hood.

The defendants argued that the accident was the decedent's fault as he should have changed lanes, slowed down or stopped when saw the tractor trailer entering the roadway. The plaintiff countered that it was common sense for a driver to not expect a tractor-trailer to pull out in front of a vehicle traveling with the right-of-way. The plaintiff asserted that it was the defendant driver's obligation to yield the right-of-way and be sure the lane was clear before he made the left turn.

**Injuries/Damages**

The decedent suffered a severe head injury and a degloving injury to his scalp. The decedent remained in the hospital for a 28-day period where he lapsed in and out of consciousness. During his hospital stay, the decedent was closely monitored due his extensive history of degenerative heart disease and due to the concern for a scalp infection. The decedent was then moved to a nursing home for continued care but died the next day. The decedent's medical bills totaled \$131,000.

**Result**

\$1,486,400 verdict (\$486,400 on the survival count, \$1,000,000 for the wrongful death count).

<b>Plaintiff(s)</b>	None reported
<b>Demand</b>	\$1,000,000
<b>Offer</b>	\$200,000 (at trial)
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	David Hoffman, accident reconstructionist, St. Joseph's County, IN
<b>Defense Expert(s)</b>	Robert Yount, decedent's treating neurosurgeon, South Bend, IN; Ronald Nelson, decedent's treating cardiologist, South Bend, IN; Dr. Halloway, decedent's treating urologist, South Bend, IN; James Fink, decedent's treating internist, South Bend, IN
<b>Post-Trial</b>	Case settled for \$1,000,000 insurance policy limit
<b>Editor's Note</b>	Defendants sought to have the case removed from Illinois to Indiana, as the accident occurred in Indiana and the decedent was an Indiana resident. The plaintiff brought the case in Illinois because the defendant trucking company and defendant driver were from Illinois. Indiana caps non-economic losses at \$250,000, which would have limited the plaintiff's possible recovery to \$381,000. The defendants lost this motion and a motion for the court to apply Indiana law.

**Plaintiff(s) Demographics**

<b>Age</b>	Decedent (79)
<b>Occupation</b>	None reported
<b>Gender</b>	Male
<b>Married</b>	Yes
<b>Children</b>	Three
<b>Children Description</b>	Middle-aged

<b>Written By</b>	Frank Sherer
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**ILLINOIS****COOK COUNTY****MOTOR VEHICLE**

Negligent Maintenance — Products Liability — Wrongful Death — Vicarious Liability

**Minivan engulfed in flames when mud flap/tail light assembly falls from defendant's truck chassis and spears gas tank; six children dead**

**Verdict/Settlement** \$100,000,000 settlement  
**Case** Willis v. Transamerica Leasing, Inc.  
**Court** Cook County  
**Judge** Donald O'Connell  
**Date** 8/26/1999

**Plaintiff Attorney(s)** Joseph A. Power, Jr. and Larry R. Rogers, Jr., Power, Rogers & Smith, P.C., Chicago, IL  
**Defense Attorney(s)** None reported

**Facts & Allegations**

Plaintiffs husband and wife brought action to recover for wrongful deaths of their six children in a fiery can crash which occurred on Route 94, one-half mile west of Layton, WI, near Milwaukee. The plaintiff husband was driving the family's 1994 Plymouth Grand Voyager with their six children in back when he inadvertently struck a piece of debris lying in the middle of the roadway, which turned out to be a portion of a mud flap/tail light assembly that had fallen from a truck chassis. The family was headed toward their older son's home to celebrate two birthdays. Sparks from the debris caused an explosion which engulfed the van and its occupants in flames. The plaintiffs were badly burned; their six children perished.

The plaintiffs assert that the defendant Transamerica Leasing failed to properly service, maintain and inspect the chassis from which the mud flap/tail light assembly fell. The plaintiffs alleged negligence against the manufacturer of the assembly. They alleged negligence against the owner of the tractor who employed the driver involved in the accident. The plaintiffs alleged negligence against the shipping company for whom the owner of the tractor and that owner's employee were acting as agents. Finally, the plaintiffs alleged defective design against Chrysler Corp., the manufacturer of the minivan.

**Injuries/Damages**

Plaintiff husband and wife – badly burned; six children – death

**Result**

\$100,000,000 settlement reached during a pre-trial conference two weeks before trial. Contributions by defendant: Transamerica Leasing - \$50,000,000; Allied Products (manufacturer of assembly) - \$14,500,000; Hammer Express (trucking company) - \$1,000,000; Hanjin Shipping - \$10,000,000, Burlington Northern Railroad Company - \$14,500,000; and Chrysler Corporation - \$10,000,000

**Plaintiff(s)** Willis  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** None reported  
**Defense Expert(s)** None reported  
**Post-Trial** None reported  
**Editor's Note** Believed to be largest personal injury settlement to a single family in the entire country as of date of settlement. Plaintiffs' attorneys took over 120 depositions over the course of a two-year period and retained six experts in the fields of metallurgy, fracture mechanics, trucking and accident reconstruction from across the country.

**Plaintiff(s) Demographics**

**Age** Both 50  
**Occupation** None reported  
**Gender** Male and female  
**Married** Husband and wife  
**Children** Six (died in accident)  
**Children Description** None reported

**Written By** Frank Sherer

**ILLINOIS****COOK COUNTY****MOTOR VEHICLE****Drunk Driver — Head-on Collision — Tractor Trailer**

**Drunk driver crosses yellow line, collides head-on with plaintiff's vehicle, tractor trailer then collides with plaintiff's vehicle**

**Verdict/Settlement** \$6,251,000 verdict  
**Case** Collins v. Lara  
**Court** Cook County  
**Judge** Deborah Dooling  
**Date** 2/18/2005

**Plaintiff Attorney(s)** David Nemeroff, Nemeroff Law offices  
**Defense Attorney(s)** Larry Mancini, Norton, Mancini and Weiler, Wheaton, IL; Randall Monroe, Brenner, Ford, Monroe and Scott, Chicago, IL; Eric Johnson, Barrett Bodach and Associate, Chicago, IL

**Facts & Allegations**

In December 1999, the plaintiff was traveling eastbound on North Avenue in Lombard, IL when a vehicle traveling westbound, operated by the defendant Lara crossed over the double yellow center line and struck the plaintiff's vehicle head-on. The force of the collision caused the plaintiff's vehicle to be pushed into the path of a tractor trailer operated by the defendant Michael Horwick.

The plaintiff brought suit against both drivers for negligence in their operation of their vehicles. Both defendants denied liability. The evidence showed that Lara had been drinking at a bar prior to the accident and had a blood alcohol content of .217 after the crash. He pled guilty to aggravated DUI and served approximately 11 months in a state penitentiary.

**Injuries/Damages**

The plaintiff was taken unconscious to the hospital where she spent approximately one month in intensive care with multiple trauma injuries, including a fractured femur requiring a surgery to place a metal rod, an open fracture of her tibia/fibula, which pierced her calf muscle, requiring surgery, multiple fractures to her pelvis (no surgery), two wrist fractures (no surgery) and an SI joint widening. The plaintiff underwent multiple surgeries while in the hospital. She last underwent a surgery to repair her calf muscle with muscle from her stomach. She also later underwent surgery to remove the external fixator devices applied to her lower leg. She was transferred to another hospital, where she spent two months, and finally underwent one month of inpatient physical therapy at a third. She developed severe heterotrophic ossification of her left hip, resulting in a completely fused hip, for which she needs further surgery to increase the mobility

**Result**

\$6,251,000 verdict. Defendant Lara 90% liable and defendants truck driver and employer 10% liable. Verdict included \$450,000 in past and future medical expenses, \$3,000,000 in past and future pain and suffering, \$3,500,000 for past and future loss of a normal life, \$51,000 for lost earning and \$250,000 for disfigurement. The jury also awarded \$300,000 punitive damages as to defendant Lara. The plaintiff settled with defendant M.G. Concessions for \$60,000 - \$45,000 to the plaintiff and \$15,000 for loss of society to her mother, sister and brother.

**Plaintiff(s)** Torne, Dorothy, and Dawn Collins and Michael Grisham  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** Steven Louis, M.D., treating orthopedist, Hinsdale, IL; Catherine McGinnis, M.D., family practice, Oak Park, IL  
**Defense Expert(s)** Anita Kerezman, trucking safety, Phoenix AZ  
**Post-Trial** Jury deliberated for 1 ½ hours  
**Editor's Note** None reported  
**Plaintiff(s) Demographics**  
**Age** Torne Collins (36)  
**Occupation** None reported  
**Gender** Female  
**Married** None reported  
**Children** None reported  
**Children Description** None reported

**Written By** Frank Sherer

**MOTOR VEHICLE****Tractor Trailer — Stopped for Prior Accident — Rear-ended**

Tractor trailer rear-ended plaintiff's vehicle that was stopped on roadway due to prior accidents allegedly attributable to thick fog

**Verdict/Settlement** \$11,230,000 gross verdict  
**Case** Bryant v. Carter's Excavating & Grading  
**Court** U.S. District Court, Northern District of Illinois  
**Judge** Geraldine Soat Brown  
**Date** 4/23/2001

**Plaintiff Attorney(s)** J. Matthew Dudley, Trobe & Dudley, Waukegan, IL; Caroline Golden, Neal, Gerber & Eisenberg, Chicago, IL  
**Defense Attorney(s)** William V. Johnson, Johnson & Bell, Chicago, IL; William M. Gantz, Piper, Marbury, Chicago, IL

**Facts & Allegations**

On March 13, 1999, the plaintiff had stopped his vehicle on I-80 in North Platte, Nebraska due to an earlier series of accidents that had halted traffic on the highway. Visibility was poor due to thick fog hovering over the ice-covered roadway. After lightly striking a milepost marker when his vehicle slid, the plaintiff had exited his vehicle to check for damage. He also intended to see whether anyone in the multi-vehicle pileup required assistance. Shortly thereafter, the plaintiff and his vehicle were struck from behind by the defendant's 18-wheel tractor trailer at an estimated speed of 35-45 mph.

The plaintiff contended that the driver of the tractor trailer was negligent in failing to slow his vehicle given the limited visibility and poor roadway conditions. This lack of care, he claimed, directly resulted in the collision.

The defendants contend that the plaintiff was comparatively negligent in exiting his vehicle on a major highway, especially in light of the poor visibility. Further, they contend that the plaintiff was negligent in failing to keep his vehicle's lights on and for failing to activate the emergency hazard lights, all which contributed to the defendant truck driver not seeing the plaintiff and his vehicle as he approached the accident scene. The defendants contend that the plaintiff should have foreseen the possibility of a rear-end collision after he stopped his vehicle on the roadway.

**Injuries/Damages**

The plaintiff sustained compression fractures to four vertebrae, a fractured scapula, fractured ribs resulting a four-level spinal fusion and reflex sympathetic dystrophy of the right arm. He presented medical specials of \$231,755.89.

**Result**

\$11,230,000, reduced by 20% in accordance with the jury's finding of comparative fault on the part of the plaintiff

**Plaintiff(s)** Robert Chesler  
**Demand** \$5,000,000  
**Offer** \$3,000,000/\$1,000,000 high/low agreement  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** Anita Kerezman, trucking, Phoenix, AZ;  
Walter Johnson, Ph.D., economist, St. Louis, MO;  
Gary Yarkony, M.D., rehabilitation medicine, Elgin, IL;  
Henry Kurzydowski, M.D., treating pain management specialist, Park Ridge, IL  
**Defense Expert(s)** Giancarlo Barolat, M.D., neurosurgeon, Philadelphia, PA  
**Post-Trial** None reported  
**Editor's Note** Trial court allowed submission of a jury instruction regarding the statutory violation of Nebraska law for leaving automobile "parked" on travel lanes of highway  
**Plaintiff(s) Demographics**  
**Age** Albert Garner (early 20s)  
**Occupation** None reported  
**Gender** Male  
**Married** None reported  
**Children** None reported  
**Children Description** None reported  
**Written By** Frank Sherer

**MOTOR VEHICLE****Tractor Trailer — Raised Rear Dump Hauler — Viaduct — Trailer Separation**

Tractor trailer with raised rear dump hauler fails to negotiate viaduct, trailer loaded with cargo separates, strikes adjacent cargo van with five occupants

**Verdict/Settlement** \$62,405,076 verdict  
**Case** Bryant v. Carter's Excavating & Grading  
**Court** Cook County  
**Judge** Deborah Mary Dooling  
**Date** 3/21/2002

**Plaintiff Attorney(s)** John B. Kralovec, Kralovec, Jambois & Schwartz, Chicago, IL; Michael Mullen, Law Offices of Paul B. Escipone, Chicago, IL  
**Defense Attorney(s)** None reported

**Facts & Allegations**

On July 29, 2000, the defendant truck driver was operating a tractor trailer with a rear dump hauler in a raised position when he came upon a portion of the Dan Ryan Expressway in Chicago, IL that proceeded through a viaduct. The raised rear portion of the trailer slammed into the viaduct, causing the trailer to be ripped from the tractor and fall over onto the adjacent lane of travel. The trailer fell onto a cargo van carrying five college students employed by the City of Chicago in a summer program. The van was hauling a movable playground, which was being transported to the north side of the city for placement in a public area. The trailer portion weighed 80,000 pounds.

The plaintiffs contended that the defendant's truck driver and his employer negligently caused the accident in operating the tractor trailer and/or by permitting the tractor trailer to be operated on a major highway with the rear dump portion raised. The defendant admitted liability for the accident and only contested the remaining plaintiffs' damages.

**Injuries/Damages**

Five plaintiffs: two fatal injuries; fractured spinal cord resulting in quadriplegia; two minor injuries

**Result**

\$62,405,076 verdict (\$50,800,093 for Albert Garner, the quadriplegic; \$3,599,218 for decedent Genesis Bryant; \$8,005,765 for female decedent Lowe, survived by a two-year old daughter). The two city employees who sustained minor injuries settled their claims before trial.

**Plaintiff(s)** Albert Garner, Genesis Bryant, Lowe (female decedent, no first name reported)  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** None reported  
**Defense Expert(s)** None reported  
**Post-Trial** None reported  
**Editor's Note** The defendant Carter's Excavation & Grading only had insurance for \$5,000,000. The plaintiffs intended to collect under the underinsured motorist policy previously issued for the city-owned van in which the plaintiffs were passengers. The limits of that policy are \$50,000,000. The \$50,800,093 awarded to the plaintiff quadriplegic is reported to be the largest amount awarded to an individual plaintiff for a quadriplegic injury to date in the history of Cook County, IL.

**Plaintiff(s) Demographics**

**Age** Albert Garner (early 20s)  
**Occupation** Recent college graduate about to start full-time employment  
**Gender** Male  
**Married** None reported  
**Children** None reported  
**Children Description** None reported

**Written By** Frank Sherer

**MOTOR VEHICLE****Vicarious Liability — Multi-vehicle Collision — Broad Sided****Plaintiff's vehicle broad sided by tractor trailer after three-vehicle collision**

<b>Verdict/Settlement</b>	\$2,000,000 settlement
<b>Case</b>	Martinez v. Brenco Trucking Co.
<b>Court</b>	Cook County
<b>Judge</b>	Judge Elrod
<b>Date</b>	10/2000

<b>Plaintiff Attorney(s)</b>	Peter Tarpey and Micahel Mulleon, Chicago, IL
<b>Defense Attorney(s)</b>	Patrick Graber, Chicago, IL; Kevin O'Hagen, Chicago, IL; Franklin Valderama, Chicago, IL; Jon Palumbo, Chicago, IL

**Facts & Allegations**

On February 1, 1996, the plaintiff and the decedent were passengers in a vehicle struck by another vehicle that had been rear-ended by a third vehicle. The plaintiff's vehicle spun around and then was broad sided by a tractor trailer operated by the defendant truck driver. The decedent back seat driver was ejected from the vehicle, suffered massive injuries and was pronounced dead a short time later. The plaintiff, traveling as a front seat passenger, suffered minor physical injuries, but claimed bystander emotional distress at watching his father die at the scene. The police officer who responded to the scene of the accident found the brakes of the tractor trailer to be out of adjustment. The defendant truck driver, although he had a CDL, was unfamiliar with much of the content and spoke little English.

The plaintiff contended that the defendant truck driver failed to apply his brakes in a timely fashion or failed to properly check and adjust the brakes prior to his trip.

The truck driver and trucking company denied negligence on the part of the truck driver, maintaining that the brakes were adjusted properly, that he reacted appropriately to the emergency situation by timely applying his brakes and that he had no reasonable opportunity to avoid the accident.

**Injuries/Damages**

Plaintiff son – minor injuries and bystander emotional distress

**Result**

\$2,000,000 settlement before trial.

<b>Plaintiff(s)</b>	Martinez
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	Roland Ruht, automotive engineering expert, Champaign, IL
<b>Defense Expert(s)</b>	None reported
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	None reported
<b>Occupation</b>	None reported
<b>Gender</b>	None reported
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported

<b>Written By</b>	Frank Sherer
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**MOTOR VEHICLE****Driving Under The Influence — Rear Ended — Cement Hauler — Tractor Trailer**

Tractor trailer rear-ends plaintiff's vehicle, propelling it into oncoming traffic, collision with cement hauler

<b>Verdict/Settlement</b>	\$19,200,000 verdict
<b>Case</b>	Tengler v. Preferred Unlimited Inc.
<b>Court</b>	Cook County
<b>Judge</b>	Carol McCarthy
<b>Date</b>	2/18/2004
<b>Plaintiff Attorney(s)</b>	Tom Leahy, Chicago, IL
<b>Defense Attorney(s)</b>	Patrick Dowd, Dowd & Dowd, Chicago, IL; Bate & Carey, Chicago, IL; Cremer Kopon & Shaughnessy, Chicago, IL

**Facts & Allegations**

On October 11, 1999, an 80,000 pound tractor trailer driven by defendant David Villareal, an employee of defendant Preferred Unlimited, rear-ended a vehicle in which the plaintiff decedent was a passenger. The vehicle was propelled into oncoming traffic and struck again by an oncoming cement hauler driven by defendant Zarko Trisic, an employee of defendant Kazanova Cartage, Inc. The plaintiff was pronounced dead at the scene. Post-accident drug testing revealed that Villareal had high doses of marijuana and cocaine in his system. The Preferred Unlimited truck belonged to defendant Rollins Leasing Corp., which admitted to only having \$1,000,000 in insurance.

The plaintiff alleged that defendant Preferred Unlimited and Villareal were negligent in their operation of their tractor trailer and in permitting Villareal to operate the vehicle when unfit to do so. The plaintiff also alleged that Rollins negligently maintained the tractor trailer. The plaintiff also sued the driver and owner of the cement hauler that collided with the vehicle in which the plaintiff was a passenger. The plaintiff sought compensatory damages for the pain and suffering in the moments immediately following the accident.

Defendants Trisic and Kazanova Cartage maintained they were not the cause of the accident as the decedent's vehicle was thrown in the path of their cement hauler. The defendants Villareal and Preferred Unlimited tried in vain to keep the drug evidence from the jury.

**Injuries/Damages**

Death

**Result**

\$19,200,000 verdict. Plaintiff settled with defendant Rollins soon after trial commenced for \$175,000. Jury found defendants Villareal and Preferred Unlimited 100% liable and found no liability for defendants Trisic and Kazanova Cartage. Verdict comprised of \$18,200,000 for loss of society and future earnings and \$1,000,000 for conscious pain and suffering in the moments immediately following the accident.

<b>Plaintiff(s)</b>	Billie Jo Tengler
<b>Demand</b>	None reported
<b>Offer</b>	\$7,500,000
<b>Insurer(s)</b>	Zurich-American Insurance
<b>Plaintiff Expert(s)</b>	Roland Ruhl, Ph.D., P.E., accident reconstruction, Phoenix, AZ
<b>Defense Expert(s)</b>	None reported
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	Rollins maintained that it only had \$1,000,000 in insurance during discovery and certified under oath that no other coverage existed. As the tractor trailer was registered in Oklahoma, Oklahoma professional liability law mandated insurance coverage. Plaintiff filed suit in Oklahoma to obtain any other insurance information and discovered that Zurich-American insured Rollins in the amount of \$50,000,000 for any permitted user of the vehicle. Under the lease to Preferred Unlimited, Villareal was a permitted user of the truck. Plaintiff instituted a declaratory judgment action to get a declaration of coverage. Zurich did not deny coverage until the time of trial. The plaintiff refused Zurich's settlement offer and filed a motion for sanctions against Zurich, maintaining that it was at fault for hiding insurance information.

**Plaintiff(s) Demographics**

<b>Age</b>	28
<b>Occupation</b>	None reported
<b>Gender</b>	Male
<b>Married</b>	None reported
<b>Children</b>	None reported

**Children Description**

None reported

**Written By**

Frank Sherer

**MOTOR VEHICLE****Two-Lane Highway — Head-on Collision — Tractor Trailer — Van****Tractor trailer crosses center line of highway, collides head-on with van**

**Verdict/Settlement** \$5,250,000 settlement  
**Case** West Pointe Bank & Trust Co. v. James Dresner  
**Court** U.S. District Court – Southern District of Illinois  
**Judge** David Herndon  
**Date** 3/22/2002

**Plaintiff Attorney(s)** Michael Cullen, Law Office of Michael P. Cullen, St. Louis, MO  
**Defense Attorney(s)** None reported

**Facts & Allegations**

Plaintiff decedent Teresa May was driving a minivan in which her twin daughters, Ashley and Arica Jeffries, another daughter, Amanda May, and her adult sister, Sheliah Taylor, were passengers. Plaintiffs were traveling north on U.S. Highway 65 and defendant James Dresner, operating a tractor trailer owned by Alamo Group Trucking was traveling south on U.S. Highway 65. Plaintiffs claim Dresner was traveling too fast for the wet road conditions, entered a sharp curve and the trailer jack-knifed and swung over into the oncoming lane as the plaintiffs' minivan was entering the curve. The trailer struck the minivan head-on.

Plaintiffs claim Alamo Group Trucking was negligent in failing to properly instruct its drivers and in allowing an unsafe driver to operate its vehicle. Plaintiffs also contended that the vehicle was not properly maintained but was unable to produce evidence to support this allegation because defendant conducted repairs on the trailer involved in the collision before plaintiffs were able to inspect the brakes on the trailer.

Defendants denied negligence in operating the truck. Defendants also contended that the employer provided adequate training and supervision. The accident occurred during the day; wet road conditions were present.

**Injuries/Damages**

Teresa May – death, \$600,000-\$800,000 future lost income; Ashley Jeffries – death, medical specials: \$48,301.41; Sheliah Taylor – death, \$400,000-\$800,000 future lost income; Amanda May – fractured leg requiring revision surgery, facial lacerations resulting in scarring, mental distress from witnessing death of mother and step-sister, medical specials: \$4,802.21; Arica Jeffries – lacerations and scarring to the forehead, eyes and nose, mental distress from witnessing death of mother and twin sister, medical specials: \$947

**Result**

\$5,250,000 settlement in total damages. Breakdown: for wrongful death of Teresa May - \$2,100,000 from both defendants collectively; for wrongful death of Ashley Jeffries - \$1,150,000 from both defendants collectively; for wrongful death of Sheliah Taylor - \$1,550,000 against both defendants collectively; for Amanda May – 4225,000 from both defendants collectively; for Arica Jeffries - \$225,000 from both defendants collectively

**Plaintiff(s)** Teresa May, Ashley Jeffries, Sheliah Taylor, Arica Jeffries, Amanda May  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** Zurich Insurance  
**Plaintiff Expert(s)** Anita Kerezman, trucking and truck driving specialist, Phoenix  
**Defense Expert(s)** Trucking expert, name unavailable  
**Post-Trial** None reported  
**Editor's Note** None reported  
**Plaintiff(s) Demographics**  
**Age** Teresa May (27), Ashley & Arica Jeffries (4), Sheliah Taylor (40), Amanda May (6)  
**Occupation** None reported  
**Gender** None reported  
**Married** None reported  
**Children** None reported  
**Children Description** None reported

**Written By** Frank Sherer

**MOTOR VEHICLE****Two-Lane Highway — Head-on Collision — Tractor Trailer — Van****Tractor trailer crosses center line of highway, collides head-on with van**

**Verdict/Settlement** \$3,250,000 settlement  
**Case** Bailey v. Rollins Leasing Corp.  
**Court** U.S. District Court – Southern District of Illinois  
**Judge** Clifford J. Proud  
**Date** 3/21/2003

**Plaintiff Attorney(s)** William K. Holland & Jeffrey Singer, Fox, Goldblatt & Singer, St. Louis, MO**Defense Attorney(s)** John G. Enright, Hahn, Enright & Crank, St. Louis, MO**Facts & Allegations**

On May 27, 2000, plaintiff Terri Bailey's three children, Timothy (12 years old), Tenetia (8 years old) and Terry (11 years old) Wilson, were in a van, driven by their aunt, Teresa May, near Pindel, Arkansas, on their way to Bible camp, when the driver of a tractor trailer owned by Alamo Group Trucking failed to maintain control of the truck, crossed the center line of the two-lane highway and collided head-on with the van.

Defendant Alamo Group Trucking contested liability, claiming that highway signage near the accident did not adequately warn of the downward slope curve in the road and the driver was unaware that reduced speed was required. Defendant also contended that the signage was too far ahead of the curve and that the driver forgot about the curve and was not prepared for it. Defendants also disputed the nature and extent of plaintiffs' injuries. The accident occurred during the day; the road conditions were wet at the time of the accident.

**Injuries/Damages**

Timothy Wilson – traumatic brain injury, resulting in moderate neurological dysfunction, medical specials: about \$85,000 past medical, \$400,000-\$1,200,000 future medical and lost wages; Tenetia Wilson – fractured left elbow, fractured left ankle, post-traumatic stress disorder, medical specials: \$15,000 past medical, wage loss – none; Terry Wilson – soft tissue right knee, post-traumatic stress disorder, medical specials: \$15,000 past medical, wage loss – none.

**Result**

Settlement reached before trial for plaintiffs Timothy, Tenetia and Terry Wilson. \$3,250,000 in total damages from defendant James M. Dresner

**Plaintiff(s)** Timothy, Tenetia and Terry Wilson**Demand** None reported**Offer** None reported**Insurer(s)** None reported

**Plaintiff Expert(s)** Dr. Harvey Cantor, pediatric neurologist, treating doctor from St. Louis, MO;  
 Dr. Edwin Wolfgram, psychiatrist, treating doctor from St. Louis, MO;  
 James England, vocational rehabilitation, St. Louis, MO;  
 Leroy Grossman, Ph.D., economist, St. Louis, MO;  
 Anita Kerezman, trucking and truck driving specialist, Phoenix, AZ;  
 Francis Oldham, accident reconstructionist, St. Louis, MO

**Defense Expert(s)** Dr. Simon Horenstein, neurologist, St. Louis, MO;  
 Dr. Rosalyn E. Inniss, psychiatrist, Kansas City, MO;  
 Michael Brethauer, vocational rehabilitation, St. Louis, MO;  
 Stephen H. Richards, accident reconstructionist, Knoxville, TN

**Post-Trial** None reported**Editor's Note** Case originally filed in St. Louis City Circuit Court, then removed to U.S. District Court, Eastern District of Missouri by plaintiffs and then transferred to U.S. District Court, Southern District of Illinois by defendants.**Plaintiff(s) Demographics****Age** Timothy Wilson (12), Tenetia Wilson (8), Terry Wilson (11)**Occupation** None reported**Gender** None reported**Married** None reported**Children** None reported**Children Description** None reported**Written By** Frank Sherer

**MOTOR VEHICLE****Traffic — Motor Vehicle — Lane Change****Delivery truck's lane change results in directed verdict for plaintiff**

<b>Verdict/Settlement</b>	\$107,975 verdict
<b>Case</b>	Root v. Morrison
<b>Court</b>	Cook County
<b>Judge</b>	Carol Pearce McCarthy
<b>Date</b>	3/24/2005

<b>Plaintiff Attorney(s)</b>	Kevin J. Golden, Motherway & Napleton
<b>Defense Attorney(s)</b>	Carol P. Woosely, Bruce Farrel Dorn & Associates

**Facts & Allegations**

On February 4, 2002, plaintiff, a 56-year old realtor, was driving to work, exited the Kennedy Expressway at Belmont, and began traveling eastbound. Defendant, driving a 24-foot boxed delivery truck, also exited the Kennedy Expressway and had slowed in the curb lane of eastbound Belmont. Defendant truck driver attempted to merge into plaintiff's lane as plaintiff passed the truck, striking the right front end of plaintiff's vehicle. Defense contended plaintiff was speeding and at fault for the collision.

**Injuries/Damages**

Plaintiff sustained a herniated disc at C4-5 (unoperated) and a compression fracture at C-7, with continuing pain in his neck and shoulder.

**Result**

The court directed a verdict on liability for the plaintiffs. Plaintiff received \$107,975 (\$45,000 for past and future pain and suffering, \$30,000 for past and future disability and \$32,975 for medical expenses).

<b>Plaintiff(s)</b>	Ronald Root
<b>Demand</b>	\$85,000
<b>Offer</b>	\$50,000
<b>Insurer(s)</b>	State Farm
<b>Plaintiff Expert(s)</b>	Dr. Wesley Y. Yapor, neurosurgeon, and Dr. Randolph Chang, anesthesiologist
<b>Defense Expert(s)</b>	Dr. Terence Lichtor, neurosurgeon
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	56
<b>Occupation</b>	Realtor
<b>Gender</b>	Male
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported
<b>Written By</b>	Frank Sherer

**MOTOR VEHICLE****Traffic Light — Failure To Stop At Red Light — Moving Van****Family crushed by moving van that failed to stop at a red light**

<b>Verdict/Settlement</b>	\$16,145,000 verdict
<b>Case</b>	Wright v. Westray
<b>Court</b>	Lake County
<b>Judge</b>	Robert A. Pete
<b>Date</b>	1/30/2004

<b>Plaintiff Attorney(s)</b>	David W. Holub, Ruman Clements & Holub, Hammond, IN
<b>Defense Attorney(s)</b>	Gary Klages, Chicago IL

**Facts & Allegations**

On December 23, 1996, the defendant was traveling north on I-65 in a fully loaded truck weighing 65,000 pounds. The defendant driver failed to notice two cars stopped at a red light at the entrance/exit ramps to the Indiana Toll Road in Gary, IN. The defendant truck attempted to avoid the plaintiff's car when he finally noticed it, however, he drove right over it and into the second vehicle. The plaintiff's vehicle contained the plaintiff wife, husband, son and mother-in-law.

The plaintiff claimed that the defendants were the cause of the collision and their resulting injuries. The plaintiffs further contended that the defendants acted with gross negligence or willful, wanton and conscious disregard for the safety and rights of others, and that such conduct is of the type and character that the law sets apart for punitive consideration by a jury.

The defendant did not contest fault relative to the plaintiffs' claim of negligence regarding the operation of the vehicle, however the defendant denied that they were negligent in any other way, i.e. acting in a grossly negligent manner or with willful, wanton, and conscious disregard for the safety and rights of others. The defendants also denied the nature and extent of the injuries to the plaintiffs surviving the accident.

The defendant driver admitted that he was distracted from smoke coming from his trailer and did not notice the vehicles stopped in front of him on the highway until it was too late. Although he attempted to avoid the collision, he wound up driving over the plaintiff's vehicle. The defendant driver had a history of 21 moving violations. The state police responding to the scene testified that there were mechanical deficiencies in the truck that, if pulled over prior to the accident, would have required removing the truck from the roadway.

**Injuries/Damages**

Plaintiff mother-in-law – killed instantly; plaintiff wife – serious injury to the head with resulting brain impairment, anxiety and depression; plaintiff son – serious injuries from being thrown from the vehicle; plaintiff husband – none reported

**Result**

\$16,145,000 verdict, including \$1,020,000 compensatory damages for plaintiff Dorothy Wright, \$100,000 compensatory damages for her husband John Wright for his claims of loss of society and consortium, \$25,000 compensatory damages for the infant son, Samuel Wright, and \$15,000 in punitive damages

<b>Plaintiff(s)</b>	Dolores Wright, Dorothy Wright, John Wright, Samuel Wright
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	None reported
<b>Defense Expert(s)</b>	None reported
<b>Post-Trial</b>	Defendants intend to appeal punitive damages award
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	Dorothy Wright (none reported), Dolores Wright (none reported), John Wright (none reported), Samuel Wright (10)
<b>Occupation</b>	None reported
<b>Gender</b>	None reported
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported

<b>Written By</b>	Frank Sherer
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**MOTOR VEHICLE****Pregnant Woman — Tractor Trailer — Inadequate Time To Avoid Collision**

Pregnant woman hurt in crash with tractor trailer; baby born with disabilities; accident unavoidable

<b>Verdict/Settlement</b>	Defense verdict
<b>Case</b>	Swenson v. Yellow Transportation, Inc.
<b>Court</b>	U.S. District Court for the District of Massachusetts
<b>Judge</b>	Judith G. Dein
<b>Date</b>	5/12/2004
<b>Plaintiff Attorney(s)</b>	None reported
<b>Defense Attorney(s)</b>	Mark W. Shaughnessy and Anthony M. Campo, Boyle, Morrissey & Campo, Boston, MA

**Facts & Allegations**

On November 26, 2001, the plaintiff was traveling on the Route 28 on-ramp at approximately 25 to 35 mph, and as she approached the final curve of the ramp, she hit an oil or grease slick of unknown origin, her vehicle began to slide as she entered the highway and collided with the defendant trucking company's tractor trailer being operated by an employee on Route 495 northbound.

The plaintiffs alleged that the operator was speeding at the time of the accident. The defendants maintained that the accident was unavoidable.

**Injuries/Damages**

The plaintiff driver was nine months pregnant at the time of the collision. As a result of the collision, she sustained a placental abruption and a comminuted complex acetabular fracture. The placental abruption led to the delivery of the child via emergency Caesarean section about one hour after the collision. Due to a lack of oxygen at birth, the child suffered from hypoxia ischemia, liver and renal dysfunction global development delays, seizure disorder, cerebral palsy, microcephaly and mental retardation.

According to the plaintiffs' expert life care planner, the present value of the life care plan was \$7,737,366. The plaintiffs' expert economist testified that the child's lost earning capacity was \$1,269,388. The total special damages alleged were \$9,202,458.

**Result**

Defense verdict. The defendants successfully cross-examined the plaintiffs' expert accident reconstructionist so as to elicit testimony that the defendant driver did not have adequate time to avoid the accident.

<b>Plaintiff(s)</b>	Swenson (mother and infant child)
<b>Demand</b>	\$15,000,000 (reduced from \$25,000,000)
<b>Offer</b>	\$1,000,000 (response to plaintiffs' first demand)
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	None reported
<b>Defense Expert(s)</b>	None reported
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	None reported
<b>Occupation</b>	None reported
<b>Gender</b>	Female (mother)
<b>Married</b>	None reported
<b>Children</b>	At least one
<b>Children Description</b>	None reported

**Written By** Frank Sherer

# MISSOURI

## JACKSON COUNTY

### MOTOR VEHICLE

#### Products Liability — Defective Fuel Tank — Wrongful Death

## Defective design of pickup truck's fuel tank causes death of three persons when truck erupts in flames following collision with tractor trailer

**Verdict/Settlement** \$12,500,000 verdict  
**Case** Mathes v. Ford Motor Co.  
**Court** Jackson County  
**Judge** Michael W. Manners  
**Date** 3/4/2004

**Plaintiff Attorney(s)** J. Kent Emison and Kevin Stanley, Langdon & Emison, Lexington, MO; Roger Pounder, House Springs, MO  
**Defense Attorney(s)** Frank Kelly, Shook Hardy & Bacon, San Francisco, CA; Paul Williams, Kansas City, MO; Michael Matteuzzi and Brian Goldstein, Kansas City, MO

#### Facts & Allegations

On October 9, 1999, the decedents, John and Shirley Mathes, were traveling with their eight-year old grandson in a Ford F150 pickup truck pulling a camper trailer behind their vehicle. There had been an earlier rainstorm and the roadway was wet. A tractor trailer traveling eastbound on Interstate 70 near Warrenton, MO hydroplaned on the wet pavement, hit the median and flipped over. The tractor trailer came to rest partially blocking the westbound lane where the decedents were traveling in their pickup. The decedents pickup collided with the overturned tractor trailer.

Another vehicle rear-ended the decedent's pickup, tearing a six-inch gash in the gas tank. The pickup truck erupted into flames, burning the decedents to death. The plaintiffs filed suit against Ford, the maker of the pickup truck, and Sher Express, the trucking company that owned the tractor trailer. The plaintiff maintained that Ford defectively designed the fuel tank. Ford maintained that liability for the accident rested with the trucking company. The trucking company admitted liability for the accident but not for the deaths.

#### Injuries/Damages

Death

#### Result

\$12,500,000 verdict: \$3,000,000 for the death of John Mathes, \$2,500,000 for the death of Shirley Mathes and \$7,000,000 for the death of Jacob Mathes. Prior to trial, Sher Express agreed to pay \$1,000,000, the limit of its insurance policy.

**Plaintiff(s)** John, Shirley and Jacob Mathes  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** Tom Green, accident reconstruction, Chicago, IL;  
Jerry Wallingford, fuel system design, San Antonio, TX;  
William "Chip" Bush, fire cause and origin, Birmingham, AL;  
Dr. Joseph Burton, biomechanics and cause of death, Alpharetta, GA  
**Defense Expert(s)** John Habberstad, accident reconstruction, Spokane, WA;  
Ed Caufield, fuel system design and tank shielding, Chicago, IL;  
James Benedict, biomechanics and occupant kinematics, San Antonio, TX;  
Dr. Thomas Bennett, cause of death, Billings, MN;  
Ralph Newell, fire cause and origin, Atlanta, GA

#### Post-Trial

#### Editor's Note

Jury deliberated for 5 hours

Evidence suggested that the decedents died instantly on impact, not from the fire. Ford, thus, argued that the defective fuel tank was not the cause of death and the cause of the accident rested solely with the driver of the tractor trailer for traveling at an excessive rate of speed in a construction zone on a wet roadway. The jury determined that Ford was, indeed, liable based upon the design of the fuel tank shield.

#### Plaintiff(s) Demographics

**Age** John Mathes (64), Shirley Mathes (58), Jacob Mathes (8)  
**Occupation** None reported  
**Gender** None reported  
**Married** None reported

**Children**  
**Children Description**

None reported  
None reported

**Written By**

Frank Sherer

# MISSOURI

## LAWRENCE COUNTY

### MOTOR VEHICLE

#### Tractor Trailer — Left Turn — Passing

Tractor trailer attempts to pass van making left turn, collides with left side of van

<b>Verdict/Settlement</b>	\$5,000,000 verdict
<b>Case</b>	Flood v. Holzwarth
<b>Court</b>	Lawrence County
<b>Judge</b>	None reported
<b>Date</b>	2004

<b>Plaintiff Attorney(s)</b>	Ed Hershewe, Alison Hershewe, Theresa Kenney, The Hershewe Law Firm, P.C., Joplin, MO
<b>Defense Attorney(s)</b>	Nick Nagrich, Wallace Saunders Firm, Springfield, MO

#### Facts & Allegations

Plaintiff Toni Flood, a 14-year old girl, was on her way to a national cheerleading competition in St. Louis. Defendant trucking company employed defendant Richard Holzwarth as its driver. While making a run from California to Missouri, defendant Holzwarth attempted to pass a van making a left turn, striking the van in the left side. Defendant trucking company contended the van driver failed to keep a proper lookout.

Defendants admitted liability.

#### Injuries/Damages

Plaintiff Toni Flood suffered a closed head injury and was flown to a local hospital by Life-Flight. She spent six days in ICU. She was released from the hospital after 9 days and had physical therapy, occupational therapy and speech therapy for 4 ½ months. After the wreck, plaintiff had CT scans and a PET scan showing injuries to her brain. She suffered a change in personality with mood swings and depression. Plaintiff also suffered left-sided weakness.

Defendants contended that plaintiff made a full recovery. Defendants had surveillance videotape of Toni playing junior varsity and varsity basketball and also cheerleading. Defendants contended that her IQ before and after the wreck were the same and that her grades improved after the wreck. Defendants also contended that plaintiff did not see another doctor until 9 months after she was released from therapy and only did so on the advice of her attorney.

Special damages: \$61,400 medical expenses, \$214,000 future medical, \$265,000 lost wages.

#### Result

\$5,000,000 jury verdict. The verdict consisted of \$1,600,000 in compensatory damages and \$3,400,000 in punitive damages. The trial court awarded prejudgment interest.

<b>Plaintiff(s)</b>	Toni Flood
<b>Demand</b>	\$1,000,000 (policy limit)
<b>Offer</b>	None, then \$1,000,000 after finding out driver was on methamphetamines at time of wreck
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	None reported
<b>Defense Expert(s)</b>	None reported
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	14
<b>Occupation</b>	Student
<b>Gender</b>	Female
<b>Married</b>	No
<b>Children</b>	None reported
<b>Children Description</b>	None reported

<b>Written By</b>	Frank Sherer
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**MOTOR VEHICLE****Defective Design — Motor Vehicle****Defective design of pump caused truck to move forward, crushing plaintiff**

<b>Verdict/Settlement</b>	\$8,750,000 jury verdict
<b>Case</b>	DeLeon v. Northrop Grumman Systems Corp. and Waterous Co.
<b>Court</b>	United States District Court for the District of New Mexico
<b>Judge</b>	None reported
<b>Date</b>	8/3/2004

**Plaintiff Attorney(s)** William H. Carpenter, Carpenter and Chavez, Albuquerque, NM

**Defense Attorney(s)** Earl W. (Billy) Gunn, Wheeler, Hungrinds, Gunn and Dial, Atlanta, GA  
Stephen M. Williams, Miller, Stratvert and Torgerson, Albuquerque, NM

**Facts & Allegations**

On June 11, 2001, plaintiff Jessica DeLeon, 32, a firefighter and corrections officer, was at the scene of a barn fire in Belen, NM, when a pumper truck manufactured by Northrop Grumman Systems Corp., Los Angeles, went into gear and began moving forward with no driver at the wheel. DeLeon, who was operating the pumps, jumped down and tried to hit the kill switch but was pinned between the cab door and a steel pipe fence. She was rushed to a hospital.

DeLeon sued Northrop Grumman and Waterous Company, St. Paul, Minn., which designed the pump system, for products liability. She asserted a defective design on the truck permitted it to shift unexpectedly when the pump was activated because the same engine operated the pump and the vehicle. Waterous Company designed the pump system to alternate between pump mode and road mode. DeLeon argued the company became aware of the defective design in the 1980s and could have fixed it for almost no cost.

The defense contended it had not had any problems with the truck and therefore had no reason to implement the fix. The defense presented no evidence at trial. Waterous Company reached a confidential settlement with DeLeon after two days of trial, and the case proceeded against Northrop Grumman.

**Injuries/Damages**

DeLeon sustained a crushed pelvis, separation of her spine from her sacrum, broken ribs, internal injuries and degloving to her lower back and upper thighs (she was dragged by the truck). She also developed infections and required numerous treatments and surgeries, including multiple skin grafts and debridements. She is confined to a wheelchair and requires assistance to perform many activities. Her injuries have significantly limited her range of activities and caused her a great deal of discomfort, for which she sought damages for pain and suffering. She also sought punitive damages.

**Result**

The jury reached a plaintiff's verdict totaling \$8,750,000. The jury found Northrop Grumman 17.5% negligent and the Belen Fire Department, never a defendant because it could not be sued under state law, 82.5% negligent. Northrop Grumman must pay \$1,531,000.

<b>Plaintiff(s)</b>	Jessica DeLeon
<b>Demand</b>	at least \$10,000,000
<b>Offer</b>	None reported
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	Ronald W. French, vehicle design, West Chicago, IL Anthony Bulygo, mechanical engineer, Albuquerque, NM Paul F. Youngdahl, Ph.D., mechanical engineer, Palo Alto, CA
<b>Defense Expert(s)</b>	None reported
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	32
<b>Occupation</b>	Firefighter and corrections officer
<b>Gender</b>	Female
<b>Married</b>	None reported

**Children**

None reported

**Children Description**

None reported

**Written By**

Frank Sherer

**NORTH CAROLINA****GUILFORD COUNTY****MOTOR VEHICLE****Tractor Trailer — Backing — Run Over****Tractor trailer runs over pressure washer**

<b>Verdict/Settlement</b>	\$1,741,676 verdict (and prejudgment interest)
<b>Case</b>	Brennan v. Old Dominion Freight Line I
<b>Court</b>	Greensboro Superior Court
<b>Judge</b>	Michael Helms
<b>Date</b>	12/13/2004
<b>Plaintiff Attorney(s)</b>	Joseph J. Perez, Norfolk, VA
<b>Defense Attorney(s)</b>	Perry C. Henson, Jr., Greensboro, NC
<b>Facts &amp; Allegations</b>	

A young man pressure washing a tractor trailer was run over by the rear wheels of the truck's trailer when a co-worker motioned the truck driver to pull the rig forward.

Plaintiff alleged that the defendant truck owner failed to provide adequate training to and supervision of its employees and was negligent in its failure to provide an area specifically for the purpose of maintaining its trucks. Plaintiff also alleged that defendant's truck driver and passenger failed to take any safety precautions (such as checking blind spots) before moving the truck.

Defendants denied liability and claimed that plaintiff and the third-party defendants were contributorily negligent. Defendants contended that plaintiff's employer failed to provide adequate safety training and failed to make the work area safe. Moreover, defendants argued that plaintiff negligently placed himself in a dangerous position. Defendants further asserted that plaintiff's co-worker was negligent in motioning the tractor trailer to move forward prior to inspecting the area around the vehicle. Defendants also asserted that defendant truck driver and passenger were negligent in failing to check the area around the truck prior to moving the truck.

**Injuries/Damages**

Multiple foot, ankle, hip, rib and skull fractures, ear laceration, post-traumatic stress disorder and partial hearing loss in right ear. Plaintiff required surgery to repair his ankle and foot and had scarring to his foot, ankle and ear. He claimed past medical expenses of \$40,428, lost wages of \$9,600, future medical expenses of \$60,000 and future lost wages of \$215,000.

**Result**

\$1,600,000 verdict plus \$141,676 in prejudgment interest against defendant's truck owner and truck driver only

<b>Plaintiff(s)</b>	Christopher R. Brennan
<b>Demand</b>	\$2,000,000
<b>Offer</b>	\$150,000 (at mediation)
<b>Insurer(s)</b>	Self-insured (Old Dominion)
<b>Plaintiff Expert(s)</b>	Patrick E. Logue, Ph.D., neuropsychologist, Durham, NC; Gary R. Albrecht, Ph.D., economist, Winston-Salem, NC; Sam Jacobowitz, M.D., emergency medicine, Greensboro, NC; James O. Wyatt III, M.D., trauma surgeon, Greensboro, NC; John L. Graves, M.D., orthopedist, Greensboro, NC; Kevin G. Dover, M.D., radiologist, Greensboro, NC; Jan Moore, Ph.D., clinical psychologist, Greensboro, NC; John B. Jarema, vocational rehabilitation, Greensboro, NC
<b>Defense Expert(s)</b>	None
<b>Post-Trial</b>	Jury deliberated for 1.5 days
<b>Editor's Note</b>	Near the conclusion of the 11-day trial, defendant Old Dominion dismissed all third-party claims. The judge also dismissed the claim against Pinnix, the defendant truck driver's partner and passenger.
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	23
<b>Occupation</b>	Pressure washer
<b>Gender</b>	Male
<b>Married</b>	Separated
<b>Children</b>	None reported
<b>Children Description</b>	None reported
<b>Written By</b>	Frank Sherer

**MOTOR VEHICLE****Motor Vehicle — Tractor Trailer — Rear-End Collision — Death****Vehicle crushed between two tractor trailers**

**Verdict/Settlement** \$27,741,000 verdict  
**Case** Rapp v. Gilbert Express, Inc. et al.  
**Court** District Court for the Eastern District of Pennsylvania  
**Judge** Stewart Dalzell  
**Date** 5/9/2002

**Plaintiff Attorney(s)** John Q. Kelly, Kelly & Balber, New York, NY  
**Defense Attorney(s)** Leigh J. Bechtel and John Hatzell, Law Offices of John R. McHaffie, Philadelphia, PA; Jay D. Branderbit, Kent & McBride, Philadelphia, PA

**Facts & Allegations**

The plaintiff, Kimberley Rapp, was a front-seat passenger in a 1997 Mercury Sable station wagon driven by her husband on August 21, 1998, on I-78 in Berks County. An accident occurred, causing traffic to stop. The Rapp vehicle stopped behind the defendant Gilbert Express's tractor trailer. The plaintiffs' vehicle was then struck from behind by a second tractor trailer, owned by the defendant G. S. Freight Lines and pushed under the back of the Gilbert Express trailer. The plaintiffs' five-year old son was in a car seat behind his father. The couple's four-year old daughter had slipped out of her car seat and was on the floor behind her mother.

A Pennsylvania state police officer testified that assuming the G. S. Freight Lines tractor trailer was traveling at the posted speed limit of 65 mph, it would have required 45 feet to come to a complete stop. Evidence showed that there was almost a mile of open road prior to the accident scene.

The plaintiff contended that the driver of the Gilbert Express tractor-trailer was negligent in failing to activate his emergency flashers, which would have served as a warning to the second tractor trailer driver that traffic had stopped. The plaintiff argued that helicopter videos of the accident scene as well as reports from investigating police officers indicated that the flashers of the plaintiffs' vehicle were activated but the flashers on the Gilbert Express truck were not.

The defendant driver of the Gilbert Express truck, Pablo Morales, testified that he had activated the vehicle's emergency flashers prior to the collision. Gilbert Express and Morales argued that, even if the tractor trailer's emergency flashers were not activated, it was not a factor in causing the rear end collision to the plaintiffs' vehicle. This defendant stressed that the accident occurred during daylight hours and that the plaintiffs' vehicle had activated its emergency flashers.

**Injuries/Damages**

Both the father and son were pronounced dead at the scene. The son was decapitated by the force of the underride collision. The plaintiff mother and daughter sustained only minor physical injuries but claimed extensive psychological damage stemming from the gruesome incident.

The decedent father earned a salary of almost \$700,000 per year at the time of the accident. The plaintiffs' economist estimated the plaintiffs' loss of future wages at \$10,600,000.

**Result**

The jury found the defendant G. S. Freight Lines, the striking vehicle, 100% negligent. It found that the defendant driver of the Gilbert Express vehicle, Morales, was negligent but that this negligence was not a substantial factor in causing injury to the plaintiffs. The plaintiffs were awarded a total of \$27,741,000. The verdict included \$11,741,000 to the surviving wife for the death of her husband, \$1,000,000 to the surviving wife for the death of her son, \$5,000,000 to the surviving daughter and \$10,000,000 to the plaintiff wife individually.

**Plaintiff(s)** Rapp  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** Andrew Verzilli, economist, Philadelphia, PA  
**Defense Expert(s)** None reported  
**Post-Trial** None reported  
**Editor's Note** The verdict was solely against a now defunct company that only had a \$35,000 liability insurance policy in effect at the time of the accident. The plaintiffs recovered an additional \$1,000,000 as underinsured motorist benefits, their policy limits.

**Plaintiff(s)**  
**Demographics**  
**Age** 56 (father); 5 (son)

<b>Occupation</b>	Executive for an investment banking company (father)
<b>Gender</b>	Male
<b>Married</b>	Yes
<b>Children</b>	Two
<b>Children</b>	Son (5, deceased); daughter (4)
<b>Description</b>	

<b>Written By</b>	Frank Sherer
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**MOTOR VEHICLE****Motor Vehicle — Tractor Trailer — Inadequate Safety Procedures — No Back-Up Warnings****Tractor trailer backs up, crushes plaintiff between trailer and bulldozer**

<b>Verdict/Settlement</b>	\$3,350,000 settlement
<b>Case</b>	Owen v. Defendants
<b>Court</b>	Philadelphia County
<b>Judge</b>	Jacqueline F. Allen
<b>Date</b>	7/2/2003

<b>Plaintiff Attorney(s)</b>	Peter J. Hart, Karp & Hart, West Chester, PA
<b>Defense Attorney(s)</b>	None reported

**Facts & Allegations**

The plaintiff was crushed when a tractor trailer hauling trash for the defendant trucking company backed into him, pushing him against a bulldozer owned by the defendant landfill. The plaintiff alleged that the tractor trailer should have been equipped with back-up warnings and a CB radio and that the defendant landfill violated its own policies and failed to implement safety procedures which would have prevented the accident.

The plaintiff was employed by an independent company and operated a tipping machine at the defendant landfill. The tipping machine is designed for tractor trailers to back onto it, the trailer then hydraulically raised to a 45-degree angle and the trash dumped into the landfill.

On February 2, 2000, a wet, snowy day, a tractor trailer owned by the defendant trucking company became stuck in mud at the top of the landfill. The truck was driven by a driver who had been on the job for three days. The plaintiff claimed that the driver was inexperienced and had not received the proper safety training to operate a truck at the landfill. The procedure when a truck became stuck, as often happened at the landfill, was for the truck driver to seek assistance from on the landfill bulldozers, which would pull the truck out backwards by a chain. A safety booklet, produced by the defendant landfill, stated that truck drivers should personally hook and unhook the tow chain to the back of their own trucks. This was done for safety reasons and to prevent damage to the trucks, according to the manual. The plaintiff contended that the driver of the tractor trailer that had become stuck was unaware of the rules and regulations and therefore just sat in his truck waiting for assistance. The defendant's landfill manager was in the vicinity and sent a landfill employee to the bogged-down truck. The plaintiff claimed that the landfill employee hooked a chain to the back of the defendant's tractor trailer, contacted the bulldozer by CB radio and the truck was pulled backward by the bulldozer approximately 50 yards toward the tipping machine.

The plaintiff testified that part of his job entailed assisting truckers at the tipping machine. The plaintiff testified that he waved to the operator of the bulldozer, walked to the front of the defendant's tractor trailer and told the driver he was going to the back of the rig to unhook the chain. The plaintiff contended that the tractor trailer nodded his head in understanding. The plaintiff then went to the back of the tractor trailer, waved at the bulldozer operator again and went into the four-foot space between the vehicles to unhook the towing chain.

As the plaintiff was attempting to unhook the two chain from the back of the tractor trailer, the truck began to move backwards. The plaintiff was caught between the rear bumper of the truck and crushed against the front of the bulldozer. The bulldozer operator, seeing the truck backing up, turned the dozer on an angle, which created a blocking mechanism with the blade, to prevent the plaintiff from being crushed further. The plaintiff then fell from between the vehicles to the ground.

Testimony established that the defendant's tractor trailer driver jumped out of the truck and ran to the back of the rig yelling, "He told me to back up." The tractor trailer driver gave a statement approximately an hour later indicating that an employee of the landfill, wearing a vest and helmet, walked up to the front of the tractor trailer and put his arms over his head, waving the driver to go back towards the tipping machine. The truck driver identified the landfill employee as a particular supervisor. The supervisor denied being at the site and denied giving the truck driver a signal to back up.

The plaintiff alleged the defendant landfill was negligent in failing to enforce safety procedures at the landfill. Although the landfill communicated by CB radio and wanted trucks entering the facility to be equipped with CB radios and back-up beepers, it failed to require them, according to the plaintiff's claims. The defendant's tractor trailer had neither a CB radio nor a back-up beeper.

The defendants argued that the plaintiff was comparatively negligent, should not have entered between the vehicles and should have made the defendant tractor trailer, himself, unhook the tow chain from the back of his rig.

**Injuries/Damages**

The plaintiff sustained a femur fracture and crush injury to the pelvic girdle as a result of the accident. He can walk short distances with the assistance of a walker and requires a wheelchair for longer travel. The plaintiff's vocational expert reported that the plaintiff is totally disabled from employment. The plaintiff is a single father who was supporting three sons, ages 14, 17 and 18 at the time of the accident. The plaintiff's expert estimated that the plaintiff's total economic damages to be between \$800,000 and \$1,200,000. The defense argued the plaintiff would be capable of re-entering the workforce in a sedentary capacity.

**Result**

The case was settled prior to trial for a total of \$3,350,000. The defendant landfill paid \$2,350,000, and the defendant trucking company paid its liability policy limit of \$1,000,000.

<b>Plaintiff(s)</b>	Owen
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	Mark Lukas, vocational, Media, PA; Vincent Gallagher, construction safety, Audobond, NJ
<b>Defense Expert(s)</b>	None reported
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	The settlement agreement included a confidentiality clause precluding identification of the defendant trucking company or defendant landfill.
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	42
<b>Occupation</b>	Tipping machine operator
<b>Gender</b>	Male
<b>Married</b>	No
<b>Children</b>	Three
<b>Children Description</b>	All sons, ages 14, 17, and 18
<b>Written By</b>	Frank Sherer

**PRODUCT LIABILITY****Product Liability — Lack of Crashworthiness — Defective Cruise Control — Tractor Trailer****Tractor trailer rolls over, cab not crashworthy and cruise control defective**

**Verdict/Settlement** \$15,500,000 verdict  
**Case** Hutchinson v. Freightliner et al.  
**Court** Philadelphia County  
**Judge** Nitza I. Quinones Alejandro  
**Date** 12/31/2003

**Plaintiff Attorney(s)** John S. Bagby, Jr., Bagby Associates, Philadelphia, PA  
**Defense Attorney(s)** W. Bourne Ruthrauff, Bennett, Bricklin and Saltzburg, Philadelphia, PA; Edward J. tuite, Marshall, Dennehey, Warner, Coleman & Goggin, Philadelphia, PA

**Facts & Allegations**

The tractor trailer driven by the plaintiff rolled over, struck a guard rail and rolled down an embankment. The plaintiff brought this product liability suit against the manufacturer and lessor of the tractor, claiming the truck was defectively designed and manufactured and the co-defendant lessor was vicariously liable for the defects. The plaintiff claimed that the accident occurred as a result of the failure of the cruise control in the vehicle and that the truck's cab was not crashworthy. The defendants argued that the plaintiff caused the accident by reckless driving and that no tractor roof could have withstood the forces imposed during the rollover.

The plaintiff was driving a Freightliner FLD 120 tractor, pulling a loaded trailer north on Route 130 in New Jersey. He contended that he entered a transition ramp between Routes 130 and 295 North and was negotiating an S-curve when the rig rolled over, struck a guardrail and rolled down an embankment. The tractor struck several trees and landed on its roof, crushing it. The plaintiff testified that his cruise control was set at 61 mph, and when he stepped on the brake, the cruise control did not shut off. Evidence showed the speed limit on Route 130 was 55 mph and the speed limit on Route 295 was 65 mph. The plaintiff contended that the failure of the cruise control caused his truck to roll over and strike the guardrail.

The plaintiff's liability expert testified that the tractor, manufactured by the defendant Freightliner and leased to the plaintiff's employer by the defendant Penske Truck Leasing Company was defective in that the cab of the truck was not crashworthy and the cruise control was defective and failed to cut off when the plaintiff braked around a curve.

The defendants argued, based on the plaintiff's own testimony, that the plaintiff was traveling too fast in the curve and should have applied his brakes sooner. The defense maintained that the accident would not have occurred if the plaintiff drove through the S-curve at the posted advisory speed of 35 mph. The defendants denied that the truck's cruise control was defective. The defendants also maintained that the tractor met industry standards and the crash was so severe that no roof could have withstood the force.

**Injuries/Damages**

The truck rolled down an embankment, crushing the cab's roof and traumatically amputating the plaintiff's left arm. The plaintiff was trapped in the vehicle for some two hours before being extricated by rescue workers.

The plaintiff sought punitive damages and argued that the defendants had prior knowledge that the truck was not crashworthy and that rollover accidents were the most lethal form of accidents for truck drivers. The plaintiff contended that the defendant manufacturer failed to test the structural integrity of the tractor for crashworthiness and failed to employ a number of alternative designs which were available to improve crashworthiness. The plaintiff asserted that the defendant Penske Truck Leasing was vicariously liable for leasing a dangerously defective tractor.

The plaintiff contended that the defendants participated in Society of Automotive Engineer (SAE)-sponsored committees and sought to continue to study the problem of crashworthiness for some 20 years while resisting establishment of specific crashworthiness criteria, which exists for passenger vehicles but not for trucks. The plaintiff introduced governmental statistics from studies done in the 1980s that showed 1,000 deaths per year from trucking accidents. Between 40% and 50% of those fatalities resulted from rollovers or combination collision/rollover accidents. The plaintiff also claimed that the defendants were aware that all cars manufactured in the U.S. included a backup, redundant, failsafe mechanism in the cruise control which would cut off the cruise control in case of failure. Despite this knowledge, the plaintiff alleged that the defendant designed its cruise control with only one cut off control switch.

The plaintiff, who had a high school education, sustained a high arm amputation above the elbow, a third of the way from the left shoulder. He also claimed injury to his right arm due to overuse since the loss of his left arm. The plaintiff's rehabilitation expert testified that the plaintiff was unable to continue to work as a truck driver and that he is totally disabled from employment. The plaintiff testified that he can sometimes wear a prosthesis, but he is often unable to wear one because of skin breakdown and pain. The plaintiff additionally claimed psychological injuries stemming from the accident.

The defendant argued that there was no evidence that any Freightliner trucks were involved in the rollover studies offered by the plaintiff. Further, the defense contended that the evidence showed the statistics regarding driver deaths in rollovers applied to trucks sold before the FLD 120 was designed in 1988. Freightliner engineers testified that the cab of the model in question had been strengthened in the 1988 design.

The defendants' vocational specialist opined that the plaintiff was employable and could re-enter the work force despite his disability.

**Result**

The jury found unanimously for the plaintiff on claims of both cruise control defect and lack of crashworthiness. The jury awarded the plaintiff \$15,500,00, comprised of \$5,500,000 in compensatory damages and \$10,000,000 in punitive damages against the defendant manufacturer. In post-trial motions, the trial court struck the punitive damages award but upheld the compensatory damages. Both sides appealed.

<b>Plaintiff(s)</b>	Hutchinson
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	Eric Carlson, crashworthiness, northern New Jersey; Guy Fried, rehabilitation, Philadelphia, PA; Steven Schorr, accident reconstruction, Philadelphia, PA Bill Rosenbluth, cruise control, Virginia; Rudolf Mortimer, human factors, Illinois; David Bunin, economist, Philadelphia, PA
<b>Defense Expert(s)</b>	Bill Howerton, accident reconstruction, Massachusetts
<b>Post-Trial</b>	The panel deliberated for approximately 5 hours
<b>Editor's Note</b>	None
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	34
<b>Occupation</b>	Truck driver
<b>Gender</b>	Male
<b>Married</b>	No
<b>Children</b>	One
<b>Children Description</b>	None reported
<b>Written By</b>	Frank Sherer

**MOTOR VEHICLE**

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**Motor Vehicle — Tractor Trailer — Bus — Lane Change****Tractor trailer changes lanes, collides with bus**

<b>Verdict/Settlement</b>	\$30,000 verdict
<b>Case</b>	Monico v. Capital Trucking Company
<b>Court</b>	Philadelphia County
<b>Judge</b>	Milton Younge
<b>Date</b>	3/2004

<b>Plaintiff Attorney(s)</b>	Bentley M. Saul, Law Offices of Bentley M. Saul, Philadelphia, PA
<b>Defense Attorney(s)</b>	Jonathan M. Field, Mintzer, Sarowitz, Zeris, Ledva & Meyers, Philadelphia, PA

**Facts & Allegations**

The defendant in this motor vehicle negligence action was in default at the time this case was tried, so the parties tried the issue of damages and causation only. The defendant maintained that the plaintiff's complaints were not causally related to the accident. The male plaintiff was a passenger on a bus on the date of the accident, August 29, 2002. The plaintiff alleged that the defendant's tractor trailer negligently changed lanes striking the bus. The bus driver testified that the impact to the bus was minor. The defendant argued that the plaintiff had a substantial criminal background involving crimen falsi offenses and that his testimony was not credible.

**Injuries/Damages**

The plaintiff's medical reports were introduced by stipulation of the parties. The plaintiff's orthopedic surgeon reported that the plaintiff sustained a disc herniation or protrusion at the CS-C7 level with cervical radiculopathy and parial denervation at the C5-C6 level, all as a result of the accident. In addition, the plaintiff claimed to have sustained TMJ stemming from the accident. The defendant introduced the report of an orthopedic surgeon who performed a review of the plaintiff's records. This expert opined that the plaintiff's cervical condition was degenerative and not related to the accident.

**Result**

The court found for the plaintiff in the amount of \$30,000 after a one-day bench trial

<b>Plaintiff(s)</b>	Monico
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	None reported
<b>Defense Expert(s)</b>	None reported
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	23
<b>Occupation</b>	None reported
<b>Gender</b>	Male
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported

<b>Written By</b>	Frank Sherer
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**MOTOR VEHICLE****Motor Vehicle — Tractor Trailer — Stop Sign****Vehicle runs stop sign, collides with tractor trailer**

<b>Verdict/Settlement</b>	Defense verdict
<b>Case</b>	Hummer v. Siegrist
<b>Court</b>	Philadelphia County
<b>Judge</b>	Gary Glazer
<b>Date</b>	3/23/2003
<b>Plaintiff Attorney(s)</b>	Jeffrey R. Lessin and Gregory J. Kowalski, Pansini & Lesiin, Philadelphia, PA
<b>Defense Attorney(s)</b>	Joseph Crane and Josh Gilman, Jenkins, Wolf, Rubinate, Hasson & Styliades, Philadelphia, PA

**Facts & Allegations**

This wrongful death/survival action arises from the death of a 20-year old man whose vehicle collided with a tractor trailer. The plaintiffs maintain that the defendant truck driver was traveling at an excessive rate of speed, swerved out of his lane and struck the decedent's car while it was stopped. The defendants maintained that the decedent drove through a stop sign and struck the tractor trailer.

The decedent's car was traveling south on Esbenshade Road in a rural section of Lancaster County on November 24, 1988, at approximately 5:30-6:00 p.m. The defendant's tractor trailer was traveling west on Mount Joy Road. The defendant called a witness, a man who was traveling east on Mount Joy Road. The witness testified that the decedent's car ran the stop sign and the tractor trailer never left its lane. The witness was involved in the accident when the defendant's tractor trailer entered the oncoming lane and sideswiped the witness's vehicle.

The defendant's accident reconstruction expert testified that he examined the physical evidence from the accident scene, including the damage to the vehicles, markings on the road and the deployment of the decedent's airbag. This expert opined that the evidence demonstrated that the decedent's car ran the stop sign and struck the side of the defendant's truck. This expert also opined that the defendant's truck did not leave its lane of travel. The investigating police officer also opined that the decedent disregarded the stop sign.

The plaintiff's accident reconstruction expert testified that the decedent's car was stopped at a stop sign and was required to inch forward to view oncoming traffic due to trees and utility poles. This expert opined that the decedent's car was stopped, waiting to cross the highway, when the defendant's tractor trailer swerved out of its lane, over the right fog line, and struck the decedent's car. This expert testified that gouge marks outside of the travel lane, as well as other physical evidence, indicated that the location of impact was outside of the travel lane. The plaintiff's expert also concluded that the defendant's tractor trailer was traveling at an excessive rate of speed at the time of the accident.

**Injuries/Damages**

The decedent died at the scene from injuries sustained in the accident. He was survived by his parents. The plaintiff's economist estimated the plaintiff's economic damages at approximately \$850,000. The defendant successfully kept out testimony from the plaintiff's vocational expert based on the assumption that the plaintiff would gain additional education.

**Result**

The jury found that the defendant truck driver was not negligent. The plaintiff recovered damages under a high/low agreement of undisclosed parameters during jury deliberations.

<b>Plaintiff(s)</b>	Hummer
<b>Demand</b>	\$2,000,000
<b>Offer</b>	\$100,000
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	Ray Wornier, accident reconstruction, Philadelphia, PA; Richard Moakes, engineer, King of Prussia, PA
<b>Defense Expert(s)</b>	Steven Schorr, accident reconstruction, Willow Grove, PA
<b>Post-Trial</b>	High/low settlement agreement reached during jury deliberations.
<b>Editor's Note</b>	None
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	20 (decedent)
<b>Occupation</b>	Retail paint outlet employee
<b>Gender</b>	Male
<b>Married</b>	No
<b>Children</b>	None reported
<b>Children Description</b>	None reported
<b>Written By</b>	Frank Sherer

**MOTOR VEHICLE****Motor Vehicle — Tractor Trailer— Head-On Collision****Tractor trailer crosses center line, collides head-on with van**

**Verdict/Settlement** \$4,500,000 verdict  
**Case** Doherty v. Goslin  
**Court** Philadelphia County  
**Judge** Lisa Rau  
**Date** 6/30/2004

**Plaintiff Attorney(s)** James F. Mundy, Raynes McCarty Binder Ross & Mundy, Philadelphia, PA  
**Defense Attorney(s)** Patrick J. Hermesmann and Scott M. Russ, Law Offices of Craig M. Terkowitz, Piscataway, NJ

**Facts & Allegations**

This action stemmed from the death of a three-year old girl after the vehicle in which she was riding was struck head-on by a tractor trailer driven by the defendant driver and owned by the defendant steel company. The plaintiffs included the mother, father and the little girl's estate. The defendant driver maintained that he suffered from a first-time epileptic seizure and could not avoid the accident. The plaintiffs maintained that it was not the defendant's first seizure and that he was negligent for driving, despite his knowledge of his medical condition.

Evidence showed that the defendant driver was driving an 18-wheeler when he crossed the center line of Route 55 in New Jersey and struck a van driven by the plaintiff mother in the oncoming lane. The three-year old decedent was in a car seat in the back of the van. The plaintiff family was returning from the Jersey shore in two separate vehicles. The plaintiff father and two sons, ages one and five, were riding in another van, just ahead of the plaintiff mother and the decedent, at the time of the collision.

The defendant truck driver testified that the accident resulted from a first-time epilepsy attack and he had no prior knowledge of the condition. The defendant's neurologist testified that the seizure leading to the accident was the defendant's first seizure. The plaintiff countered that the defendant had suffered at least one prior epileptic seizure, introducing an EMT report from a neighboring township documenting that paramedics had been called to the defendant's home. The report contained a description from the defendant's live-in girlfriend that she could not arouse the defendant, he was biting his tongue, his eyelashes were fluttering, his eyes were rolled up, and he was shaking all over and bleeding from his mouth due to biting his tongue. The EMT report was dated two weeks before the defendant took a licensing test for an ICC driver's license and prior to the date of the subject collision. The plaintiff maintained that the report clearly described a grand mal seizure. The defendant declined to go to the hospital at that time. Evidence indicated that the defendant reported to his neurologist that the EMT incident occurred after the subject accident.

On cross-examination, the plaintiff's neurologist admitted that, if the date of the EMT report was correct, then the defendant's epilepsy preceded the date of the accident. The administrator of the physical examination portion of the ICC driver's license test testified that if the defendant truck driver had answered "YES" to any of the questions pertaining to physical impairments, he would not have obtained his ICC driver's license. The plaintiff also introduced a surveillance video showing the defendant driving his car on the third morning of trial, at a time when his driver's license had been suspended. The defendant's girlfriend and three-year old daughter were passengers in the car at the time.

**Injuries/Damages**

The minor decedent was partially beheaded and pronounced dead on arrival at the hospital following the accident. The family was held at the accident scene by police for approximately four and a half hours while the little girl was still trapped in her car seat. The plaintiff's psychologist testified that both parents sustained post-traumatic stress disorder as a result of the accident. The plaintiff mother has undergone psychological treatment and continues to spend an hour a week with two different psychologists (two hours per week). The plaintiff mother did not drive a vehicle again until almost a year after the accident, would not allow her children in the car and would not drive on highways. The plaintiff mother's psychologist testified that the plaintiff suffers severe guilt regarding the fact that the tractor trailer completely missed the front section of her van, leaving her uninjured. The truck struck at an angle, hitting the back seat where the young decedent was riding.

The plaintiff's economist estimated the plaintiff's economic loss as between \$1,000,000 and \$3,000,000, depending on the decedent's level of education. The plaintiff parents testified that they both are college graduates, and the plaintiff father earned a Master's degree.

**Result**

The jury found for the plaintiffs in the amount of \$4,500,000, including \$1,000,000 for emotional distress to each parent, \$1,800,000 for the survival claim and \$700,000 for the wrongful death claim.

**Plaintiff(s)** No name reported  
**Demand** \$12,000,000  
**Offer** \$3,000,000  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** Terry Keane, psychologist, Boston, MA;  
Michael Wachter, economist, Philadelphia, PA

**Defense Expert(s)  
Post-Trial**

None reported  
Post-trial motions made by the defense reduced the award by \$700,000 and resulted in an order for a new trial on the wrongful death damages. The court ruled that there was insufficient evidence to support the value of the wrongful death award, which included the loss of services, comfort and society of the decedent. The case subsequently settled for an amount between \$3,800,000 and \$4,500,000.

**Editor's Note**

Plaintiff successfully argued for Pennsylvania law to apply to the case. If the court applied New Jersey law, the economic loss of the decedent (future lost wages) would not have been recoverable, as New Jersey law only permits recovery of conscious pain and suffering of the decedent and the decedent's medical expenses.

The plaintiff had to prove the defendant truck driver had prior notice of his dangerous epileptic condition, otherwise the accident would have been deemed unavoidable. The EMT report and inaccurate statements to the defendants' neurologist proved this notice.

On damages, plaintiff's counsel developed a theme centering on evidence of the plaintiff mother's overwhelming guilt at the death of her daughter when she emerged physically unscathed from the accident. The mother's psychologist testified that her treatment was blocked by this guilt, and if the guilt could be lifted, a breakthrough might occur. The mother's medical records were fraught with statements such as, "It should have been me." Plaintiff's counsel used this evidence in closing to tell the jury that the plaintiffs had been waiting for three years for someone to tell them they were not responsible for their daughter's death. The plaintiff's theme encompassed the notion that a jury verdict in the plaintiffs' favor would signal that the plaintiff mother did nothing wrong and absolve her of her devastating guilt.

The jury may also have been angered by the videotaped footage of the defendant driving a vehicle with his own three-year old daughter as a passenger when he was clearly aware of his epileptic condition.

**Plaintiff(s)  
Demographics**

<b>Age</b>	3 (decedent)
<b>Occupation</b>	None
<b>Gender</b>	Female
<b>Married</b>	Yes (plaintiff mother and father)
<b>Children</b>	Three
<b>Children Description</b>	Two sons (1 and 5 years old), one daughter (3 years old, deceased)

**Written By** Frank Sherer

**MOTOR VEHICLE**

**Motor Vehicle — Tractor Trailer— Ambulance — Intersection Collision**

**Ambulance in emergency mode collides with tractor trailer**

**Verdict/Settlement** \$2,528,750 combined verdict  
**Case** Crist v. Porter  
**Court** Delaware County  
**Judge** Kathrynann Durham  
**Date** 2/12/2004

**Plaintiff Attorney(s)** George G. Rassias, Curran & Rassias, LLP, Media, PA; Richard M. Wiener, Villari, Kusturiss, Brades & Kline, Conshohocken, PA  
**Defense Attorney(s)** Christine E. Munion, Devlin & Devine, Conshohocken, PA; Debra S. Goodman, Margolis Edelstein, Philadelphia, PA, Joseph P. Connor, III, Connor, Weber & Oberlies, Paoli, PA

**Facts & Allegations**

On July 22, 1999, the plaintiff paramedic, Walter Crist, was working for Riddle Memorial Hospital when he responded to an accident scene in his Riddle Ambulance. The victims, a mother and her infant child, were placed in the defendant Lima Fire Company’s ambulance for transfer to Crozer Chester Medical Center. The plaintiff paramedic was riding in the back of the defendant’s ambulance, treating the accident victims, when the ambulance entered the intersection of Route 352 and Knowlton Road, against a red light, and collided with the defendant’s tractor trailer. The force of the accident separated the tractor from its trailer and resulted in extensive damage to the ambulance.

The impact caused the injured accident victim in the back of the ambulance, who was still strapped in a stretcher, to fall onto the plaintiff paramedic. A second paramedic was rendered unconscious and fell on top of the injured woman, according to the plaintiff’s testimony.

The defendant ambulance driver alleged that a traffic light preemption system at the intersection malfunctioned, and as a result, the traffic signal for the ambulance remained red when it should have changed to green and the signal for the tractor trailer remained green when it should have changed to red. Testimony established that the ambulance did not stop before entering the intersection.

This is a consolidated action stemming from the collision. The plaintiffs were a paramedic who was riding in the back of the ambulance and the driver of the tractor trailer. The defendants included the driver of the ambulance, the Lima Fire Company, Middletown Township, the driver of the tractor trailer and his employer. The truck driver contended that the ambulance entered an intersection on a red light without due caution, causing the accident. The ambulance driver maintained that he entered the intersection under lights and siren and the truck driver failed to yield the right of way to the emergency vehicle.

**Injuries/Damages**

The plaintiff paramedic’s family physician testified that the paramedic sustained a dislocated hip in the accident. He also suffered a herniated lumbar disc, several fractured ribs and a fractured sternum, according to his doctor. This plaintiff underwent three months of physical therapy and ultimately returned to work as a paramedic by January, 2000.

The driver of the tractor trailer, as a plaintiff, alleged that he sustained a fractured thoracic vertebra in the accident, rendering him totally disabled. He also sustained an aggravation of a preexisting degenerative lumbar condition, according to his physician. A vocational expert testified that this plaintiff was unable to return to any employment for which he is qualified.

**Result**

\$2,528,750 combined verdict. The plaintiff paramedic settled with the defendant ambulance company for \$75,000 while the jury was deliberating. The jury found the defendant ambulance driver/fire company/township 95% negligent and the defendant tractor trailer driver/employer 5% negligent. The plaintiff paramedic was awarded \$1,774,900 in damages. The plaintiff truck driver was awarded \$753,850, which was reduced by the apportionment of comparative negligence. The plaintiffs’ recovery against the defendant township/fire company/ambulance driver was capped at \$500,000 per state statute. The case settled after the verdict for a confidential sum

**Plaintiff(s)** Walter Crist (paramedic); Hoover (truck driver)  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** Keith Girton, orthopedic surgeon, Ashland, PA;  
 Donna Nealon, vocational, Springhouse, PA;  
 Andrew G. Verzilli, economist, Kintnersville, PA  
**Defense Expert(s)** Stuart L. Gordon, orthopedic surgeon, Ridly park, PA;  
 Irene C. Mendelssohn, vocational, Penn Valley, PA  
**Post-Trial** The jury deliberated for several hours over a two-day period

<b>Editor's Note</b>	None
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	Crist (mid-30s); Hoover (mid-40s)
<b>Occupation</b>	Crist (paramedic); Hoover (truck driver)
<b>Gender</b>	Crist (male); Hoover (male)
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported
<b>Written By</b>	Frank Sherer

**PENNSYLVANIA****CLINTON COUNTY****MOTOR VEHICLE****Motor Vehicle — Tractor Trailer— Right Of Way Violated — Stipulated Liability****Logging truck violates right of way, causes collision at intersection**

**Verdict/Settlement** \$75,000 verdict  
**Case** Conrad v. Smith Lumber Co.  
**Court** Clinton County  
**Judge** Michael Williamson  
**Date** 10/14/2004

**Plaintiff Attorney(s)** Rudolph V. DeGeorge, II, The Barish Law Office, P.C., Philadelphia, PA  
**Defense Attorney(s)** Stuart L. Hall, Snowiss Steinberg Faulkner & Hall, Lock Haven, PA

**Facts & Allegations**

On February 12, 1999, the plaintiff was traveling from Altoona, PA, to Keating, PA, in a company vehicle and was at the intersection of Routes 120 and 144 in Renovo, PA, when his car was struck by the defendant's 18-wheel tractor trailer, which was hauling logs. The collision flipped the plaintiff's vehicle on its side, and the car was deemed a total loss. The defendant stipulated to liability, and the case was tried on the issues of damages and causation only.

The defendant argued that the plaintiff reported no injuries at the emergency room following the accident. The plaintiff contended that he was in shock at the time and did not realize the extent of his injuries. The defendant's psychiatrist opined that any soft tissue injuries sustained by the plaintiff as a result of the accident had resolved and the plaintiff was not disabled from his former employment with the railroad.

**Injuries/Damages**

The plaintiff's orthopedic surgeon testified that the plaintiff sustained a chronic sprain and strain to his cervical and lumbar spine and a chronic ankle sprain as a result of the accident. The plaintiff's psychologist opined that the plaintiff suffered post-concussive syndrome and permanent cognitive deficits related to the accident.

The plaintiff returned to his employment and worked for three weeks following the accident. He contended that his physical pain and cognitive dysfunction prevented him from continuing his employment beginning March 1, 1999. The plaintiff's vocational expert testified that the plaintiff was disabled from his former employment. The plaintiff testified that he cannot remember simple directions, is extremely forgetful and will sometimes forget what he set out to accomplish. The defendant's forensic psychologist testified that, at best, the plaintiff may have sustained mild cognitive deficits as a result of the accident, but the deficits did not prevent him from working.

**Result**

75,000 verdict (pain and suffering only)

**Plaintiff(s)** Conrad  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** Ronald Greene, orthopedic surgeon, Philadelphia, PA;  
Timothy Michales, forensic psychologist, Philadelphia, PA;  
Joseph Kraher, vocational, Ben Salem, PA;  
Royal Bunin, economist, Wynnewood, PA  
**Defense Expert(s)** Lawrence Tomack, psychiatrist, Williamsport, PA;  
Lawson Bernstein, forensic psychologist  
**Post-Trial** Plaintiff's post-trial motions recently denied  
**Editor's Note** none reported  
**Plaintiff(s) Demographics**  
**Age** 50  
**Occupation** Radio maintainer for ConRail  
**Gender** Male  
**Married** None reported  
**Children** None reported  
**Children Description** None reported  
**Written By** Frank Sherer

**MOTOR VEHICLE****Motor Vehicle — Tractor Trailer— Two-Truck Collision — Wrongful Death****Tractor trailer drives across exit ramp, pulls onto highway, collides with another tractor trailer**

<b>Verdict/Settlement</b>	\$4,000,000 verdict
<b>Case</b>	Botcher v. Penn's Best, Inc.
<b>Court</b>	District Court for the Western District of Pennsylvania
<b>Judge</b>	None reported
<b>Date</b>	10/26/2000

<b>Plaintiff Attorney(s)</b>	Alan H. Perer, Swenson, Perer & Kontos, Pittsburgh, PA
<b>Defense Attorney(s)</b>	James E. Kennedy and Minna J. Allision, Baginski & Bashline, Pittsburgh, PA

**Facts & Allegations**

On the night of October 17, 1997, the defendant's truck driver illegally parked her tractor trailer along I-80 on a berm just before an exit to a rest area. Rather than pulling through the rest area to reach the entrance ramp to I-80, the defendant's driver drove across the exit ramp and entered the highway at a speed of 20 mph. The plaintiff's accident reconstruction expert testified that the physical evidence showed that the decedent attempted to avoid colliding with the unexpected truck entering the highway by veering his rig to the left and attempting to go around it. The decedent's tractor trailer, however, struck the left side of the defendant's truck, causing the gas tank of the decedent's cab to rupture and catch fire. The decedent died in the ensuing fire of massive thermal burns. The estate of the decedent brought this action against the corporate owner of the tractor-trailer the decedent tried to avoid.

The plaintiff alleged that the accident was caused when the driver of the defendant's tractor trailer negligently pulled onto the highway. The defendant argued that its driver was traveling slowly with her left turn signal on when she entered the highway. The defendant's accident reconstruction expert testified that the decedent had ample opportunity to avoid the slow-moving tractor trailer.

**Injuries/Damages**

Death from massive thermal burns

**Result**

\$4,000,000 verdict, comprised of \$900,000 for the wrongful death claim and \$3,100,000 for the survival action. The jury unanimously found the defendant 100% negligent.

<b>Plaintiff(s)</b>	Botcher
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	William Jackman, reconstruction engineer, West Lake, OH; Ron Tomasetti, truck safety, Elizabethtown, PA
<b>Defense Expert(s)</b>	Al Cipriani, accident reconstruction, Annapolis, MD
<b>Post-Trial</b>	Defendant's motion for new trial pending
<b>Editor's Note</b>	None
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	41
<b>Occupation</b>	Truck driver
<b>Gender</b>	Male
<b>Married</b>	Divorced
<b>Children</b>	Two
<b>Children Description</b>	15 and 18 years old at the time of decedent's death

<b>Written By</b>	Frank Sherer
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**PENNSYLVANIA**

**PHILADELPHIA COUNTY**

**MOTOR VEHICLE**

**Motor Vehicle — Tractor Trailer— Merge — Three Vehicles**

**Vehicle in left high-speed lane changes lanes, collides with tractor trailer in middle lane, then collides with truck in left high-speed lane**

**Verdict/Settlement** \$487,500 settlement  
**Case** Blair v. Defendants  
**Court** Philadelphia County  
**Judge** Howland Abramson  
**Date** 3/17/2004

**Plaintiff Attorney(s)** Richard M. Jurewicz, Galfand Berger, LLP, Philadelphia, PA  
**Defense Attorney(s)** None reported

**Facts & Allegations**

The plaintiff, a part of a work crew performing road maintenance replacing road reflectors on the concrete median separating eastbound and westbound traffic on the Pennsylvania Turnpike, was standing in the back of a truck in the left high-speed lane of the westbound lanes of the turnpike. A series of advanced warning signs had been placed notifying oncoming motorists that the speed limit was reduced to 40 mph and that the left lane was closed.

The first defendant was driving in the left lane, approaching the work site area. The co-defendant, an employee of the defendant trucking company, was driving a tractor trailer in the middle lane. As the tow defendants approached the work zone area, the first defendant merged to the right, into the middle lane, contacting the trailer tires of the second defendant's tractor trailer. The defendant truck driver then changed lanes, moving to his right.

The plaintiff claimed that, after the first defendant contacted the co-defendant's tractor trailer, he then contacted the right passenger-side tire of the stake-body truck occupied by the plaintiff. The defendants claimed that their vehicles made absolutely no contact with the plaintiff's stake-body truck. They contended that the plaintiff was sitting on the floor of his truck, next to the tailgate, unharmed, when they passed his truck. The defendants argued that photographs showed no property damage to the driver's side of the first defendant's vehicle, the vehicle which allegedly struck the plaintiff's truck. The defendants also argued that there was no visible damage to the host truck.

The defendants established that the plaintiff was involved in three prior motor vehicle accidents in which he injured his neck and back. In the most recent accident before the subject collision, the plaintiff sustained a herniated disc at the same cervical level he claimed was injured in this accident. The defendants argued that the plaintiff's symptoms were not causally related to the alleged accident. The defense also maintained that the plaintiff was capable of returning to gainful employment but had not chosen to do so.

**Injuries/Damages**

The plaintiff's neurosurgeon reported that the plaintiff suffered a pre-existing cervical disc herniation at the C5-C6 level, which was permanently aggravated as a result of the accident. The plaintiff contended that his neck symptoms were significantly worsened following the accident. The plaintiff's vocational expert opined that the plaintiff's accident-related neck injury prevented him from returning to his employment with the Pennsylvania Turnpike Commission. The plaintiff claimed lost past wages of \$69,522 and past medical expenses of \$44,725

**Result**

\$487,500 settlement: the first defendant paid \$475,000, the co-defendant trucking company \$12,500.

**Plaintiff(s)** Blair  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** Gene Salkind, neurosurgeon, Huntingdon Valley, PA;  
Robert Wolf, vocational economist, Cherry Hill, NJ  
**Defense Expert(s)** None reported  
**Post-Trial** None reported  
**Editor's Note** None  
**Plaintiff(s) Demographics**  
**Age** 49  
**Occupation** Maintenance worker  
**Gender** Male  
**Married** None reported

**Children**  
**Children Description**

None reported  
None reported

**Written By**

Frank Sherer

**MOTOR VEHICLE****Motor Vehicle — Tractor Trailer— Right Turn****Tractor trailer makes wide right turn, collides with oncoming vehicle**

<b>Verdict/Settlement</b>	Defense verdict
<b>Case</b>	Archer v. Ward Trucking Co.
<b>Court</b>	Bucks County
<b>Judge</b>	R. Barry McAndrews
<b>Date</b>	2/2002

<b>Plaintiff Attorney(s)</b>	John DiDonato, Brookman, Rosenberg, Brown & Sandler, Philadelphia, PA
<b>Defense Attorney(s)</b>	Jon Michael Dumont and Sonia Di Valerio, Rawle & Henderson, LLP, Philadelphia, PA

**Facts & Allegations**

The plaintiff testified that she was driving at a speed of 30-35 mph as she approached the intersection of State Road with Haunted Lane in Bensalem. The speed limit on that portion of State Road was 40 mph. The plaintiff testified that she saw a truck turning onto State Road from Haunted Lane about 80 feet in front of her. She applied her vehicle's brakes slowly at first, but the truck continued to move across both lanes of State Road, so she applied the brakes harder. When she applied the brakes hard, she was about 30-35 feet from the tractor trailer. The plaintiff steered to the left, but she could not avoid striking the tractor, which was completely blocking her lane. The plaintiff contended that she did not remember her brakes squeal, but she felt her car skidding before impact. She could not recall whether the truck was moving or stopped when the collision occurred.

The plaintiff claimed that the defendant truck driver negligently turned the truck onto State Road, blocking both lanes and causing the plaintiff to strike the tractor trailer. The defendants maintained that the plaintiff was intoxicated at the time of the accident, and if not for her alcohol consumption, she could have avoided the collision.

The plaintiff testified that on the day of the accident, January 24, 1995, she worked as a waitress from 11:00 a.m. to 8:00 p.m. During her shift, the plaintiff testified that she consumed "a couple of drinks" containing eight ounces of vodka and water. The plaintiff testified that she finished the last drink at about 8:30 p.m. and left to drive home at about 8:45 p.m. The weather was clear and the roads dry. The plaintiff was driving for approximately one minute before the accident happened.

At the hospital emergency room, the plaintiff's blood test revealed a blood alcohol level of 0.15% an hour and a half after the accident. The defendants called a toxicologist who testified that, based on the plaintiff's medical records and her testimony, the plaintiff was markedly intoxicated at the time of the accident and had a blood alcohol level of approximately 0.17% at the time. This level of intoxication would have impaired her ability to see the truck and react to avoid the accident according to the toxicologist. This expert explained that one of the major adverse effects of alcohol is impairment of vision, specifically peripheral vision, depth perception and night vision, and this vision impairment results in an increased reaction time. The defendants' expert concluded that the plaintiff's intoxication was a major factor leading to the accident. He also opined that the plaintiff must have consumed twice the amount of alcohol she admitted drinking.

The investigating police officer testified that he interviewed the plaintiff at the accident scene, and she was coherent. He did not smell alcohol on her breath, and he did not observe any other signs of intoxication. The officer did not request an alcohol test and testified that he did not look for skid marks from the plaintiff's car on the roadway. On cross-examination, the police officer conceded that the plaintiff could not walk because of the injury to her right ankle, and she was experiencing severe pain when he interviewed her. In addition, the officer testified that the defendant truck driver stated at the scene that the plaintiff's car "suddenly appeared," and he stopped the tractor trailer blocking both lanes of State Road. The officer issued a traffic citation to the defendant truck driver for blocking the travel lanes.

The plaintiff's mechanical engineer/accident reconstruction expert opined that the defendant truck driver was solely responsible for the accident. He testified that at a speed of 30 mph, the plaintiff would have required 110 feet to stop safely, and the truck pulled in front of her when she was only 80 feet away. The plaintiff's expert contended that the defendant driver's description of the accident was not plausible because, according to his version, he would have completed the right turn before the plaintiff arrived at the point of the collision. The plaintiff's expert conceded that the tractor trailer had to swing into the northbound lane of State Road to properly execute the right turn. He also admitted that if the plaintiff were traveling 40 mph, the defendant truck driver would only have had one-tenth of a second to complete the right turn before the plaintiff's car arrived at the point of impact.

The defendants' accident reconstruction expert confirmed that the space constraints at the accident site made it impossible for the defendant's truck to safely execute the turn onto State Road southbound without moving into the northbound lane of travel. The defendants' expert testified that the defendant truck driver was properly executing the turn when the accident occurred. He also opined that the accident occurred as a result of the plaintiff's failure to take proper evasive action. Based upon his time, speed and distance calculations, the expert determined that the plaintiff could have stopped her car before colliding with the tractor trailer if she had been driving at 30-35 mph, as she claimed.

**Injuries/Damages**

The plaintiff sustained a bimalleolar fracture dislocation of the right ankle and a comminuted intra-articular fracture of the right talus, which required open reduction and fixation surgeries and, subsequently, a fusion. The plaintiff also claimed to have sustained back, arm and knee injuries and alleged that she developed depression as a result of her injuries.

**Result**

The jury found that the defendants were negligent but that the defendants' negligence was not a substantial factor in causing the accident.

**Plaintiff(s)** Archer  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** James Kita, engineer/accident reconstruction, Denver, CO  
**Defense Expert(s)** Steven Rickard, accident reconstruction, Harrisburg, PA;  
 Gary Lage, toxicologist, Titusville, NJ

**Post-Trial** The jury deliberated for approximately three hours. Post-trial motions pending.

**Editor's Note**

The plaintiff's alcohol consumption was the major issue in this motor vehicle negligence action. The plaintiff's attorney filed a motion in limine, seeking to preclude this evidence from the jury, arguing that the accident would have occurred regardless of the plaintiff's alcohol consumption. The trial court denied the motion, concluding that the evidence was admissible. The Pennsylvania Supreme court has ruled that evidence of a driver's blood alcohol level, alone, is insufficient to prove intoxication to a degree that establishes unfitness to drive. In cases where a driver's blood alcohol level is 0.1% or higher, however, expert testimony interpreting the significance of that blood alcohol level may be used to establish unfitness to drive. The defendants produced an expert toxicologist whose testimony, combined with that of the defendants' accident reconstruction expert, indicated that the plaintiff had the time, distance and opportunity to have slowed or braked to a stop before the impact.

The plaintiff faced difficulty in settling the case due to a subrogation carrier that refused to compromise a medical lien in the amount of \$70,000. A number of issues remain pending in post-trial motions and will most likely result in an appeal. The plaintiff claims that defense counsel was improperly permitted to question the plaintiff regarding the character of two former husbands. The court subsequently instructed the jury to ignore that testimony. In addition, a letter written by the defendant truck driver to a traffic court judge was ruled inadmissible. Plaintiff's counsel contends that the letter should have been admissible to impeach the defendant driver's testimony regarding his observations at the time of the accident. Finally, the plaintiff maintains that the defendants' toxicologist was improperly permitted to rely on unauthenticated medical records in rendering his opinion.

**Plaintiff(s)****Demographics**

**Age** 39  
**Occupation** Waitress  
**Gender** Female  
**Married** None reported  
**Children** None reported  
**Children** None reported  
**Description**

**Written By** Frank Sherer

**MOTOR VEHICLE**

**Motor Vehicle — Tractor Trailer— Swerve Left**

**Tractor trailer swerves left, collides with vehicle, trapping driver and passenger**

**Verdict/Settlement** \$3,000,000 settlement  
**Case** Anonymous v. CRST, Inc.  
**Court** Philadelphia County  
**Judge** None reported  
**Date** 2/26/2003

**Plaintiff Attorney(s)** Robert G. Marigold and Eric J. Swan, Galfand Berger, Philadelphia, PA  
**Defense Attorney(s)** Samuel J. Pace, Jr., Philadelphia, PA; Lee R. Allman, Philadelphia, PA

**Facts & Allegations**

Plaintiff, working as a construction engineer, was driving his vehicle northbound on I-95 and attempted to enter a median crossover, which had recently been installed as part of a construction project. Plaintiff intended to move a roadway construction sign blocking the deceleration lane of the crossover, posing a threat to public safety. While traffic behind plaintiff was able to slow down, a CRST tractor trailer swerved left to avoid another car and drove into the deceleration lane, which plaintiff had entered. A violent collision pushed plaintiff's vehicle 150 feet into the median ditch where it was crushed by the truck. Plaintiff and his passenger were trapped in the burning vehicle.

Witnesses described plaintiff's move as aggressive. Plaintiff alleged that the tractor trailer was moving too fast. The CRST tractor trailer was found to have defective and inoperable brakes. Plaintiff also alleged that CRST's insurer, AIG, allowed the brakes to be discarded though they were important evidence. Plaintiff's experts determined that the tractor trailer would have slowed in time if it had effective brakes. Plaintiff's case was focused on safety and equipment violations of the motor carrier, lack of maintenance and the driver's qualifications.

CRST denied that it was responsible for maintaining the truck since they leased the unit from an owner/operator and alleged that plaintiff caused the crash, turning into the median from the center lane of I-95. In addition to the motor carrier and driver, Lane Construction Corporation and Protection Services, Inc. were also named defendants base don the allegation that the sign was in a dangerous place.

**Injuries/Damages**

Plaintiff life-flighted from accident scene to the Hospital of the University of Pennsylvania, where a below-the-knee amputation was performed on his left leg. His right leg was amputated days later. Plaintiff went into rehabilitation and learned to walk again on prosthetic legs and went back to work within five months of the accident. Although plaintiff made an excellent recovery, he faces a life of challenges. At the age of 56, he was an avid outdoorsman and physically fit prior to the accident. The plaintiff's medical bills were \$150,000 and his wage loss was \$24,600.

**Result**  
 \$3,000,000 settlement

**Plaintiff(s)** Anonymous  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** AIG  
**Plaintiff Expert(s)** Lance Robson, P.E., accident reconstructionist, Lancaster, PA;  
 Thomas Lacey, P.E., accident reconstructionist, Lancaster, PA;  
 Lance Watt, heavy vehicle expert, Lancaster, PA;  
 Ronald Tomasetti, fleet safety expert, Elizabethtown, PA  
**Defense Expert(s)** Ian Jones, P.E., accident reconstructionist, Great Falls, VA;  
 Kerry Nelson, heavy vehicle expert, Phoenix, AZ;  
 Roger Park, P.E., highway construction expert, Chicago, IL;  
 Steven Schorr, P.E., accident reconstructionist, Abington, PA  
**Post-Trial**  
**Editor's Note** None reported  
**Plaintiff(s) Demographics**  
**Age** None reported  
**Occupation** Construction engineer  
**Gender** Male  
**Married** None reported  
**Children** None reported

<b>Children</b>	<b>Description</b>	None reported
<b>Written By</b>		Frank Sherer

## SOUTH CAROLINA

### CHARLESTON COUNTY

#### MOTOR VEHICLE

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##### **Pedestrian — Backing Truck — Loading Zone**

## Truck backing out of loading zone strikes pedestrian; pedestrian partly responsible for injuries

<b>Verdict/Settlement</b>	\$78,500 verdict
<b>Case</b>	Cook v. Sysco Food Services of Columbia, LLC
<b>Court</b>	Charleston County
<b>Judge</b>	Thomas L. Hughston, Jr.
<b>Date</b>	12/15/2004

<b>Plaintiff Attorney(s)</b>	Ronald L. Richter, Charleston, SC
<b>Defense Attorney(s)</b>	Curtis L. Ott, Columbia, SC

#### **Facts & Allegations**

On September 26, 2002, plaintiff pedestrian was walking across Meeting Street in Charleston, SC. At the same time and location a truck owned by defendant Sysco Food Services was backing out of a loading zone onto Meeting Street. The truck struck plaintiff and knocked him to the ground.

Plaintiff alleged that an agent of the defendant was operating the truck. According to plaintiff, the truck driver breached his duty of care to plaintiff and was otherwise negligent, grossly negligent, willful, wanton and reckless in his operation of the truck owned by defendant Sysco. Plaintiff claimed that the driver failed to keep a proper lookout, was operating the truck at an excessive rate of speed and failed to maintain proper control over the vehicle. The plaintiff sought actual and punitive damages.

Defendant contended that plaintiff was solely negligent for the accident and was not entitled to recover damages. More specifically, the defendant argued that plaintiff was not entitled to recover punitive damages because that would be a violation of defendant's constitutional rights under South Carolina law. Defendant also contended that plaintiff failed to provide standards of sufficient clarity for determining the appropriateness and appropriate size of the punitive damages award.

#### **Injuries/Damages**

Soft tissue neck and back injuries resulting in a permanent impairment

#### **Result**

\$78,500 jury verdict. Actual damages. Request for punitive damages denied. Jury found plaintiff partly at fault but less than 51% negligent.

<b>Plaintiff(s)</b>	James Cook
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	None reported
<b>Defense Expert(s)</b>	None reported
<b>Post-Trial</b>	2 hour jury deliberation
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	Mid 30s
<b>Occupation</b>	None reported
<b>Gender</b>	Male
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported

<b>Written By</b>	Frank Sherer
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**SOUTH CAROLINA****ALLENDALE COUNTY****MOTOR VEHICLE****Toddler — Cross Over Center Line — Truck**

Truck crosses over center line, plaintiff's father swerves to avoid truck but still collides with truck

<b>Verdict/Settlement</b>	\$500,000 verdict
<b>Case</b>	Roberts v. Heafner Tire Group
<b>Court</b>	Allendale County
<b>Judge</b>	Rodney A. Peebles
<b>Date</b>	4/2004
<b>Plaintiff Attorney(s)</b>	J. Paul Detrick, Hampton, SC
<b>Defense Attorney(s)</b>	Clark W. McCants III, Aiken, SC

**Facts & Allegations**

Plaintiff, a 3-year old female, was a restrained passenger in a vehicle driven by her father. Defendant truck driver, traveling in the opposite direction as the plaintiff's father, crossed over the center line. Plaintiff's father swerved to avoid a head-on collision, lost control of his vehicle and drove onto the shoulder of the roadway. Plaintiff's father then steered back onto the roadway where he collided with the defendant's truck.

Plaintiff alleged that the defendant driver failed to maintain proper control of the truck and was responsible for the accident. Defendants denied liability and claimed that defendant truck driver crossed the center line as a result of wet roads. Defendants argued that the road conditions created a sudden emergency which was beyond Richardson's control.

**Injuries/Damages**

Jaw fracture, which required three surgical procedures to repair, and a liver laceration. Plaintiff claimed past medical expenses of approximately \$40,000.

**Result**

\$500,000 jury verdict

<b>Plaintiff(s)</b>	Lawanda Roberts
<b>Demand</b>	\$425,000
<b>Offer</b>	None
<b>Insurer(s)</b>	Zurich
<b>Plaintiff Expert(s)</b>	None
<b>Defense Expert(s)</b>	None
<b>Post-Trial</b>	Jury deliberated fro 3 hours
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	3
<b>Occupation</b>	None
<b>Gender</b>	Female
<b>Married</b>	No
<b>Children</b>	No
<b>Children Description</b>	Not applicable

**Written By** Frank Sherer

## SOUTH CAROLINA

## YORK COUNTY

### MOTOR VEHICLE

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#### Motor Vehicle — Wrongful Death — Failure To Stop At Stop Sign

### Commercial truck runs stop sign, collides with vehicle

<b>Verdict/Settlement</b>	\$2,300,000 settlement
<b>Case</b>	John Doe et al. v. Anonymous Driver et al.
<b>Court</b>	York County
<b>Judge</b>	None reported
<b>Date</b>	12/2004

<b>Plaintiff Attorney(s)</b>	S. Randall Hood, Rock Hill
<b>Defense Attorney(s)</b>	None reported

#### Facts & Allegations

Plaintiff's decedent, a 32-year old man engaged to be married, was operating a motor vehicle when he was struck by a commercial truck driven by defendant driver. The truck was owned by defendant company. The accident occurred at an intersection controlled by a stop sign and decedent was killed instantly.

Plaintiff alleged that defendant driver failed to stop for the stop sign at the intersection. Plaintiff further claimed that defendant company negligently hired defendant driver and negligently entrusted the vehicle to him. Defendants admitted liability and agreed to settle the case.

#### Injuries/Damages

Blunt force trauma resulting in death with no conscious pain and suffering.

#### Result

\$2,300,000 settlement.

<b>Plaintiff(s)</b>	None reported
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	David L. Dorrity, OSHA standards, Mauldin, SC; Joseph C. Jur, Ph.D., mechanical engineer/accident reconstructionist, Columbia, SC; Oliver G. Wood, Jr., Ph.D., economist, Columbia, SC
<b>Defense Expert(s)</b>	None reported
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	32
<b>Occupation</b>	None reported
<b>Gender</b>	Male
<b>Married</b>	Engaged
<b>Children</b>	None reported
<b>Children</b> <b>Description</b>	None reported
<b>Written By</b>	Frank Sherer

**MOTOR VEHICLE****Motor Vehicle — Tractor Trailer— Intersection Collision — Multiple Vehicles**

Flatbed tractor trailer runs red light, collides with pickup, careens into driver side of another pickup and pinning that pickup under the trailer of another tractor trailer

<b>Verdict/Settlement</b>	\$361,897.98 verdict
<b>Case</b>	Willis v. Gresham et al.
<b>Court</b>	Montgomery County
<b>Judge</b>	K. Michael Mayes
<b>Date</b>	11/2/2005
<b>Plaintiff Attorney(s)</b>	Brian P. Messina, Ivey & Kadlec LLP, Houston, TX
<b>Defense Attorney(s)</b>	Sharon Steckler, Law Offices of Sharon Steckler, Sugar Land, TX

**Facts & Allegations**

On December 31, 2000, plaintiff Lester Frank Willis, was driving his pickup truck east on Highway 242 near Shenandoah. He was stopped in the left lane at a red light at the I-45 southbound feeder road. The feeder road also had a red light, while the westbound lanes on 242 had a green light and a green left-turn arrow. Defendant Christopher Lee Carroll, driving a flatbed 18-wheeler, ran the red light on the service road, hit a westbound GMC pickup truck and careened into the driver's side of Willis's truck, pinning it under the trailer of a tractor trailer that was in the right lane of eastbound 242. The driver of the GMC pickup truck was ejected from the passenger side window and killed, and Carroll was charged with criminally negligent homicide. Carroll's tractor was owned by Faron Gresham, and his trailer was owned by Charles and Deniis Warn, who loaned it to Gresham, who hired Carroll to haul grass in it.

Willis sued Carroll, Gresham, the Warns and a company called Gresham Trucking LLC, which Gresham denied had any connection to him. Neither Carroll nor Gresham Trucking filed an answer, and Willis obtained default judgments against them at trial. The Warns won a summary judgment; according to Willis's trial attorney, Willis's original attorney had not preserved due diligence in service. The case went to trial against Gresham individually on theories of respondeat superior and negligent entrustment.

Willis argued that Carroll was an employee of Gresham's, that the flatbed trailer had bad brakes and bald tires and that Gresham had assumed control of the trailer from the owners. Willis alleged that Carroll was negligent for speeding, driving while fatigued and running a red light. Carroll also had an illegal radar detector in the cab.

**Injuries/Damages**

It took two hours for Jaws of Life to cut Willis out of his truck. In the accident, he sustained a fractured pelvis and fibula (both nondisplaced), a 4-inch gash in the forehead requiring staples and a concussion. He was hospitalized for four days, and the leg fracture required a splint. He also claimed post-concussion syndrome, forehead scarring and ongoing soft tissue elbow and shoulder problems. The leg and pelvis took about four months to heal, after which Willis returned to work. He said that he was no longer able to cut logs for a living and that he took a managerial position that paid about half as much as his former job.

Willis's past medical bills were \$11,897.98. He claimed more than \$200,000 in past lost wages, more than \$100,000 in future lost earning capacity and \$100,000 each for past pain and suffering, future pain and suffering, past physical impairment and future physical impairment.

**Result**

After a bench trial, Judge K. Michael Mayes found that Carroll's negligence caused the wreck, that he was an employee of Gresham, that Willis's damages were \$361,897.98 and that prejudgment interest was \$120,074.90. The judgment was joint and several against Gresham, the LLC and Carroll.

<b>Plaintiff(s)</b>	Lester Frank Willis
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	Empire Fire & Marine
<b>Plaintiff Expert(s)</b>	None
<b>Defense Expert(s)</b>	None
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	34
<b>Occupation</b>	Log cutter
<b>Gender</b>	Male

**Married**  
**Children**  
**Children Description**

None reported  
None reported  
None reported

**Written By**

Frank Sherer

**MOTOR VEHICLE****Motor Vehicle — Tractor Trailer— Rear End****Tractor trailer rear-ends pickup truck being towed by another pickup truck**

<b>Verdict/Settlement</b>	Defense verdict
<b>Case</b>	Martinez v. Martinez, Jr. et al.
<b>Court</b>	Dallas County
<b>Judge</b>	David Kelton
<b>Date</b>	10/6/2005

<b>Plaintiff Attorney(s)</b>	Antonio Olvera, Law Offices of Antonio Olvera, Dallas, TX
<b>Defense Attorney(s)</b>	Brad Dickinson, Dickinson & Associates, Dallas, TX

**Facts & Allegations**

On December 9, 2002, around 6 a.m., plaintiff Robert Martinez, was traveling with his father-in-law and his uncle as a passenger in a pickup being towed by another pickup on northbound I-35 en route to Dallas from College Station. Just outside Hillsboro, a tractor trailer driven by Lawrence Martinez, Jr. rear-ended the pickup being towed. The towed pickup rolled several times after the collision, and Robert Martinez sustained several injuries. The tractor trailer flipped onto its side, and the towing pickup did not flip or roll.

Martinez sued Lawrence Martinez and his employer, Yellow Transportation, d/b/a Yellow Freight System Inc., Overland Park, KS, for negligence, claiming that the driver of the 18-wheeler failed to control his vehicle and speed and that he did not keep a proper lookout. The defense argued that the pickups were traveling too slowly on the interstate and that their two lights were not in use. It maintained that the lights were either malfunctioning or that the batter powering the lights had died. The defense further contended that Robert Martinez was contributorily negligent, arguing that, as a mechanic by trade, Martinez was responsible for making sure the lights were functioning. Martinez claimed that he checked the lights about ten minutes before the tractor trailer hit him and that the lights were functioning properly.

**Injuries/Damages**

Robert Martinez sustained a fractured left wrist during the rollover, and he claimed to have sustained sprains and strains to his neck and back at L4-5 and C5-6. He incurred about \$15,000 in medical specials and sought between \$5,000 and \$10,000 in future medical expenses regarding possible further care for his wrist. In addition, Martinez maintained that the alleged neck and back injuries adversely affected his ability to mow the lawn and perform other household services. He sought a total of about \$200,000 in past and future pain and suffering, mental anguish and disfigurement. The defense argued that there was no objective evidence that the alleged neck and back injuries were permanent and life altering.

**Result**

The jury found that the defendants were not liable for the accident, and it found that the plaintiff was 100% liable for the wreck.

<b>Plaintiff(s)</b>	Robert Martinez
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	James Laughlin, M.D., orthopedic surgery, Dallas, TX; Wol-med Clinic, chiropractic, Lewisville, TX
<b>Defense Expert(s)</b>	None
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	Defense counsel noted that the lone dissenting juror wanted to attribute a portion of the liability to the defendants.

**Plaintiff(s) Demographics**

<b>Age</b>	50s
<b>Occupation</b>	Mechanic
<b>Gender</b>	Male
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported

<b>Written By</b>	Frank Sherer
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**MOTOR VEHICLE****Motor Vehicle — Tractor Trailer — Multiple Vehicles — Lane Change****Tractor trailer loses control, trailer hits several vehicles**

<b>Verdict/Settlement</b>	\$225,000 settlement
<b>Case</b>	Anthony v. W.W. Rowland Trucking Co. et al.
<b>Court</b>	Harris County
<b>Judge</b>	Reece Rondon
<b>Date</b>	6/10/2005

<b>Plaintiff Attorney(s)</b>	Vuk Stevan Vujasinovic, Vujasinovic & Beckcom, Houston, TX
<b>Defense Attorney(s)</b>	Bill R. Bludworth, Bludworth & Associates, Houston, TX; Byron Sims and Jeromy D. Hughes, Brown Sims, P.C.; Marcus A. Tucker, Royston, Rayzor, Vickery & Williams, Houston, TX

**Facts & Allegations**

On August 27, 2003, at about 9:15 a.m., a Ford Explorer driven by plaintiff Kevin Anthony, 53, a self-employed insurance salesman, was struck by the trailer of an 18-wheeler driven by Jose Sanchez at 700 North Loop West in Houston. Anthony's Explorer was traveling in the far left lane of the four-lane highway.

A vehicle driven by Soun Sok, an uninsured and unlicensed driver, was stalled in the middle of the highway after one of her tires lost its tread. Traffic was backed up behind her. As the 18-wheeler approached the bottleneck, Sanchez lost control, and his trailer swung around and hit Anthony's Explorer and several other vehicles.

Sok received a ticket for driving without a license and for contributing to the accident by failing to pull over to the shoulder of the highway when her vehicle became disabled. The officer at the scene also charged Sanchez with unsafely changing lanes.

Anthony sued Sanchez and his employer, W.W. Rowland Trucking Company Inc., for failing to take proper evasive action and unsafely changing lanes. He claimed that Sanchez could have avoided the accident and could have kept control of the 18-wheeler. He contended that W.W. Rowland was liable vicariously for Sanchez's conduct.

The defendants denied liability, alleging that Sok was entirely responsible for the accident. Sanchez claimed that alternative evasive action was not an option and that if Sok had appropriately moved her vehicle to the shoulder, the accident would not have happened.

**Injuries/Damages**

Anthony claimed that he sustained a left shoulder impingement, rotator cuff tear and labral tear. Ten months after the accident, he underwent an arthroscopic subacromial decompression and a repair of the torn supraspinous tendon. He made a substantially complete recovery from the surgery. He incurred about \$40,000 in medical bills from the surgery and rehabilitation and sought that amount in damages. He also sought an unspecified amount for past and future pain and suffering and physical impairment. No claims were made for lost wages.

The plaintiffs also planned to seek spoliation sanctions against W.W. Rowland for Sanchez's missing truck driver logs. The defendants claimed that the logs were lost, and plaintiff's counsel noted that had this case gone to trial, it may have presented that the logs were missing to the jury and asked that it be allowed to assume that the missing evidence be viewed as unfavorable for the defendants. Plaintiff's counsel argued that W.W. Rowland's corporate representative admitted the elements of spoliation during his oral deposition.

**Result**

Anthony settled with the defendants for \$225,000 shortly before a ruling on the spoliation motion was set to be released. The defendants' carrier, CAN Insurance Co., paid its policy limits to another claimant involved in the collision, so W.W. Rowland contributed the entire amount to the settlement.

<b>Plaintiff(s)</b>	Kevin Anthony
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	CAN Insurance Co.
<b>Plaintiff Expert(s)</b>	Kelley Adamson, M.E., P.E., accident reconstruction, College Station, TX
<b>Defense Expert(s)</b>	Richard Schleutter, P.E., accident reconstruction, College Station, TX; Richard Haring, Ph.D., accident reconstruction, San Antonio, TX
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	53
<b>Occupation</b>	Self-employed insurance salesman
<b>Gender</b>	Male

<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported

<b>Written By</b>	Frank Sherer
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**MOTOR VEHICLE**

Motor Vehicle — Tractor Trailer — U-turn

**Tractor trailer backs into vehicle stopped in U-turn lane**

<b>Verdict/Settlement</b>	Defense verdict
<b>Case</b>	Romero v. Ouana et al.
<b>Court</b>	Dallas County
<b>Judge</b>	W. Bruce Woody, Paul Salzberger
<b>Date</b>	5/17/2005

<b>Plaintiff Attorney(s)</b>	Jacob Ginsberg, Ginsberg & Associates, Dallas, TX
<b>Defense Attorney(s)</b>	Blake A. Riordan and Monte K. Hurst, Hermes Sargent Bates LLP, Dallas, TX

**Facts & Allegations**

On November 4, 2003, plaintiffs Carlos and Alicia Romero, both 34, were driving on the service road of I-35/Stemmons Freeway near downtown Dallas. They were in a U-turn lane under an overpass when an 18-wheeler in front of them backed into their Lincoln Continental. The truck driver was Rico Villafor Ouana and the trucking company was Crete Carrier Corp. Ouana was backing to adjust his turn in the U-turn lane.

The Romeros sued Ouana and Crete Carrier Corp. of Lincoln, NE, alleging that Ouana was negligent for reversing or for not making an adequate turn in the first place. The defendants argued that Ouana followed proper procedures in backing the truck, that Carlos negligently failed to avoid the collision and that Carlos caused the collision by improperly trying to go around the truck while it was in reverse.

**Injuries/Damages**

Both plaintiffs claimed soft-tissue neck and back injuries and had chiropractic care, physical therapy, x-rays and one or more MRIs and CT scans. Carlos's medical bills were about \$12,000, and Alicia's were about \$3,000. they also claimed past mental anguish and physical pain and suffering.

The defense argued that the treatment was excessive and that the injuries, if any, were exaggerated. The impact was minor, and Carlos refused treatment at the scene. He claimed that, two or three hours later, he lost consciousness, but hospital records said that he denied losing consciousness.

**Result**

The jury found Ouana 35% negligent and Carlos 65% negligent and that the plaintiffs suffered no damages.

<b>Plaintiff(s)</b>	Carlos and Alicia Romero
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	None
<b>Defense Expert(s)</b>	None
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	Both 34
<b>Occupation</b>	None reported
<b>Gender</b>	Male and female
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported

<b>Written By</b>	Frank Sherer
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**MOTOR VEHICLE****Motor Vehicle — Tractor Trailer — Negligent Training — Cargo Spill****Oil waste spills from truck, vehicle skids on slick across opposing lanes of traffic**

<b>Verdict/Settlement</b>	\$8,000,000 verdict
<b>Case</b>	Martinez v. Killam Oil Co.
<b>Court</b>	Webb County
<b>Judge</b>	Raul Vasquez
<b>Date</b>	5/25/2005

<b>Plaintiff Attorney(s)</b>	Brian K. Harris, Juan Enrique Mejia and Mikal C. Watts, Watts Law Firm LLP, Corpus Christi, TX
<b>Defense Attorney(s)</b>	Jackie Stroh and Juan Francisco Tamez, Crofts & Calloway, San Antonio, TX; Patricia O'Connell Alvarez, Alvarez & Notzon, L.L.P., Laredo, TX

**Facts & Allegations**

On July 15, 2003, plaintiff Margarita Martinez, a driving school instructor in her 40s, was driving a 2002 Dodge neon west on Highway 359 near Mirando City. Her husband, plaintiff Humberto Martinez, a paving contractor in his 40s, was driving behind her. Earlier, a driver for Killam Oil Co., a gas exploration company based in Laredo, was pulling onto the highway in a heavy truck carrying oilfield waste—mid mixed with oil—from a leased location. The driver turned right onto the highway, and some of the waste spilled across the westbound lane. The truck driver did not notice the loss and continued to his destination. Margarita Martinez later drove across the spill and lost control of her car on the slick road surface. Her car skidded across opposing lanes of traffic and stopped in a culvert on the other side of the road.

Margarita Martinez sued Killam, claiming that the company was negligent in securing the hazardous load. At trial, plaintiffs attorney Mikal C. watts argued that Killam had unqualified, untrained drivers. He contended that the company did not follow proper safety procedures for transporting hazardous waste. The company admitted responsibility for losing the load but argued that Martinez was contributorily negligent because the spill was visible, she braked before reaching it and still drove into it. Watts countered that Killam employees parked less than 100 feet from the road could not see the oil spill. The defense contended, however, that the employees were talking to each other and were not watching the highway until they saw Martinez's car spinning.

**Injuries/Damages**

Margarita Martinez went to the emergency room at Laredo Medical Center after the accident. She was diagnosed with neck and back soft-tissue injuries and she had some bulging in the neck that could not be pinpointed as a pre-existing condition. She had a normal MRI of the back but continue to complain of pain. She has had three surgeries since the accident, two for her neck and one for her lower back. She treated with both a physical therapist and a chiropractor after the accident.

Martinez had to quit working and sell her driving school business. The claim for loss of earning capacity, however, was dropped by Martinez at the first day of trial.

Her husband joined the suit, claiming loss of consortium.

Watts asked the jury to award Martinez and her husband \$12,000,000 for pain and suffering.

**Result**

The jury returned a verdict for the plaintiffs: \$6.85 million to Margarita Martinez and \$1.15 million for her husband's consortium claim. Pursuant to a high-low agreement reached before trial, the award will be reduced, as the highest award allowed under the agreement is \$5 million and the lowest \$1.5 million.

<b>Plaintiff(s)</b>	Margarita and Humberto Martinez
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	Gray Insurance Co.
<b>Plaintiff Expert(s)</b>	Jorge Tijmes, M.D., orthopedic surgery, McAllen, TX
<b>Defense Expert(s)</b>	Morgan Witney, Federal Motor Carrier Safety Administration (FMCSA), Mobile, AL; Richard Selenick, M.D., physical rehabilitation, San Antonio, TX
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	Margarita Martinez (40s); Humberto Martinez (40s)
<b>Occupation</b>	Margarita Martinez, driving school instructor; Humberto Martinez, paving contractor
<b>Gender</b>	Male and female
<b>Married</b>	Yes

**Children**  
**Children Description**

None reported  
None reported

**Written By**

Frank Sherer

**MOTOR VEHICLE****Motor Vehicle — Wrongful Death — Tractor Trailer — Rear Ended****Tractor trailer stops suddenly due to faulty brakes, vehicle rear ends truck**

**Verdict/Settlement** \$17,507,000 verdict  
**Case** Giuliano et al. v. Osborn et al.  
**Court** McLennan County  
**Judge** Jim Meyer  
**Date** 4/21/2005

**Plaintiff Attorney(s)** John M. Cummings and Steven C. Laird, Law Offices of Steven C. Laird P.C., Fort Worth, TX  
**Defense Attorney(s)** Anthony L. “Lenny” Vitullo, Michael P. Sharp and Scott W. Self, Smith Fee, Smith, Sharp & Vitullo, Dallas, TX

**Facts & Allegations**

In March 2002, plaintiff’s decedent, Matthew J. Giuliano, 23, a U.S. Army lieutenant, was driving a 2000 Chevrolet Malibu from Fort Knox, KY to his first assignment as an officer at Fort Hood. In the left lane of I-30 near Texarkana, he rear-ended a stopped 18-wheeler and was killed. Nelta Armstrong Osborn was driving the truck. Her husband and driving partner was with her. They were independent contractors of the carrier, Celadon Trucking Services, but were considered Celadon’s employees under Federal Motor Carrier Safety Regulations.

Giuliano’s family sued Osborn, of McLennan County, and Celadon Trucking Services Inc., of Indianapolis. The plaintiffs alleged that Osborn was negligent and grossly negligent for, earlier in the trip, having used a toothpick and electrical tape to repair a hole in a high-pressure brake hose of the truck. After about two hours and 120 miles, the repair failed, causing the truck to stop suddenly. The plaintiffs further alleged that Celadon was grossly negligent because it knew and approved of the improper repair. Osborn had notified a Celadon dispatcher of the repair by wireless email, and the dispatcher replied, commending Osborn’s ingenuity in getting the repair done, said the plaintiffs’ attorneys. The plaintiffs argued that the defendants violated numerous Federal Motor Carrier Safety regulations in the incident.

The defendants contended that Giuliano was 60% at fault for failing to see the truck sooner so as to avoid the accident. They called an accident reconstruction expert at trial, and he used animations of four different accident scenarios. They also argued that this was an isolated incident that did not reflect how the company operated. Osborn and her husband were suspended after the incident and did not drive for Celadon again.

**Injuries/Damages**

Giuliano died. His estate claimed funeral and burial expenses, and his parents claimed past and future mental anguish and past and future loss of companionship and society. For punitive damages, the plaintiffs sought \$2,000,000 to \$4,000,000, or 2.5% to 5% of Celadon’s \$80,000,000 net worth,

**Result**

During jury deliberations, the parties entered into a high-low agreement, with a high of \$1.25 million and a low of \$750,000.

The jury found Osborn and Celadon each 45% negligent and Giuliano 10% negligent. The jury awarded Giuliano’s parents a total of \$1,000,000 each, comprising of \$250,000 each for past mental anguish, \$250,000 each for future mental anguish, \$250,000 each for past lost companionship and society and \$250,000 each for future lost companionship and society. The jury awarded the estate \$7,000 for funeral and burial costs. The jury found gross negligence by both defendants and awarded the estate punitive damages of \$500,000 against Osborn and \$15,000,000 against Celadon. The total verdict was \$17,507,000.

Pursuant to the high-low agreement, the plaintiffs’ recovery was \$1.25 million.

**Plaintiff(s)** Linda and John Giuliano, individually and as representatives of the estate of Matthew J. Giuliano, deceased  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** Don Asa, trucking industry, Scottsdale, AZ;  
Mark Rinehart, accident investigation, Texarkana, TX  
**Defense Expert(s)** Andrew Irwin, accident reconstruction, Dallas, TX  
**Post-Trial** None reported  
**Editor’s Note** The plaintiffs’ attorneys noted that the punitive damages would have been capped by statute at \$400,000 total and that, but for the high-low agreement, the defendants could have appealed. The plaintiffs’ attorneys said that the Giulianos were happy with the outcome and that it was important to the plaintiffs to have their day in court

**Plaintiff(s)****Demographics**

**Age** 23 (decedent)  
**Occupation** U.S. Army lieutenant

<b>Gender</b>	Male
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children</b>	None reported
<b>Description</b>	
<b>Written By</b>	Frank Sherer

**MOTOR VEHICLE****Motor Vehicle — Broadside — Tractor Trailer****Tractor trailer pulled across intersection, plaintiff could not stop vehicle in time**

<b>Verdict/Settlement</b>	\$213,500 settlement
<b>Case</b>	Lund v. Parker et al.
<b>Court</b>	Chambers County
<b>Judge</b>	Chap Cain, Gary Angelle
<b>Date</b>	4/14/2005

<b>Plaintiff Attorney(s)</b>	Stephen C. Estes, Law Offices of Stephen C. Estes, P.C., Houston, TX
<b>Defense Attorney(s)</b>	Byron Sims, Charles Conrad and Jeromy D. Hughes, Brown Sims, P.C., Houston, TX

**Facts & Allegations**

On March 19, 2002, at 1:21 a.m., plaintiff Howard Lund was returning home after stopping to visit with a neighbor about the recent passing of a mutual friend. As he drove along the remote country farm-to-market roads in his pickup truck, he observed an 18-wheeler at a stop sign ahead at the intersection of highways FM 1406 and FM 1663. To his surprise, the tractor trailer, driven by defendant Ronald Parker, began pulling out into the intersection. Lund hit the brakes and swerved to the right, but he was unable to avoid the truck's trailer, colliding with its rear wheels.

Lund sued Parker and his employer, Vanity Fair Corp. and related entities, which had leased the truck from Penske Truck Leasing, claiming negligence, negligence per se, negligent entrustment, negligent hiring and respondeat superior. Deposition testimony of the defendant driver determined that he was hired with a DWI conviction in his past while working for the company in another capacity. It was never proven that he submitted to mandatory federal drug and alcohol testing in a timely fashion after the wreck. The defense generally denied Lund's claims and alleged contributory negligence and unavoidable accident.

The driver was unsure as to when he first observed Lund. Lund admitted that he was not wearing a seatbelt at the time of the accident and that he had a couple of beers the night of the accident. The trooper who investigated the accident, however, said he detected no alcohol, and none was reported to him by the EMS personnel. The trooper opined that Lund had done what any reasonable, prudent person would have done—in fact, what he would have done himself: hit the brakes and swerve to the right to avoid the collision. When asked if Lund's speed could have been a contributing factor to the accident, the trooper replied, "if he's going 10 mph or if he's doing 100 mph, you have to yield the right of way to him."

**Injuries/Damages**

The impact caused a displaced fracture of the femoral neck that required surgery to insert steel pins to repair the fracture. Lund also sustained lacerations on the face. Lund sought about \$25,000 in past medicals, future medicals of \$10,000 for probable surgery to have the pins removed, and pain and suffering of an unspecified amount.

**Result**

\$213,500 settlement, no breakdown provided

<b>Plaintiff(s)</b>	Howard Lund
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	AIG; American Home Assurance Co.
<b>Plaintiff Expert(s)</b>	Trooper Matura, accident investigation & reconstruction/failure analysis/product liability, Athens, TX; Charles Domingues, M.D., D.O., orthopedics, Beaumont, TX; David Stopper, accident reconstructionist, Broad Run, VA; Pete Lyon, Ph.D., economics, Houston, TX
<b>Defense Expert(s)</b>	James Yeager, economics, Missouri City, TX; Richard Harding, accident investigation & reconstruction/failure analysis/product liability, San Antonio, TX
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	None reported
<b>Occupation</b>	None reported
<b>Gender</b>	Male
<b>Married</b>	None reported
<b>Children</b>	None reported

**Children Description**

None reported

**Written By**

Frank Sherer

**MOTOR VEHICLE****Motor Vehicle — Rear Ended — Tractor Trailer****Tractor trailer rear ends van stopped in traffic**

<b>Verdict/Settlement</b>	\$118,462.53 verdict
<b>Case</b>	Gomez v. Gonzalez
<b>Court</b>	Starr County
<b>Judge</b>	John Pope
<b>Date</b>	4/8/2005

<b>Plaintiff Attorney(s)</b>	Jorge L. Gomez, Gomez Law Firm, Houston, TX; Calixto Villareal, Local Counsel, Rio Grande, TX
<b>Defense Attorney(s)</b>	Grant E. Adami III, Adami, Goldman & Shuffield, San Antonio, TX

**Facts & Allegations**

On July 23, 2002, on the 610 freeway in Houston, near the 500 east South Loop, plaintiff Olimpo Gomez, 35, a laborer, was stopped in traffic on his way to work in his boxed cargo van. Baldemar Munoz, driving an 18-wheeler loaded with grain, rear ended him.

Gomez sued Munoz, G & D Trucking (the company he was driving for) and Diana Gonzalez (the owner of the company) for negligence. He argued that Munoz negligently operated the truck and that Gonzalez had negligently entrusted the truck to him because he had no drivers' license. Munoz was issued tickets by the police for operating a vehicle without a license and failure to maintain a safe speed.

Munoz and Gonzalez argued that the brake lights in the rear of Gomez's cargo van were inoperable, thus making him contributorily negligent. Gonzalez refuted the claim that she had negligently entrusted the truck to Munoz, arguing that she had not known that he did not have a license. Moreover, the defendants argued that since the vehicles sustained no damage, Gomez could not have been hurt.

**Injuries/Damages**

Gomez sustained soft-tissue damages to the neck and back. He claimed injury to the L4-5 and L5-S1 bulging discs, claiming that they were herniated. He also had a discogram performed, which his expert claimed showed an annular tear in the L3-4. As a result of these injuries, he suffered pain and stiffness. He introduced MRIs to show the herniations. For these injuries, he underwent physical therapy. He claimed damages of an unspecified amount for past medical costs, lost wages, and pain and suffering.

The defendants claimed that the injuries shown by the MRIs were not cause by the accident but were the result of degeneration. The defense further argued that Gomez's claim for time spent out of work was excessive and introduced an expert who testified that he could work within tolerable limits.

**Result**

\$102,000 verdict (\$22,000 – past medical cost, \$5,000 – past physical impairment, \$35,000 – past lost earnings capacity, \$40,000 – past mental pain and anguish), increased to \$118,462.53 after pre-judgment interest added.

<b>Plaintiff(s)</b>	Olimpo Gomez
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	Texas General Agency
<b>Plaintiff Expert(s)</b>	Kenneth Berliner, M.D., orthopedic surgery, Houston, TX; Randall Dodd, accident investigation & reconstruction/failure analysis/product liability, Houston, TX
<b>Defense Expert(s)</b>	Leonard Hershkowitz, M.D., neurology, Houston, TX; A. Garza-Vale, M.D., neurosurgery, San Antonio, TX
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	35
<b>Occupation</b>	Laborer
<b>Gender</b>	Male
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported

<b>Written By</b>	Frank Sherer
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**MOTOR VEHICLE****Right Turn — Dump Truck — Broad Side****Vehicle pulling out of metered parking space collides with dump truck**

<b>Verdict/Settlement</b>	Defense verdict
<b>Case</b>	Ramos v. Lee
<b>Court</b>	Harris County
<b>Judge</b>	Roberta Lloyd
<b>Date</b>	8/18/2005

<b>Plaintiff Attorney(s)</b>	Rudy Vasquez, Houston, TX
<b>Defense Attorney(s)</b>	Brian M. Chandler, Ramey, Chandler, McKinley & Zito, Houston, TX

**Facts & Allegations**

Plaintiff dump truck driver claimed that at 12:30 p.m. on 1/16/2002, defendant pulled out of a metered parking space in downtown Houston and tried to go straight in a right-turn only lane on Milam Street. Plaintiff claimed that defendant's vehicle struck the side of his dump truck. Defendant was ticketed for making an improper start from a parked position. Plaintiff alleged negligence against the defendant. The defendant contended that he swung out to make a right turn off Milam onto Prairie Street, and the plaintiff crossed into his lane, striking his vehicle.

**Injuries/Damages**

Plaintiff claimed soft-tissue injuries to his back and neck. He also missed some work for doctor's appointments and treatment. He sought about \$4,000 in medical specials and \$7,000 for lost wages. He asked the jury to award additional damages of an unspecified amount for pain and suffering.

**Result**

The jury found the plaintiff 60% negligent and the defendant 40% negligent. They did not answer regarding damages.

<b>Plaintiff(s)</b>	Gerardo Ramos
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	State Farm
<b>Plaintiff Expert(s)</b>	None
<b>Defense Expert(s)</b>	None
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	27
<b>Occupation</b>	Truck driver
<b>Gender</b>	Male
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported

<b>Written By</b>	Frank Sherer
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**MOTOR VEHICLE**

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**Dump Truck — Backing — Passenger — Driveway****Dump truck backed out of driveway, collided with car**

<b>Verdict/Settlement</b>	Confidential settlement
<b>Case</b>	Castillo v. Republic Waste Services
<b>Court</b>	Harris County
<b>Judge</b>	Mark Davidson
<b>Date</b>	8/4/2005

<b>Plaintiff Attorney(s)</b>	D. Matthew Freeman and William W. Hoke, Matt Freeman & Associates, Houston, TX
<b>Defense Attorney(s)</b>	Clifford L. Harrison, Harrison, Bettis, Staff, McFarland & Weems, Houston, TX

**Facts & Allegations**

At about 1:30 p.m. on August 4, 2004, plaintiff was a passenger in a sports car traveling south on the 7300 block of Rampart Street in Houston when defendant illegally backed out of a private driveway in a dump truck owned and operated by defendant Republic Waste Services of Texas I LLC. The two vehicles collided. The plaintiff sued the truck driver, the company and its five affiliates, alleging negligence and gross negligence. The defense contended that the driver of the car in which plaintiff was a passenger was negligent for failing to control his speed. The dump truck driver was ticketed for failing to keep a proper lookout, but his ticket was dismissed in a jury trial in municipal court.

**Injuries/Damages**

Plaintiff sustained a laceration to his forehead that required 12 stitches and injuries to his lower back and neck. He was treated at the emergency room and incurred expenses for X-rays, chiropractic and physical therapy. His medical specials totaled \$4,210.50. Plaintiff sought a recovery of \$18,000, including mental anguish. He did not claim lost wages.

**Result**

Confidential settlement

<b>Plaintiff(s)</b>	Amado Castillo
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	Gallagher Bassett Services Inc.
<b>Plaintiff Expert(s)</b>	None
<b>Defense Expert(s)</b>	None
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	20
<b>Occupation</b>	Former security driver
<b>Gender</b>	Male
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported

<b>Written By</b>	Frank Sherer
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**MOTOR VEHICLE****Lane Change — Right Turn****Collision caused diesel spill, company sought cleanup cost**

<b>Verdict/Settlement</b>	Defense verdict
<b>Case</b>	United Rentals, Inc. v. Carrington
<b>Court</b>	Dallas County
<b>Judge</b>	Sally Montgomery
<b>Date</b>	8/1/2005

<b>Plaintiff Attorney(s)</b>	Christopher A. Fusselman, The Fusselman Law Firm, Houston, TX
<b>Defense Attorney(s)</b>	Saul Friedman, G. Patrick Collins & Associates, Dallas TX

**Facts & Allegations**

In August 2002, a truck owned by plaintiff was hit by defendant on the northbound service road of I-35 in Dallas. Defendant hit the truck's right side as the truck driver was turning into a parking lot on his right. There were no bodily injuries.

Plaintiff company sued defendant for negligence. Plaintiff's driver alleged that he used his turn signal. Defendant claimed that he did not see any turn signal. He asserted that he was in the left lane and that the truck was ahead in the right lane. He claimed that the truck entered the left lane and that he tried to pass on the truck's right before realizing that the truck driver was making a right turn.

**Injuries/Damages**

No bodily injuries. Damage to truck was about \$2800. The impact to the truck's gas tank caused diesel fuel to spill. Plaintiff hired a cleanup service and sought that cost as well. The plaintiff sought \$6,761 total. The defendant did not dispute any of the damages.

**Result**

Jury found defendant 45% negligent and plaintiff 55% negligent. Plaintiff recovered nothing because of comparative fault

<b>Plaintiff(s)</b>	United Rentals, Inc.
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	Allstate
<b>Plaintiff Expert(s)</b>	None
<b>Defense Expert(s)</b>	None
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	Not applicable
<b>Occupation</b>	Not applicable
<b>Gender</b>	Not applicable
<b>Married</b>	Not applicable
<b>Children</b>	Not applicable
<b>Children Description</b>	Not applicable

<b>Written By</b>	Frank Sherer
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**MOTOR VEHICLE****Tractor Trailer — Lane Change — Exit Ramp****Tractor trailer collides with vehicle on exit ramp**

**Verdict/Settlement** \$31,673 (reduced to \$23,755) verdict  
**Case** Wright v. Mission Petroleum Carriers, Inc.  
**Court** Dallas County  
**Judge** Robert H. Frost  
**Date** 7/26/2005

**Plaintiff Attorney(s)** Michael J. Hindman, Rolle, Breeland, Ryan, Landau, Wingler & Hindman, Dallas, TX  
**Defense Attorney(s)** Jennifer R. Eldridge and Michael H. Bassett, The Bassett Firm, Dallas, TX

**Facts & Allegations**

At about 1:30 a.m. on February 22, 2003, a vehicle operated by the plaintiff Rashad Wright collided with a tractor trailer operated by the defendant Christopher Coleman when the tractor trailer changed lanes. Both vehicles were traveling eastbound on I-30 near the I-45 exit in downtown Dallas. When the defendant changed lanes, he struck the left side and left rear bumper of the plaintiff's vehicle.

Wright and three of his six passengers sued Coleman for negligence and his employer on a theory of respondeat superior. The defendant claimed he used his turn signal and that the lane to his right was clear when he began to change lanes. Defense counsel argued that, when the plaintiff saw the truck entering his lane, he sped up. Plaintiff Rashad Wright denied doing so and also denied that Coleman used his turn signal.

**Injuries/Damages**

All four plaintiffs went to an emergency room, but only D'Juan Wright, Jr. was transported by ambulance. All were treated and released. They then went to Accident & Injury Chiropractic and were treated until the first week of May. They claimed soft-tissue neck and back injuries, and Rashad Wright also claimed a torn meniscus in his left knee. Medical specials: Rashad Wright - \$11,452.26, D'Juan Wright, Jr. - \$12,169.44. Lakeshia Fuller - \$10,411.07 and April Rose - \$8,353.27.

**Result**

The jury the defendant 75% negligent and the plaintiff Rashad Wright 25% negligent and that the plaintiffs' damages were: \$8600 – Rashad Wright, \$7808 – Fuller, \$9000 – D'Juan Wright, Jr., \$6265 – Rose. Comparative fault reduced the plaintiffs' total recovery to \$23,755.

**Plaintiff(s)** Rashad Wright, D'Juan Wright, Jr., April Rose and Lakeshia Fuller  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** None  
**Defense Expert(s)** None  
**Post-Trial** None reported  
**Editor's Note** None reported  
**Plaintiff(s) Demographics**  
**Age** Rashad Wright (mid 30s)  
**Occupation** Warehouse clerk  
**Gender** Male  
**Married** None reported  
**Children** None reported  
**Children Description** None reported

**Written By** Frank Sherer

**MOTOR VEHICLE**

**Motor Vehicle — Rear Ended —Delivery Truck**

**FedEx truck blamed for motorist’s back problems**

**Verdict/Settlement** \$612,500 settlement  
**Case** Salazar v. Federal Express Corp.  
**Court** Brazoria County  
**Judge** Robert E. May  
**Date** 3/3/2005

**Plaintiff Attorney(s)** David W. Hodges and Galvin B. Kennedy, Kennedy Hodges, Houston, TX  
**Defense Attorney(s)** Peter C. Blomquist, Hirsch, Sheiness & Garcia, Houston, TX

**Facts & Allegations**

On October 19, 2001, plaintiff Michael Salazar, 22, was driving a Ford Escort station wagon on Highway 59 in Harris County, TX when a FedEx truck approached from behind at what he claimed was a high rate of speed. The FedEx struck Salazar’s vehicle from behind, causing the vehicle to spin out and get sandwiched between the FedEx truck and another truck.

Salazar sued Federal Express Corporation and its driver, Marty Pollet, for negligence and vicarious liability. Pollet testified that he did not remember hitting the plaintiff’s vehicle and that he only remembered hitting another truck. Salazar claimed that Pollett should have been removed from his driving duties because of the high number of accidents he had been involved in while driving on the job. FedEx argued that most of the previous accidents were minor and that many did not involve another vehicle. The defense, however, did not contest liability, and the case proceeded to trial on damages only.

**Injuries/Damages**

Salazar claimed that he sustained two bulging discs in his lower back at L4-5 and L-5-S1. Plaintiff’s expert, Dr. Berliner, testified via deposition that Salazar would require future surgery at a cost of about \$78,000. Salazar also suffered lacerations and chipped teeth. He claimed past medical bills in the amount of \$64,000, future medical bills in the amount of \$78,000 and past lost wages in the amount of \$62,000. His wife sought damages for odd of consortium.

FedEx hired a private investigator to follow Salazar. The investigator captured video of him working on his car and bending over at the waist. Based on this video, the defendant’s expert opined that Salazar did not require any future medical treatment.

**Result**

\$612,500 settlement paid by FedEx

**Plaintiff(s)** Michael and Micale Salazar  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** None reported  
**Plaintiff Expert(s)** Roger Allen, driver performance/behavior, Friendswood, TX;  
 Kenneth Berliner, M.D., orthopedic surgery, Houston, TX  
**Defense Expert(s)** Andrew Kant, M.D., orthopedic surgery, Houston, TX;  
 Viola Lopez, L.P.C., vocational rehabilitation, Houston, TX;  
 Anita Kerezman, C.D.S., trucking industry, Scottsdale, AZ  
**Post-Trial** None reported  
**Editor’s Note** None reported  
**Plaintiff(s) Demographics**  
**Age** Michael Salazar (22)  
**Occupation** None reported  
**Gender** Male  
**Married** Yes  
**Children** None reported  
**Children Description** None reported

**Written By** Frank Sherer

**MOTOR VEHICLE****Motor Vehicle — Failure to Yield — Bobtail Truck****Driver of bobtail truck failed to yield right of way**

<b>Verdict/Settlement</b>	\$100,000 settlement
<b>Case</b>	Vincent Mai v. Odell Owens and Transport Service Co.
<b>Court</b>	Brazoria County
<b>Judge</b>	Patrick Sebesta
<b>Date</b>	1/31/2005

<b>Plaintiff Attorney(s)</b>	David W. Hodges and Galvin B. Kennedy, Kennedy Hodges, LLP, Houston TX
<b>Defense Attorney(s)</b>	Byron Sims, Clint Davis and Nelson Skyler, Brown Sims, Houston, TX

**Facts & Allegations**

On November 30, 2001, the plaintiff, Vincent Mai, 37, a seafood wholesaler was driving his refrigerated van on I-35 in Brazoria County when defendant Odell Owens, who was driving a bobtail truck (without the trailer), failed to yield the right of way and pulled his truck out in front of Mai. Mai then hit the side of the tractor.

Mai sued Owens and Transport Services Co., the Illinois-based trucking company for whom Owens was driving at the time of the accident. Mai claimed that the driver was negligent in pulling his truck out in front of him without yielding. The defense did not contest liability for the accident but did contest the severity of Mai's injuries.

**Injuries/Damages**

Mai claimed he suffered cuts, bruises and disc bulging at L4-5 and L5-S1. Plaintiff's expert, Dr. Berliner, recommended epidural steroid injections for the plaintiff, but Mai elected not to have them done. Mai claimed \$14,348 in past medical bills, \$50,600 in future medical bills and \$10,000 in property damage to his vehicle.

Transport Service Co. contested whether Mai's back injury was actually caused by the accident. Defense expert, Dr. Robert Fulford, testified that the accident did not cause the back injury.

**Result**

\$100,000 settlement paid by Transport Service Co.

<b>Plaintiff(s)</b>	Vincent Mai
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	None reported
<b>Plaintiff Expert(s)</b>	Kenneth Berliner, M.D., Orthopedic Surgery, Houston, TXq
<b>Defense Expert(s)</b>	Robert Fulford, M.D., Orthopedic Surgery, Houston, TX
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	37
<b>Occupation</b>	Seafood wholesaler
<b>Gender</b>	Male
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported

<b>Written By</b>	Frank Sherer
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**WORKERS' COMPENSATION****Workers' Compensation — Employee Status****Companies disputed which employed truck driver**

<b>Verdict/Settlement</b>	Defense
<b>Case</b>	National American Insurance Company v. Mark Beck
<b>Court</b>	Travis County
<b>Judge</b>	Scott H. Jenkins
<b>Date</b>	1/10/2005

<b>Plaintiff Attorney(s)</b>	David L. Brenner, Burns, Anderson, Jury & Brenner, Austin, TX, for National American Insurance Co.; Gary L. Rodriguez, The Law Offices of Gary L. Rodriguez P.C., Austin, TX, for Clayton Mark Beck
<b>Defense Attorney(s)</b>	Jane Stone and Shannon S. Pounds, Stone, Loughlin & Swanson, Austin, TX, for Paula Insurance Co., Texas Property Casualty Insurance Guaranty Association (intervenor); Kevin Heyburn, Attorney General's Office, Austin, TX, for Texas Workers' Compensation Commission (intervenor)

**Facts & Allegations**

Plaintiff National American Insurance was the workers' comp carrier for Jerry Gregory, Inc. in Waco, a small business that owned trailers, for which it had interstate licenses and Texas permits. JGI leased trailers to Hunter Trucking, also in Waco, which used the trailers in its trucking business. On October 3, 2000, in Palm Springs, CA, a Hunter tractor pulling a JGI trailer lost control, injuring the two drivers on board: Mark Beck, 25, and Benjamin Brown. The TX Workers' Compensation Commission determined that JGI, not Hunter was the drivers' employer.

To appeal that decision, JGI's carrier, National American, sued Beck and Brown, as well as Hunter's worker's comp carrier, Paula Insurance Co. of Pasadena, CA. When Paula Insurance became impaired, Texas Property Casualty Insurance Guaranty Association intervened on its behalf. Brown did not enter an appearance.

Beck agreed with National American that Hunter was the employer, and during trial, Beck and his attorney sat at the plaintiff's table. Hunter contended that the commission correctly determined that JGI was the drivers' employer. The commission intervened as a defendant.

The agreement between JGI and Hunter governed the October 3, 2000 trip. JGI booked the trip and furnished the trailer, permits and licenses, while Hunter furnished the tractor and drivers, paid the drivers, and covered fuel and expenses. Hunter received 75% of the gross revenue of any trip governed by the agreement, which also state that Hunter was an independent contractor of JGI. The agreement also provided that Hunter would hire and pay the drivers and administer their driving tests. Hunter withheld federal income taxes and social security taxes from Beck's and Brown's paychecks, listed them on its quarterly Texas Workforce Commission reports, and listed their income on its quarterly and annual IRS reports. JGI had a right of approval over the hiring of any driver. Also, JGI decided when and where the loads would be picked up and delivered.

**Injuries/Damages**

Under the commission's decision, National American would be liable for lifetime income benefits to Beck. National American sought a finding that Hunter was Beck's employer, which would make Hunter's carrier liable for those benefits.

The tractor trailer rolled over once, and Beck was thrown about 40 feet from the tractor. He sustained a skull fracture, a broken neck and a broken spine at the thoracic level. He was in a coma for some time and left paralyzed from the chest down.

**Result**

The jury found that for purposes of workers' compensation, Hunter was the employer.

<b>Plaintiff(s)</b>	National American Insurance Co.
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	National American Insurance Co.; Paula Insurance Co.; Texas Property Casualty Insurance Guaranty Association
<b>Plaintiff Expert(s)</b>	None
<b>Defense Expert(s)</b>	None
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	None reported
<b>Occupation</b>	None reported
<b>Gender</b>	None reported
<b>Married</b>	None reported

**Children**  
**Children Description**

None reported  
None reported

**Written By**

Frank Sherer

**PRODUCT LIABILITY****Defective Door Latch — Strict Liability****SUV strikes wheel of truck, truck loses control and driver ejected**

<b>Verdict/Settlement</b>	\$7,900,000 verdict
<b>Case</b>	Hodges v. Indiana Mills & Manufacturing, Inc.
<b>Court</b>	U.S. District Court, Eastern District of Texas
<b>Judge</b>	None reported
<b>Date</b>	8/27/2004

<b>Plaintiff Attorney(s)</b>	Leon Russell, Law Offices of Leon Russell, Dallas, TX; Carl Roth and Michael C. Smith, Roth Law Firm, Marshall, TX
<b>Defense Attorney(s)</b>	David McFarland; G. Thomas Allison III

**Facts & Allegations**

Plaintiff Hodges was driving a Mack Truck day cab for his employer when an SUV pulled out from a stop sign onto the highway and struck Hodges's right front wheel, causing him to lose control of the truck. The truck crossed into oncoming traffic, struck an oncoming car, spun clockwise almost 180 degrees, went through the guardrail and slid rearward, down an overpass embankment. Hodges was ejected and found near the overturned cab at the bottom of the slope.

Hodges sought recovery against the seat belt manufacturer and the truck manufacturer under theories of strict liability for defective seatbelt design and a defective truck door latch system. The parties disputed whether Hodges was wearing his seatbelt, whether it was unlatched due to inadvertent elbow contact to the release button, whether Hodges was ejected out the passenger side door because the door latch failed or whether Hodges was ejected through the passenger side door window.

**Injuries/Damages**

Paralysis; closed head injury. Medical expenses stipulated at approximately \$500,000

**Result**

\$7,900,000 verdict against Mack Trucks. Confidential settlement with Indiana Mills & Manufacturing, Inc.

<b>Plaintiff(s)</b>	James Hodges
<b>Demand</b>	None reported
<b>Offer</b>	None reported
<b>Insurer(s)</b>	Empire Insurance Co.
<b>Plaintiff Expert(s)</b>	Steve Syson, door latch design, Santa Barbara, CA; Robert Anderson, accident reconstruction, Phoenix, AZ; Carley Ward, biomechanics, Pacific Palisades, CA
<b>Defense Expert(s)</b>	Thomas Tiede, door latch design, Huntington Beach, CA; Carl Savage, accident reconstruction, kinematics, door design, Fenton, MI
<b>Post-Trial</b>	None reported
<b>Editor's Note</b>	None reported
<b>Plaintiff(s) Demographics</b>	
<b>Age</b>	None reported
<b>Occupation</b>	Truck driver
<b>Gender</b>	Male
<b>Married</b>	None reported
<b>Children</b>	None reported
<b>Children Description</b>	None reported
<b>Written By</b>	Frank Sherer

**MOTOR VEHICLE****Tractor Trailer — Rear End — Entrance Ramp****SUV rear-ends tractor trailer parked in shoulder of entrance ramp**

**Verdict/Settlement** \$330,000 settlement (mediation)  
**Case** Marshall v. Bicentennial Trucking Company, Inc.  
**Court** Titus County  
**Judge** Jimmy L. White  
**Date** 7/19/2005

**Plaintiff Attorney(s)** Hawley Holman, Holman & Langdon LLP, Texarkana, TX  
**Defense Attorney(s)** Jeffrey G. Atkins and Steve Springer, Fletcher & Springer, Dallas, TX

**Facts & Allegations**

At about 6 a.m. on April 16, 2003, plaintiff Brandon Marshall was driving a Ford sport-utility vehicle on the I-30 entrance ramp in Titus County when he rear-ended the trailer of a tractor trailer parked on the ramp's shoulder, with the rear of the trailer extending across the fog line. Defendant Adelaida Morena Gaitin was the driver of the tractor trailer; her statutory employer, under federal motor carrier regulations, was Bicentennial Trucking Company.

Marshall claimed violations of federal motor carrier safety regulations against Bicentennial and negligence against Gaitin. Marshall argued that the defendants violated the regulations by partially blocking the entrance ramp. He also claimed that the log of Gaitin's hours was altered after the incident.

The defendants contended that Marshall negligently failed to keep a proper lookout, timely apply his brakes or travel on the left side of the ramp to avoid the parked truck. The defense argued he had just woken up and was probably tired. Gaitin said the tractor trailer had been parked for several hours and had been passed safely by many vehicles during that time. The defendants denied Marshall's allegations that the log was altered and asserted that the unaltered log revealed no violations of any applicable regulations.

**Injuries/Damages**

Marshall's SUV was totaled, and Bicentennial's insurer paid for it.

Marshall sustained facial injuries, including an orbital fracture and nasal fracture. He had several facial surgeries and claimed possible future cosmetic surgery to the nasal area as well as scar revision. He also sustained a tear-drop fracture of the C7 spinous process, but his neurosurgeon testified that his injury, a small, "floating" fragment of bone, would probably not cause Marshall any trouble or require any treatment.

Marshall's past medical bills were approximately \$115,000. His health insurer paid approximately \$40,000 to resolve these past medical expenses. Marshall claimed between \$5,000 and \$7,000 of possible future medical expenses.

The defense argued that Marshall's injuries were not as severe as he claimed, that the scarring was very minor and that he would have no need for future treatment.

**Result**

\$330,000 settlement for the bodily injury claim, including loss of consortium claimed by Marshall's wife.

**Plaintiff(s)** Brandon and Courtney Marshall  
**Demand** None reported  
**Offer** None reported  
**Insurer(s)** Empire Insurance Co.  
**Plaintiff Expert(s)** None  
**Defense Expert(s)** None  
**Post-Trial** None reported  
**Editor's Note** The case was mediated twice before Judge Webb Baird as mediator  
**Plaintiff(s) Demographics**  
**Age** Brandon Marshall (28)  
**Occupation** Insurance salesman  
**Gender** Male  
**Married** Yes  
**Children** None reported  
**Children Description** None reported

**Written By** Frank Sherer