



School hid bullying that led to student's suicide, lawsuit alleged

Type: Mediated Settlement

Amount: \$3,000,000

State: Ohio

Venue: Federal

Court: U.S. District Court for the Southern District of Ohio, Western Division, OH

Injury Type(s):

- *head* - concussion
- *brain* - brain damage; traumatic brain injury
- *other* - death; unconsciousness; vomiting/vomition
- *mental/psychological*
- *gastrointestinal/digestive* - gastrointestinal complications; nausea

Case Type:

- *Civil Rights* - 42 USC 1983
- *Medical Malpractice* - Nurse
- *School* - Negligent Supervision
- *Constitutional Law* - Due Process
- *Wrongful Death* - Survival Damages
- *Emotional Distress* - Negligent Infliction of Emotional Distress
- *Intentional Torts* - Intentional Infliction of Emotional Distress

Case Name: Karen Meyers, as Administratrix of the Estate of Gabriel Taye, Cornelia Reynolds and Benyam Taye v. Cincinnati Board of Education, Mary Ronan in her Official Capacity as Superintendent of Cincinnati Public Schools, Ruthenia Jackson Individually and in her Official Capacity as Principal of Carson Elementary School, and Jeffery McKenzie Individually and in his Official Capacity as Assistant Principal of Carson Elementary School, No. 1:17-cv-00521-TSB

Date: June 21, 2021

Plaintiff(s):

- Benyam Taye , (, 0 Years)
- Cornelia Reynolds, (, 0 Years)
- Estate of Gabriel Taye, (Male, 8 Years)

**Plaintiff
Attorney(s):**

- Michele L. Young; Gregory S. Young Co., LPA; Cincinnati OH for Cornelia Reynolds,, Benyam Taye ,, Estate of Gabriel Taye
- Alphonse A. Gerhardstein; Friedman, Gilbert + Gerhardstein; Cincinnati OH for Cornelia Reynolds,, Benyam Taye ,, Estate of Gabriel Taye
- Carla Loon Leader; The Law Office of Carla Loon Leader, LLC; Cincinnati OH for Cornelia Reynolds,, Benyam Taye ,, Estate of Gabriel Taye

**Plaintiff Expert
(s):**

- Beth Brant A.P.R.N.; Nursing; Columbus, OH called by: Michele L. Young, Alphonse A. Gerhardstein, Carla Loon Leader
- Lisa Pescara-Kovach Ph.D.; School Psychology; Toledo, OH called by: Michele L. Young, Alphonse A. Gerhardstein, Carla Loon Leader
- George J. Shaw M.D., Ph.D.; Biomechanics of Injury; Cincinnati, OH called by: Michele L. Young, Alphonse A. Gerhardstein, Carla Loon Leader
- Thomas Sullivan Ph.D.; Neuropsychology; Fairfield, OH called by: Michele L. Young, Alphonse A. Gerhardstein, Carla Loon Leader

Defendant(s):

- Mary Ronan
- Jeffery McKenzie
- Ruthenia Jackson
- Margaret McLaughlin
- Cincinnati Board Of Education

**Defense
Attorney(s):**

- John B. Welch; Arnold Todaro Welch & Foliano; Dayton, OH for Margaret McLaughlin
- Aaron M. Herzig; Taft Stettinius & Hollister LLP; Cincinnati, OH for Cincinnati Board Of Education, Mary Ronan, Ruthenia Jackson, Jeffery McKenzie

Insurers:

- Genesis Insurance Co.
- Mt Hawley Insurance Co.

Facts:

On Jan. 24, 2017, plaintiffs' decedent Gabriel Taye, an 8-year-old boy, attended Carson Elementary School, which was located at 4323 Glenway Ave., in Cincinnati. During the course of the day, the school's assistant principal, Jeffery McKenzie, discovered Gabriel in the boys' restroom, apparently having been injured by bullies. Gabriel was evaluated by the school's nurse, Margaret McLaughlin. Gabriel was retrieved by his aunt later that day.

Gabriel returned to school two days later, on Jan. 26. After having returned home, he hung himself from his bed using a necktie.

Karen Meyers, acting as administrator of Gabriel's estate, and Gabriel's parents, Cornelia Reynolds and Benyam Taye, sued McKenzie; McLaughlin; the school's principal, Ruthenia Jackson; the school's superintendent, Mary Ronan; and the school's operator, the Cincinnati Board of Education. The lawsuit alleged that the defendants violated Gabriel's substantive due process rights and the rights guaranteed by 42 U.S.C. § 1983, that the defendants' actions constituted intentional and negligent infliction of emotional distress, and that McLaughlin was negligent in her medical treatment of Gabriel.

School video captured the Jan. 24 incident. Plaintiffs' counsel claimed that the footage showed a student pulling Gabriel to the floor, after which the student and others celebrated. According to plaintiffs' counsel, Gabriel remained on the floor unconscious for seven minutes, while other students mocked and kicked him. Plaintiffs' counsel contended that the students' callous reaction indicated that the school's culture tolerated aggression and bullying.

Plaintiffs' counsel also claimed that the defendants did not tell Gabriel's parents what truly occurred in the restroom. Plaintiffs' counsel claimed that the defendants told Reynolds that Gabriel had merely fainted and that he did not need to go to a hospital.

Plaintiffs' counsel further claimed that Gabriel had repeatedly been a victim of aggressive bullying and that the defendants had failed to notify Gabriel's parents about the pattern of violence against him. Plaintiffs' counsel claimed that if Gabriel's parents had known about the bullying their son experienced at Carson, they would have transferred him to another school. Instead, Gabriel returned to Carson on Jan. 26. Plaintiffs' counsel claimed that, during that school day, two boys stole Gabriel's water bottle and tried to flush it down a toilet.

During discovery, plaintiffs' counsel obtained discipline and behavior logs for 77 of the school's 800 students. Plaintiffs' counsel claimed that the reports showed 30 bullying incidents and 382 violent episodes by students from the start of the 2014 school year until the date of Gabriel's death. However, per plaintiffs' counsel, the defendants only publicly reported 11 bullying incidents during that time. Plaintiffs' counsel claimed that the defendants did not report any bullying incidents in the first months of the 2016-17 school year and that there were at least 14 such incidents between the start of that school year and the day of Gabriel's death.

The plaintiffs' school-psychology expert submitted a report in which she opined that Gabriel became hopeless and suicidal because of the bullying trauma. The expert opined that the Jan. 24 and 26 incidents, in particular, triggered Gabriel's suicide. The expert contended that a reasonable school administrator should know that unchecked bullying puts students at risk of emotional distress and suicide.

Plaintiffs' counsel further claimed that McLaughlin failed to properly investigate the Jan. 24 incident and thereby deprived Gabriel of proper treatment and his parents of a proper understanding of the incident.

The defense disputed whether the Jan. 24 incident was an attack on Gabriel. The defense also disputed the analysis done by the plaintiffs' expert and maintained that any bullying incidents were addressed appropriately. The defense also denied covering up any instances of bullying.

Injury:

After Gabriel returned home from school on Jan. 24, he vomited twice and complained of nausea. His mother took him to Cincinnati Children's Hospital Medical Center. Based on the school's claim that Gabriel had passed out earlier in the day, doctors diagnosed him with a viral gastrointestinal illness and released him the same day.

The plaintiffs' expert nurse submitted a report in which she opined that McLaughlin failed to properly respond to the Jan. 24 incident. The expert contended that McLaughlin should have reviewed the video of the incident to find out exactly what happened before she concluded that Gabriel had simply fainted in the bathroom. Plaintiffs' counsel claimed that protocols call for a nurse to contact emergency medical services whenever a child is unconscious for more than a minute. Plaintiffs' counsel further claimed that McLaughlin failed to tell Gabriel's mother that Gabriel reported hitting his head that day, even though this detail was in her records. Plaintiffs' counsel also claimed that McLaughlin should have referred Gabriel for a concussion evaluation.

The plaintiffs' biomechanics expert submitted a report in which he opined that the forces involved in the Jan. 24 incident caused a mild traumatic brain injury. The plaintiffs' expert neuropsychologist submitted a report in which he opined that if the defendants had told Gabriel's mother that her son had possibly injured his head that day, doctors at the hospital that evening would have performed head-trauma protocol. The expert further maintained that concussions can lead to suicidal thoughts, and that concussion treatment at the hospital on Jan. 24 would have greatly reduced Gabriel's suicide risk.

Plaintiffs' counsel sought recovery of damages for Gabriel's conscious pain and suffering prior to his death. Plaintiffs' counsel also sought wrongful death damages for Gabriel's survivors, including his parents, uncles, maternal grandmother, great grandmother, paternal grandfather, paternal grandmother, paternal aunt and maternal great aunts.

The defense contended that there were other stressors in Gabriel's life that contributed to his suicide.

Result: The parties negotiated a pretrial settlement. McLaughlin's insurer agreed to pay \$500,000, and the Cincinnati Board of Education's insurer agreed to pay \$2.5 million. Thus, the settlement totaled \$3 million.

As part of the settlement, the plaintiffs will work with the Cincinnati Board of Education to implement court-supervised reforms. A student record management system will track bullying incidents to help identify patterns of behavior along with repeat victims, locations and perpetrators. School administrators and nurses will also be required to report suspected bullying. The purpose of the tracking system is to ensure that parents are notified of bullying incidents and to help stop violent bullying before it occurs.

The settlement also calls for the implementation of restorative practices to address bullying at Cincinnati public schools. The Cincinnati Board of Education will adopt the bullying policy put forth by the state's department of education.

Cincinnati Public School staff and nurses must also receive annual training on aggression and bullying policies and health protocols.

The settlement's negotiations were mediated by Southern District of Ohio Judge Michael Barrett.

Estate of Gabriel Taye

Benyam Taye

Cornelia Reynolds

Trial Information:

Judge: Michael R. Barrett

Trial Length: 0

Trial Deliberations: 0

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel. Additional information was gleaned from court documents. Defense counsel did not respond to the reporter's phone calls.

Writer Melissa Siegel

Counter-protester injured during Charlottesville rally

Type: Decision-Plaintiff

Amount: \$2,444,461

State: Ohio

Venue: Federal

Court: U.S. District Court, Southern District of Ohio, Eastern Division, Columbus, OH

Injury Type(s):

- *arm* - crush injury, arm; scar and/or disfigurement, arm
- *leg* - crush injury, leg
- *head* - headaches; concussion
- *knee*
- *brain* - traumatic brain injury
- *other* - fatigue; physical therapy; scar and/or disfigurement
- *epidermis* - numbness; paresthesia
- *sensory/speech* - speech/language, impairment of
- *mental/psychological* - depression; cognition, impairment; memory, impairment; post-concussion syndrome; concentration, impairment; post-traumatic stress disorder

Case Type:

- *Negligence Per Se*
- *Civil Rights* - 42 USC 1983
- *Intentional Torts* - Conspiracy; Intentional Infliction of Emotional Distress

Case Name: William Burke v. James Alex Fields Jr., Vanguard America, Andrew Anglin, Gregory Anglin, Daily Stormer, Moonbase Holdings, LLC, Morning Star Ministries USA, Inc., Anglin & Anglin, LLC, Robert Ray, Matthew Heimbach, The Traditionalist Worker Party, Jason Kessler, Proud Boys, Richard Spencer, National Policy Institute, David Duke, Nationalist Front, Augustus Sol Invictus, Honorable Sacred Knights, John Doe 1-1000 and Jane Doe 1-1000, No. 2:19-cv-02006-MHW-EPD

Date: May 04, 2021

Plaintiff(s):

- William Burke, (Male, 39 Years)

- Plaintiff Attorney(s):**
- Michael L. Fradin; Law Office Of Michael L. Fradin; Skokie IL for William Burke
- Plaintiff Expert (s):**
- Joseph E. Kennell Ph.D.; Neuropsychology; Parkersburg, WV called by: Michael L. Fradin
- Defendant(s):**
- Proud Boys
 - David Duke
 - Robert Ray
 - Daily Stormer
 - Andrew Anglin
 - Jason Kessler
 - Gregory Anglin
 - Richard Spencer
 - Vanguard America
 - Matthew Heimbach
 - Nationalist Front
 - Anglin & Anglin LLC
 - Augustus Sol Invictus
 - James Alex Fields Jr.
 - Moonbase Holdings LLC
 - Honorable Sacred Knights
 - National Policy Institute
 - The Traditionalist Worker Party
 - Morning Star Ministries USA Inc.
- Defense Attorney(s):**
- James E. Kolenich; Kolenich Law Office; Cincinnati, OH for The Traditionalist Worker Party
 - Kyle James Bristow; Bristow Law, PLLC; Mount Clemens, MI for David Duke
 - Bryan Anthony Reo; Reo Law, LLC; Mentor, OH for David Duke
 - None Reported for Vanguard America, James Alex Fields Jr., Andrew Anglin, Gregory Anglin, Daily Stormer, Moonbase Holdings LLC, Morning Star Ministries USA Inc., Anglin & Anglin LLC, Robert Ray, Matthew Heimbach, Jason Kessler, Proud Boys, Richard Spencer, National Policy Institute, Nationalist Front, Augustus Sol Invictus, Honorable Sacred Knights

Facts: On Aug. 12, 2017, plaintiff William Burke, 39, a thrift store worker, counter-protested at the Unite the Right rally in Charlottesville, Va. The rally was organized by white-supremacist organizations and was attended by neo-Nazis, white nationalists and members of other far-right groups. They were protesting the removal of a statue depicting Confederate Civil War General Robert E. Lee.

During the protests, a Unite the Right supporter, James Alex Fields Jr., intentionally drove a car into a crowd of the counter-protestors that included Burke. Burke was hit by the car, and he suffered injuries of an arm, his head and a knee. Another counter-protestor, Heather Heyer, was killed. Burke witnessed Heyer's death and claimed that he suffered resultant psychological injuries. Fields later pleaded guilty to 29 federal hate crimes and received life sentences.

Burke sued Fields and other individuals and organizations that were believed to have planned and promoted the Unite the Right rally. The defendants included the white nationalist Traditionalist Worker Party, the white nationalist think tank National Policy Institute, and former Ku Klux Klan leader David Duke. The lawsuit alleged civil conspiracy, inciting violence, terrorism, and soliciting or providing support for an act of terrorism. There were also claims against National Policy Institute for intentional infliction of emotional distress, civil conspiracy to inflict emotional distress, negligence per se, negligence and violation of 42 U.S.C. § 1985(3).

The majority of the defendants were dismissed or discontinued. The remaining defendants were the Traditional Worker Party, National Policy Institute and Duke.

The Traditional Worker Party originally asserted lack-of-personal-jurisdiction, statute-of-limitations and failure-to-state-a-claim arguments, but it ultimately submitted a \$10,000 offer of judgment that was accepted by Burke.

Duke's counsel filed three motions to dismiss for lack of personal jurisdiction. While the third motion to dismiss was pending, his counsel made a \$5,000 offer of judgment that was accepted. If Burke rejected the offer of judgment and Duke's motion to dismiss was granted, Burke would have had to pay Duke's legal fees.

The federal court dismissed the state law claims against National Policy Institute, leaving just the 42 U.S.C. § 1985(3) violation against it.

Burke's counsel claimed that the defendants targeted Charlottesville as a site for terrorism and harassment after the city's council voted to remove the statue of Lee. Burke's counsel noted that the Traditionalist Worker Party, along with other defendants, organized another rally in support of the statue in May 2017. Burke's counsel argued that the defendants planned the rally after seeing the outcome of the May 2017 event. Counsel contended that the defendants thus conspired to commit unlawful and terroristic acts. Duke, in particular, was accused of directing and planning unlawful violent acts during a pre-rally meeting on Aug. 11.

Burke's counsel further claimed that the defendants used podcasts, social media, websites, videos and radio to coordinate the details of the Unite the Right rally. Counsel argued that the defendants used violent words and imagery in their messages and posts. For instance, per Burke's counsel, the Traditionalist Worker Party created a poster that stated, "This is not an attack on your heritage this is an attack on your racial existence. Fight back or die." Counsel thus maintained that the defendants planned for the rally to get violent. Counsel additionally asserted that the defendants and other Unite the Right protestors carried semiautomatic weapons and shouted harassing language.

Duke maintained that he is dedicated to nonviolence and that he did not engage in

violence at the rally. He contended that he attended the rally solely to support the First Amendment.

Burke's counsel filed a motion for default judgment against National Policy Institute, which was granted. The matter proceeded to a hearing in front of Judge Michael Watson to determine damages.

Injury:

Burke was retrieved by an ambulance, and he was transported to the University of Virginia Medical Center. He was admitted overnight and released the next day.

Burke was diagnosed with a traumatic brain injury, along with crush-induced injuries of his left knee and left arm. He claimed that he also suffered psychological injuries.

Burke treated with his family doctor and underwent physical therapy. He also began seeing a psychologist, who diagnosed major depressive disorder, post-concussion syndrome, post-traumatic stress disorder and survivor's guilt.

Burke required a cane for one month after the crash. While he regained 85 to 90 percent use of his left knee, he claimed he still has occasional sharp pains in that joint. He also claimed that his arm injury led to paresthesia, and complained of extreme pain in his left arm in the two years after the incident. Per Burke, he still feels numbness and burning pain in that arm, and has to rely more on his right arm as a result. He said that the increased reliance on his right limb has caused fatigue and pain on that side of his body. Burke further contended that he still has scars on his head and arm following the incident. He additionally claimed that he is no longer able to exercise, and that physical activity at work causes fatigue.

Burke also allegedly suffers from lingering speech issues, concentration problems, reading difficulties, memory loss and headaches. He claimed that in the immediate aftermath of the crash, he had approximately 15 headaches per month. At the time of the hearing, he said that he was still dealing with 10 headaches per month, each of which could last up to several days. He stated that he uses over-the-counter pain medication to manage these headaches.

Burke testified that the attack affected him emotionally, as well. Immediately after the incident, he claimed he was so worried that the white supremacists would find him in the hospital that he asked to be discharged the following day. He maintained that he continues to live in fear of a potential future attack and he is often reminded of the attack when cars pass by his home at night. Burke further maintained that he experiences sensory overload in loud places and gets angry more easily, and that he also has trouble multitasking and frequently experiences despair and paranoia. He additionally claimed that he feels guilty that he survived the attack when Heyer did not.

Less than 12 months after the incident, Burke and his longtime wife separated. He claimed

that his newfound anger issues and increased medical bills stemming from the attack took a toll on his marriage. He stated that he has difficulty trusting strangers and has become isolated from his loved ones. Burke's counselor recommended that Burke receive twice-monthly therapy for the rest of his life.

Burke was working 40 hours a week at a rate of \$8.10 an hour at the time of the incident. For his safety, he said that moved out of the county following the attack. He further alleged that, due to his mental-health issues, he was unable to find a job for one year following the incident. While he has since found other jobs, he asserted that he has trouble staying on task and is no longer able to work full time.

At the bench trial, Burke sought recovery of \$30,413.15 in past medical expenses. Specifically, he sought \$28,990.99 in medical expenses related to his physical injuries and \$1,422.16 for the cost of his mental-health treatment. Burke also sought \$187,200 in future medical expenses for his continued psychotherapy, plus \$16,848 in past lost wages and \$360,000 in future lost wages. The latter number represented \$10,000 in lost wages a year for the remaining 36 years of his working life. He additionally sought damages for his emotional distress and damages for his loss of normal life, as well as punitive damages.

Result:

Judge Michael Watson granted Burke's motion for default judgment against National Policy Institute and determined that Burke's damages totaled \$2,444,461.15.

The award was in addition to offers of judgment accepted by Burke, totaling \$15,000, resulting in a recovery for Burke totaling \$2,459,461.15.

\$30413.15 Personal Injury: Past Medical Cost

\$187200 Personal Injury: Future Medical Cost

\$16848 Personal Injury: Past Loss of Earnings

\$360000 Personal Injury: Future Loss of Earnings

\$350000 Personal Injury: Punitive Exemplary Damages

\$500000 Personal Injury: past and future pain and suffering

\$1000000 Personal Injury: emotional distress and loss of normal life

Trial Information:

Judge: Michael H. Watson

Trial Length: 1 days

**Trial
Deliberations:** 0

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel and defense counsel for David Duke. Additional information was gleaned from court documents. Counsel for The Traditionalist Worker Party did not respond to the reporter's phone calls.

Writer Melissa Siegel

Defense: College football player assumed risk of injury

Type: Settlement

Amount: \$712,500

State: Ohio

Venue: Court of Claims

Court: Court of Claims, OH

Injury Type(s):

- *head* - headaches; concussion
- *mental/psychological* - anxiety; depression; cognition, impairment; memory, impairment

Case Type:

- *School*
- *Worker/Workplace Negligence*

Case Name: Cody Silk v. Bowling Green State University, No. 2013-00472

Date: April 05, 2016

Plaintiff(s):

- Cody Silk (Male, 19 Years)

Plaintiff Attorney(s):

- Steve W. Berman; Hagens Berman Sobol Shapiro LLP; Seattle WA for Cody Silk
- Jeffrey S. Goldenberg; Goldenberg Schneider, LPA; Cincinnati OH for Cody Silk
- Todd B. Naylor; Goldenberg Schneider, LPA; for Cody Silk
- Leonard Aragon; Hagens Berman Sobol Shapiro LLP; Phoenix AZ for Cody Silk
- Robert B. Carey; Hagens Berman Sobol Shapiro LLP; Phoenix AZ for Cody Silk
- Elizabeth A. Fegan; Hagens Berman Sobol Shapiro LLP; Chicago IL for Cody Silk
- Daniel J. Kurowski; Hagens Berman Sobol Shapiro LLP; Chicago IL for Cody Silk

Defendant(s):

- Bowling Green State University

**Defense
Attorney(s):**

- Peter E. DeMarco; Office of Attorney General; Columbus, OH for Bowling Green State University
- Brian M. Kneafsey Jr.; Office of Attorney General; Columbus, OH for Bowling Green State University

Facts:

During the 2010 football season, plaintiff Cody Silk, 19, played football for Bowling Green State University. He was an offensive lineman and earned a scholarship for his participation in the school's football program. In the course of his play, Silk suffered at least three head injuries that rendered him unfit to play, caused him to lose his scholarship, and allegedly left him with permanent mild brain damage.

Silk sued Bowling Green for negligence, alleging the school failed to provide proper medical attention to his complaints of symptoms that eventually were diagnosed as debilitating traumatic head injury.

Bowling Green denied liability and interposed the defense of assumption of risk. The defense argued that, not only did Silk assume certain risks by participating in a contact sport, he also signed a liability waiver that barred his claim.

The case was previously dismissed on a motion for summary judgment on the issue of the release that Silk signed prior to his playing football, which acknowledged the risk of concussion. However, the court reversed itself and reinstated the case.

Injury:

Silk was diagnosed with one concussion on Oct. 19, 2010. Prior to that, he complained of instances of dizziness and confusion that immediately cleared. He claimed that, prior to being removed from the football team, his concussion symptoms became so severe that there were days he could not recognize his own name or remember where he had last parked his car. He also claimed severe headaches that interfered with his ability to play football and go about his normal daily activities.

Silk treats the symptoms that he relates to the concussion with medical marijuana. At the time of settlement, he was working as a construction worker.

Silk complained that he still suffers from migraine headaches and has sleep difficulties. He further complained that he is prone to bouts of depression and suffers from anxiety.

Silk's initial demand was \$1,783,000 in December 2014 and was raised to \$3.8 million in October 2015. The demand and ensuing settlement were reduced when Silk's Facebook postings were produced in discovery.

Result:

The case settled for \$712,500, without admission of fault or wrongdoing on the part of the school.

Trial Information:

Judge:

Patrick M. McGrath

**Editor's
Comment:**

This report is based on information that was provided by plaintiff's and defense counsel.

Writer

Jon Steiger

Truck driver and employer sued by family injured in car crash

Type: Mediated Settlement

Amount: \$553,000

State: Ohio

Venue: Franklin County

Court: Franklin County, Court of Common Pleas, OH

Injury Type(s):

- *back* - lower back; upper back
- *head* - headaches; concussion
- *neck*
- *elbow* - biceps tendon, tear
- *other* - soft tissue; chiropractic; back and neck; physical therapy; steroid injection; epidural injections; strains and sprains; tendinitis/tendinosis
- *shoulder* - rotator cuff, injury (tear); supraspinatus muscle/tendon, tear
- *epidermis* - contusion
- *face/nose* - face; face, bruise
- *neurological* - sciatica; radiculopathy; radicular pain / radiculitis
- *surgeries/treatment* - debridement

Case Type:

- *Motor Vehicle* - Truck; Passenger; Rear-ender; Tractor-Trailer; Multiple Vehicle

Case Name: Bobby R. Smith, Mary Ruth Bradford, Michael Smith and Terry Smith v. Raad Logistics and Ahmed Abdullahi, No. 16 CV 001310

Date: May 10, 2017

Plaintiff(s):

- Terry Smith (Female, 60 Years)
- Michael Smith (Male, 60 Years)
- Bobby R. Smith (Male, 61 Years)
- Mary Ruth Bradford (Female, 81 Years)

Plaintiff Attorney(s):

- Anthony Will; Schulze, Howard & Cox; Marysville OH for Bobby R. Smith, Mary Ruth Bradford, Michael Smith, Terry Smith

- Defendant(s):**
- Raad Logistics
 - Ahmed Abdullahi
- Defense Attorney(s):**
- Michael R. Henry; Crabbe Brown & James, LLP; Columbus, OH for Ahmed Abdullahi, Raad Logistics
- Defendant Expert(s):**
- Christopher D. Holzaepfel M.D.; Orthopedic Surgery; Westerville, OH called by: for Michael R. Henry
- Insurers:**
- Progressive Casualty Insurance Co.

Facts:

On March 6, 2015, plaintiff Bobby Smith, 61, a union-affiliated carpenter, as well as a farmer and retired painter, was driving a sedan in Franklin County. His mother-in-law, plaintiff Mary Ruth Bradford, 81; wife, plaintiff Terry Smith, 60; and brother, plaintiff Michael Smith, 60, were passengers in the vehicle. Traffic ahead of them came to a stop. When Bobby Smith also stopped, his vehicle was rear-ended by an 18-wheeler driven by Ahmed Abdullahi. The impact was significant. The plaintiffs claimed multiple injuries.

The plaintiffs sued Abdullahi, alleging that Abdullahi was negligent in the operation of the truck. They also sued Abdullahi's employer, Raad Logistics, arguing that Raad was vicariously liable.

The plaintiffs alleged that Abdullahi failed to keep a proper lookout and was following too closely. They also asserted that Abdullahi failed to control his speed, was driving too fast and failed to brake or turn in time to avoid the collision.

The defense did not strongly dispute liability.

Injury:

The plaintiffs were taken to the hospital by ambulance.

Bobby Smith primarily suffered right (dominant) shoulder injuries, including a small tear to the infraspinatus tendon, a partial-thickness tear and atrophy of the supraspinatus tendon, tendinitis and a ruptured biceps tendon. He also claimed neck and back sprains and strains.

Bobby underwent arthroscopic shoulder surgery on April 10, 2015. It included repair of the rotator cuff, subacromial decompression, debridement and tenotomy. He underwent an injection in June 2015 and another in August 2015, plus physical therapy from May 1, 2015 to Sept. 22, 2015. Bobby said he continues to experience pain and his doctor opined in the medical records that another shoulder surgery would be necessary.

Bobby claimed he could no longer work as a carpenter. Also, although he could operate his farm machinery, he said he could not bale hay for at least the summer after the accident. He sought about \$105,000 for past medical bills and about \$200,000 for past and future lost earnings. He also sought damages for past and future pain and suffering.

Terry Smith claimed neck and back sprains and strains, with radicular symptoms. She followed up with an orthopedic surgeon.

Terry sought about \$10,000 for past medical bills. She also sought damages for past and future pain and suffering.

Mary Ruth Bradford suffered bruises to her face and a possible concussion. She also claimed headaches and lower back sprains and strains, with pain radiating into her legs.

Mary was kept at the hospital overnight for observation and then released. She underwent epidural steroid injections, which helped her back pain and radicular symptoms. She followed up several times with an orthopedic surgeon and a neurologist.

Mary sought about \$24,000 for past medical bills. She also sought damages for past and future pain and suffering.

Michael Smith claimed neck, upper back and bilateral shoulder sprains and strains, as well as headaches. He underwent chiropractic care.

Michael sought about \$9,000 for past medical bills. He also sought damages for past and future pain and suffering.

The defense retained an expert, an orthopedic surgeon, on Bobby's claims only. The expert thought that Bobby's past treatment was reasonable and necessary, but future surgery would not be necessary, within reasonable medical probability.

The defense agreed that Bobby could no longer work as a carpenter, but disputed how long he would have continued to do so regardless of the accident.

Regarding the claims of Mary, Michael and Terry, the defense mainly questioned how much a jury would award for their pain and suffering.

Result: The case settled for a total of \$553,000. Bobby Smith's claims were the last to settle and were resolved in mediation on May 10, 2017, for \$460,000. The other settlements were \$21,000 for Michael Smith, \$47,000 for Mary Ruth Bradford and \$25,000 for Terry Smith. The policy limit was \$1 million.

Trial Information:

Judge: Craig Scott

Editor's Comment: This report is based on information that was provided by plaintiffs' and defense counsel.

Writer John Schneider

Driver failed to see teen in crosswalk, plaintiff claimed

Type: Settlement

Amount: \$500,000

State: Ohio

Venue: Hamilton County

Court: Hamilton County, Court of Common Pleas, OH

Injury Type(s):

- *leg* - fracture, leg; fracture, tibia; fracture, leg; fracture, fibula
- *head* - concussion
- *ankle* - fracture, ankle; fracture, malleolus
- *brain* - brain damage; traumatic brain injury
- *other* - plate; closed reduction; physical therapy; pins/rods/screws
- *surgeries/treatment* - open reduction; internal fixation
- *mental/psychological* - post-traumatic stress disorder

Case Type:

- *Motor Vehicle* - Crosswalk; Pedestrian

Case Name: Alexia Pollitt, Mother & Guardian of Breanna Nicole Elderidge, a Minor v. Larry E. Best and Safeco Insurance Company, a Liberty Mutual Company, No. A 1804790

Date: January 13, 2020

Plaintiff(s):

- Breanna Nicole Elderidge (Female, 13 Years)

Plaintiff Attorney(s):

- Charles M. Rittgers; Rittgers & Rittgers, Attorneys at Law; Lebanon OH for Breanna Nicole Elderidge
- Matt Nakajima; Rittgers & Rittgers, Attorneys at Law; Lebanon OH for Breanna Nicole Elderidge

Defendant(s):

- Larry E. Best
- Safeco Insurance Co.

**Defense
Attorney(s):**

- Molly G. Vance; Liberty Mutual Insurance Group Law Offices; Cincinnati, OH for Safeco Insurance Co.
- David C. Ahlstrom; Nationwide Insurance Co.; West Chester, OH for Larry E. Best

Insurers:

- Nationwide Mutual Insurance Co.
- Safeco Insurance Cos.

Facts:

On Oct. 21, 2016, plaintiff Breanna Nicole Elderidge, 13, was struck by a car. The incident occurred in a crosswalk of the southbound side of Lebanon Road, alongside its intersection at Loveland Avenue, in Loveland. The vehicle's driver, Larry Best, was traveling straight on Lebanon Road. The crosswalk's traffic-control device was not showing a "walk" signal at the time. Elderidge suffered injuries to her head, an ankle and a leg.

Elderidge sued Best. Elderidge alleged that Best was negligent in the operation of his vehicle. Elderidge also sued her insurance provider, Safeco Insurance Co., for underinsured motorist benefits.

Partial blame by Elderidge was admitted because she attempted to cross the street before the traffic-control device permitted her to do so. However, she maintained that Best still should have seen her and taken evasive action.

Several witnesses claimed that Elderidge initially crossed two northbound lanes of Lebanon Road before being struck in the southbound lane. Elderidge's counsel noted that the accident occurred in broad daylight, and that there were no vehicles in front of Best blocking his view. As such, it was asserted that Best had ample opportunity to notice Elderidge prior to hitting her. However, per Elderidge's counsel, Best admitted that he failed to notice Elderidge and several other youths in the road prior to the accident. (His vehicle clipped another child as well, but the other child was not injured).

Elderidge further alleged that Best should have been on the lookout for young pedestrians because the accident took place near a school. Elderidge's counsel claimed that Best was familiar with the area and thus should have realized that children frequently cross the intersection in question.

The defendants each maintained that Elderidge was negligent in crossing the street when there was no "walk" signal. The defense contended that Best had the right of way, and that police at the scene determined that Elderidge was at fault.

Best also disputed whether he had ample time to see Elderidge in the road before the accident. He claimed that Elderidge had entered the crosswalk on the southbound side of Lebanon Road, and that she had just stepped into the street when the accident occurred.

Injury:

Elderidge suffered fractures of her right tibia and fibula, along with a fracture to her left ankle. The latter fracture included the medial malleolus, which is the bony protuberance that extends toward the right leg. She also suffered a concussion and a mild traumatic brain injury.

Elderidge was placed in an ambulance and transported to Cincinnati Children's Hospital. She remained there for four days. During that time, she underwent open reduction with internal fixation of her leg fractures. The procedure included the implantation of a rod. She also underwent a closed reduction of the ankle fracture that included percutaneous pinning and the placement of screws and plates.

Elderidge had several months of physical therapy after leaving the hospital. She was already seeing a psychiatrist for an anxiety disorder prior to the accident, but had more frequent appointments with the doctor following the accident. She was diagnosed with post-traumatic stress disorder following the accident, though her primary post-crash treatment has been for her continued anxiety.

Elderidge claimed that she is still in pain when she walks, and is no longer able to play basketball. She sought damages for past and future pain and suffering.

The defense did not greatly dispute damages.

Result:

Safeco agreed to tender its \$500,000 policy to settle this case. Best's insurer had previously agreed to a \$25,000 settlement, which it later agreed to pay to Safeco.

Trial Information:**Editor's
Comment:**

This report is based on information that was provided by plaintiff's counsel and Safeco's counsel. Best's counsel did not respond to the reporter's phone calls.

Writer

Melissa Siegel

Drunken driver claimed officers used excessive force at jail

Type: Settlement

Amount: \$380,000

State: Ohio

Venue: Federal

Court: U.S. District Court for the Southern District of Ohio, Western Division, OH

Injury Type(s):

- *head* - headaches; concussion
- *brain* - subarachnoid hemorrhage
- *other* - orbit; unconsciousness
- *dental* - fracture, tooth
- *face/nose* - fracture, jaw; fracture, maxilla; facial laceration; fracture, facial bone; fracture, maxilla
- *mental/psychological* - post-concussion syndrome

Case Type:

- *Government* - Police; Excessive Force
- *Civil Rights* - 42 USC 1983; Police as Defendant

Case Name: Emily J. Evans v. Phil Plummer, Eric Wayne Banks, Thomas Feehan, Rachael Yetter and Brandon Ort, No. 3:14-cv-299

Date: October 17, 2017

Plaintiff(s):

- Emily J. Evans (Female, 27 Years)

Plaintiff Attorney(s):

- L. Michael Bly; Pickrel, Schaeffer & Ebeling Co., LPA; Dayton OH for Emily J. Evans
- Joshua M. Kin; Pickrel, Schaeffer & Ebeling Co., LPA; Dayton OH for Emily J. Evans

Plaintiff Expert(s):

- Michael D. Lyman; Use of Force; Columbia, MO called by: L. Michael Bly, Joshua M. Kin

Defendant(s):

- Brandon Ort
- Phil Plummer
- Thomas Feehan
- Rachael Yetter
- Eric Wayne Banks

Defense Attorney(s):

- Jamey T. Pregon; Dinkler Pregon LLC; Dayton, OH for Phil Plummer, Eric Wayne Banks, Thomas Feehan, Rachael Yetter, Brandon Ort
- Lynnette Dinkler; Dinkler Pregon LLC; Dayton, OH for Phil Plummer, Eric Wayne Banks, Thomas Feehan, Rachael Yetter, Brandon Ort
- Laura G. Mariani; Montgomery County Prosecutor's Office; Dayton, OH for Phil Plummer

Facts:

During the early morning hours on March 30, 2014, plaintiff Emily J. Evans, 27, was brought to the Montgomery County jail on a drunken driving charge, with a blood-alcohol level of 0.16. During the booking process, Evans was reportedly pushed to the floor and knocked unconscious. She also reportedly suffered facial fractures.

Evans used Sheriff Phil Plummer and several jail personnel, Sgt. Eric Banks, Thomas Feehan, Rachael Yetter and Brandon Ort. The lawsuit alleged that Evans' civil rights were violated under 42 U.S.C. Section 1983 and that she was subjected to the use of excessive force.

Plummer, Yetter and Ort were dismissed from the case. The matter proceeded against Banks and Feehan only.

Evans alleged that all actions subject to this lawsuit were captured on video from the moment she arrived at the jail. She argued that the video showed her walking cooperatively and without resisting as corrections officers held her by her upper arms. She also asserted that Banks escorted her by holding her by her handcuffs and applying pressure to her upper right arm, while continuing to pull on her handcuffs, pinching her wrists and pushed her elbow forward in hyperextension.

On the audio portion of the surveillance tape, Evans alleged that she is heard telling Banks that she was in pain and asking him to stop pulling her by the handcuffs. She claimed that Feehan then threatened to use a Taser on her. She maintained that, despite her complaints of pain and in spite of the fact that she was stationary and cooperative, the officers continued to pull on her handcuffs and push her elbow forward. When she continued to express that she was in pain, Evans claimed Feehan pointed the flashlight of his Taser at her in a threatening manner.

According to Evans, the officers proceeded to search her and she was to kneel on a bench, to the left of a blue mat. She claimed that Banks continued to apply pressure to her wrists and arm and the video showed her writhing in pain. In the course of removing her boots and socks, Evans asserted that Yetter pulled her left knee off the bench, causing her to lose her balance. She claimed that Banks then forcefully picked her up from the bench by her wrists and right arm and, while pivoting to the right, raised Evans in the air and slammed her head first onto the concrete floor, knocking her unconscious. She claimed the officers can be heard on the surveillance video concocting a different scenario as to what happened and when she regained consciousness told her that she had fallen.

Evans alleged that the defendants misinformed the jail medic, as well as the Dayton EMS crew that was summoned and responded to the scene, by telling them that she had jumped off a ledge, fallen and landed on her face. Similarly, she asserted that the trauma staff at Miami Valley Hospital Emergency Room was misinformed as to how she was injured and was told that she was doing back flips off a bench when she impacted her face on the concrete floor.

According to plaintiff's counsel, there was a significant discovery issue concerning the availability of surveillance videotapes. Plaintiff's counsel reported that it took three months to obtain the tapes.

The defense denied the force used against Evans was excessive and contended that the unintended resulting injury was regrettable. An incident report filed by Banks said Evans used her legs to press against the wall and toward him, so he "guided her to the ground."

Injury:

Evans claimed she suffered a life-threatening subarachnoid hemorrhage above her right eye; multiple facial fractures, which included a non-displaced maxillary fracture in the right orbital area; and fractured wisdom teeth, which later needed to be surgically removed. She was hospitalized in the intensive care unit of Miami Valley Hospital from March 30, 2014 to March 31, 2014. She was also diagnosed with post-concussive syndrome and suffers from migraine headaches, as well as other symptoms associated with post-concussive syndrome.

Following the events of March 30, 2014, Evans said she was distraught and confused as to how she could have injured herself so severely. The lawsuit sought compensatory damages for Evans' physical injuries and punitive damages due to the alleged intentional nature of the assault upon her.

Result:

The case settled for \$380,000. Montgomery County, which paid the settlement, was self-insured.

Trial Information:

**Editor's
Comment:**

This report is based on information that was provided by plaintiff's counsel. Defense counsel declined to contribute to the report.

Writer

Jon Steiger

High-speed rear-ender caused permanent injuries: plaintiff

Type: Settlement

Amount: \$250,000

State: Ohio

Venue: Union County

Court: Union County, Court of Common Pleas, Marysville, OH

Injury Type(s):

- *leg*
- *back* - fracture, back; fracture, L3; fracture, back; fracture, L4; fracture, back; fracture, L5; fracture, vertebra; fracture, L3; fracture, vertebra; fracture, L4; fracture, vertebra; fracture, L5; fracture, vertebra; fracture, spinous process
- *head* - headaches; concussion
- *neck* - fracture, vertebra; fracture, spinous process
- *ankle*
- *other* - ablation; soft tissue; back and neck; unconsciousness; physical therapy; steroid injection; strains and sprains; decreased range of motion
- *sensory/speech* - vision, impairment
- *mental/psychological* - post-concussion syndrome
- *gastrointestinal/digestive* - gastrointestinal complications; nausea

Case Type:

- *Motor Vehicle* - Parked Car; Rear-ender; Multiple Vehicle

Case Name: Tony L. Klotts v. Herbert M. Richardson, No. 15CV0228

Date: December 19, 2016

Plaintiff(s):

- Tony L. Klotts (Male, 41 Years)

Plaintiff Attorney(s):

- Frank E. Todaro; Law Offices of Kevin Kurgis; Columbus OH for Tony L. Klotts

Defendant(s):

- Herbert M. Richardson

Defense Attorney(s):

- Christopher R. Carville; Law Office of Christopher R. Carville; Cincinnati, OH for Herbert M. Richardson

Insurers:

- State Auto Insurance Co.

Facts:

On Dec. 12, 2013, plaintiff Tony Klotts, 41, a contractor, was operating a Chevy Malibu on US 33 when the vehicle developed engine problems. He pulled onto the shoulder of the roadway and stopped, waiting for a mechanic to arrive. While he was sitting in the driver's seat, a sedan driven by Herbert Richardson rear-ended Klotts' stopped vehicle. Klotts was rendered unconscious. He had to be cut out of his vehicle by responders. Klotts claimed injuries to his head, neck and back as a result of the impact.

Klotts sued Richardson, alleging that he was negligent in the operation of his vehicle. Klotts claimed that Richardson's vehicle was being operated with cruise control at an approximate speed of 70 mph when the accident occurred.

The defense did not dispute liability.

Injury:

Klotts was placed in an ambulance and transported to Memorial Hospital of Union County in Marysville. He was later transferred to the University of Ohio Medical Center in Columbus, where he was admitted for four days of observation for a severe concussion. He was also diagnosed with spinous process fractures of the lumbar spine at L3, L4 and L5. Klotts also claimed soft tissue sprains and strains of the lower back and neck, as well as general pain in a leg and ankle.

Klotts commenced a course of conservative care that would last through June 15, 2016 (31 months). He underwent extensive physical therapy, multiple epidural steroid injections to the lumbar spine and nerve ablation therapy.

Klotts claimed that for a period of time after the accident he suffered from post-concussion syndrome with blurred vision, headaches and nausea. He also said he wore a neck brace for three months following the accident.

Klotts argued that his injury continues to cause a diminution in the range of motion in his back, general pain and occasional difficulty sleeping. He claimed he missed 10 months of work due to his injuries.

Klotts sought \$51,000 in past medical expenses and \$57,000 for his past lost wages. He also sought damages for past pain and suffering.

Result:

The parties agreed to a settlement at mediation. The liability carrier agreed to pay \$250,000 to Klotts out of a \$300,000 policy.

Trial Information:

Judge:

Craig Scott

**Editor's
Comment:**

This report is based on information that was provided by plaintiff's counsel. Defense counsel did not return the reporter's phone calls.

Writer

Jack Deming

Hit-and-run driver: Children playing in road led to accident

Type: Settlement

Amount: \$250,000

State: Ohio

Venue: statewide

Court: Matter not filed, OH

Injury Type(s):

- *leg* - fracture, leg; fracture, femur
- *head* - concussion
- *knee*
- *brain* - traumatic brain injury
- *other* - groin; effusion; symphysis; arthrotomy; laceration; acupuncture; chiropractic; hyponatremia; avulsion fracture; spleen, laceration
- *pelvis* - fracture, pelvis; fracture, pubic ramus
- *surgeries/treatment* - debridement; knee surgery; open reduction; internal fixation
- *mental/psychological* - anxiety; post-traumatic stress disorder
- *pulmonary/respiratory* - contusion, pulmonary

Case Type:

- *Motor Vehicle* - Pedestrian; Rear-ender; Hit and Run; Single Vehicle

Case Name: Natalie Allmen, on behalf of her minor child Hailey Allmen and Tara Pujol, on behalf of her minor child Cyan Streicher v. Cheri Brenner, No. N/A

Date: April 25, 2016

Plaintiff(s):

- Hailey Allmen (Female, 14 Years)
- Cyan Streicher (Female, 15 Years)

Plaintiff Attorney(s):

- Sanford A. Meizlish; Barkan Meizlish, LLP; Columbus OH for Cyan Streicher
- Mitchell J. Alter; Law Offices of Mitchell Alter LLC; Columbus OH for Hailey Allmen

Plaintiff Expert (s):

- Daniel K. Ruggles D.O.; Orthopedic Surgery; Columbus, OH called by: Mitchell J. Alter

Defendant(s):

- Cheri Brenner

Defense Attorney(s):

- Belinda S. Barnes; Gallagher, Gams, Pryor, Tallan & Littrell, LLP; Columbus, OH for Cheri Brenner

Insurers:

- Motorists Mutual Insurance Co.

Facts:

On the evening of July 8, 2013, plaintiff Hailey Allmen, 14, was seated in a disabled Power Wheels motorized cart which was being pushed by her friend, plaintiff Cyan Streicher, 15. Streicher was pushing the cart eastbound on Walnut Street in New Albany near the intersection of New Albany Links Drive. During this time, a vehicle operated by Cheri Brenner struck the motorized cart from behind. Allmen was thrown from the vehicle and landed in an adjacent grassy area. Brenner fled the scene and was later identified as the driver. She pled guilty to vehicular assault and failure to stop following an accident. Allmen claimed injuries to her spleen, genitals, left leg, pubic bone and brain as a result of the accident.

Natalie Allmen, on her daughter's behalf, intended to sue Brenner. Allmen alleged that Brenner was negligent in the operation of a vehicle. Tara Pujol, on behalf of her daughter Cyan Streicher, were also intended to be plaintiffs in the suit.

Counsel for Brenner denied liability, arguing that Allmen and Streicher were comparatively negligent in playing in the roadway at night.

Injury:

Allmen was taken by ambulance to the emergency room of Nationwide Children's Hospital, where she was hospitalized for approximately one month. She was diagnosed with a grade III spleen laceration, lacerations to her groin and labia, distal left femur fracture, left superior ramus fracture, pubic symphysis diastasis separation, left knee effusion, left anterior superior iliac spine avulsion fracture, and pulmonary contusion. Allmen was also diagnosed with a mild traumatic brain injury, resulting from a concussion.

While hospitalized, Allmen underwent surgery to repair the left groin and labia lacerations. She also required an open arthrotomy of the left knee with irrigation and debridement and underwent surgery with open reduction and internal fixation to repair the ramus fracture. Following the surgical procedures, Allmen was transferred to the intensive care unit for five days after developing hyponatremia due to low sodium levels.

After Allmen's discharge, she underwent chiropractic care for minor soft tissue injuries throughout her body, as well as acupuncture. She treated intermittently for a period of two years.

Allmen claimed anxiety and post-traumatic stress disorder (PTSD) which required psychiatric treatment. Allmen does not complain of physical residuals, but it is believed she may require further surgery to remove hardware affixed to the ramus if the hardware fails.

Counsel for Allmen claimed total medical expenses of \$169,579. Hailey's mother, Natalie Allmen, sought damages for loss of services.

Streicher's injuries and medical treatment are unknown.

The defense did not dispute damages.

Result:

Prior to the filing of a lawsuit, Allmen and Brenner agreed to a \$250,000 settlement. Streicher and Brenner agreed to a \$50,000 settlement. The settlements were to be paid from within the limits of Brenner's \$300,000 policy with Motorists Mutual Insurance Co.

Trial Information:**Editor's
Comment:**

This report is based on information that was provided by Allmen's counsel. Brenner's counsel declined to contribute. Streicher's counsel did not respond to the reporter's phone calls.

Writer

Max Robinson

Plaintiff: Any prior injuries were asymptomatic before crash**Type:** Settlement**Amount:** \$200,000**State:** Ohio**Venue:** Meigs County**Court:** Meigs County, Court of Common Pleas, Pomeroy, OH**Injury Type(s):**

- *back* - lower back; sprain, lumbar; strain, lumbar
- *head* - concussion
- *neck* - sprain, cervical; strain, cervical
- *other* - soft tissue; back and neck; physical therapy; epidural injections; aggravation of pre-existing condition

Case Type:

- *Motor Vehicle* - Left Turn

Case Name: Keith Hunt v. Mamadou Kaza, Mamadou Kaza Trucking, LLC, Hawa Bah, Hana's Trucking, LLC, John Does 105 and John Doe Corporation 1, No. 18-CV-061**Date:** September 26, 2018**Plaintiff(s):**

- Keith Hunt (Male, 42 Years)

Plaintiff Attorney(s):

- William J. Price; Elk & Elk Co., Ltd.; Mayfield Heights OH for Keith Hunt
- Rebecca D. Louks Waigand; Otho, Heiser, Miller, Waigand & Clagg, LLC; Wellston OH for Keith Hunt

Defendant(s):

- Hawa Bah
- Mamadou Kaza
- Hana's Trucking, LLC
- Mamadou Kaza Trucking, LLC

Defense Attorney(s):

- Thomas White; Adjuster, Nationwide Insurance; ., . for Mamadou Kaza, Mamadou Kaza Trucking, LLC, Hawa Bah, Hana's Trucking, LLC

- Insurers:**
- Nationwide Mutual Insurance Co.
 - Travelers Property Casualty Corp.

Facts: On Sept. 26, 2016, plaintiff Keith Hunt, 42, a tractor-trailer driver, was operating a car on U.S. 33, near County Road 28, in Sutton Township. As he was attempting to make a left turn onto CR 28, he collided with a tractor-trailer driven by Mamadou Kaza, who was attempting to pass Hunt on the left. Hunt's vehicle was totaled. Hunt claimed neck, back and head injuries.

Hunt sued Kaza, alleging that Kaza was negligent in the operation of a motor vehicle. He also sued Mamadou Kaza Trucking, LLC, which owned the tractor-trailer.

Hunt alleged that he had activated his turn signal prior to attempting the left turn. He argued that Kaza failed to keep a proper lookout, failed to yield the right of way, attempted to pass illegally and failed to avoid the accident.

Kaza admitted liability for causing the accident and his insurance carrier initiated settlement negotiations before defense counsel was retained.

Injury: Hunt sought emergency treatment for complaints of neck, back and head pain. He was diagnosed with sprains/strains of his cervical and lumbar spine, as well as a mild concussion.

Hunt followed up with his primary care physician. He required physical therapy, epidural injections and medication. He was off work for 14 weeks and required maintenance treatment to function at work and at home.

Hunt argued that any pre-existing spinal disc bulges were asymptomatic and untreated prior to the subject accident. He also maintained that his post-accident treatment was both reasonable and necessary.

Hunt claimed \$81,339.79 in medicals (\$45,688.10 pursuant to *Robinson v. Bates*) and \$20,068.52 in lost wages. He also sought damages for pain and suffering.

The defense contended that Hunt suffered from pre-existing arthritic changes (bulging spinal discs) that were unrelated to the underlying accident. The defense argued that Hunt's injuries were exacerbated by his occupation as a truck driver. The defense further maintained that Hunt's treatment for any actual accident injuries was excessive.

Result: The parties reached global settlement of \$200,000.

Trial Information:

Editor's Comment: This report is based on information that was provided by plaintiff's counsel. The insurance adjuster involved in the settlement did not respond to a request for comment.

Writer Margi Banner

Plaintiff alleged she lost her job due to concussion from crash

Type: Settlement

Amount: \$180,000

State: Ohio

Venue: Franklin County

Court: Franklin County, Court of Common Pleas, OH

Injury Type(s):

- *back*
- *head* - headaches; concussion
- *neck* - sprain, cervical; strain, cervical
- *ankle*
- *other* - massage therapy; vomiting/vomition
- *epidermis* - numbness
- *hand/finger* - hand
- *sensory/speech* - vision, impairment
- *mental/psychological* - post-concussion syndrome; concentration, impairment
- *gastrointestinal/digestive* - gastrointestinal complications; nausea

Case Type:

- *Motor Vehicle* - Rear-ender; Multiple Vehicle

Case Name: Jessica Hamlin v. Chemcote Roofing Co., Chemcote Inc., Drew Domaccio and Dominic Domaccio, No. 18 CV 005685

Date: March 04, 2020

Plaintiff(s):

- Jessica Hamlin (Female, 37 Years)

Plaintiff Attorney(s):

- Adam P. Richards; Cooper Elliott; Columbus OH for Jessica Hamlin

- Plaintiff Expert(s):**
- Cregg D. Ashcraft M.D.; Internal Medicine; Columbus, OH called by: Adam P. Richards
 - Diann L. Nelson-Houser F.N.P.; Nurse Practitioner; Columbus, OH called by: Adam P. Richards
 - Harvey S. Rosen Ph.D.; Economics; Cleveland, OH called by: Adam P. Richards
 - Geoffrey A. Eubank M.D.; Neurology; Columbus, OH called by: Adam P. Richards

- Defendant(s):**
- Chemcote Inc.
 - Drew Domaccio
 - Dominic Domaccio
 - Chemcote Roofing Co.

- Defense Attorney(s):**
- Molly G. Vance; Liberty Mutual Group, Inc.; Cincinnati, OH for Drew Domaccio, Dominic Domaccio, Chemcote Inc., Chemcote Roofing Co.

- Defendant Expert(s):**
- Arthur Hughes M.D.; Neurology; Cincinnati, OH called by: for Molly G. Vance

- Insurers:**
- Netherlands Insurance Co.

Facts: On June 17, 2017, plaintiff Jessica Hamlin, 37, a digital marketer, was driving a sedan on U.S. Route 23 at the Interstate 270 overpass, in Worthington. Her vehicle was struck in the rear by a trailing pickup truck driven by Dominic Domaccio and owned by Chemcote Roofing Co. and Chemcote Inc. Hamlin claimed head, neck, back and ankle injuries.

Hamlin sued Dominic Domaccio and his father, Drew Domaccio, as well as Chemcote Roofing Co. and Chemcote Inc. Drew Domaccio owned Chemcote and had sent Dominic Domaccio, a minor at the time, to run an errand in the company vehicle. Hamlin alleged that Dominic Domaccio was negligent in his operation of the truck, and that the other defendants were vicariously liable for Dominic Domaccio's actions.

Hamlin alleged that she was stopped in traffic near a traffic light when she was rear-ended by Dominic Domaccio. Hamlin's counsel estimated that Domaccio was traveling 30 mph at the time of the collision. Per Hamlin's counsel, Domaccio received a citation following the accident. Hamlin's counsel claimed that an eyewitness supported Hamlin's version of the events.

Domaccio contended that Hamlin was liable for the accident. He contended that Hamlin suddenly switched lanes in front of him before slamming on her brakes. Domaccio maintained that this is what caused him to strike the back of her car. Hamlin's counsel argued that the damage to Hamlin's vehicle did not support Domaccio's story.

Injury:

Hamlin drove home from the scene. However, she claimed she vomited once she arrived back at her house. The accident took place on a Saturday. The following Monday, Hamlin returned to work before presenting to Riverside Methodist Hospital after her shift. She was treated and released.

Hamlin's primary injury was a concussion. She was later diagnosed with post-concussion syndrome. Hamlin claimed that her concussion caused headaches, vision problems, nausea, dizziness, difficulty sleeping and concentration issues over the next 18 to 24 months. Hamlin also claimed she had general pain in her back and ankle, along with a sprain/strain and numbness in her neck. She additionally claimed that she fractured her hand due to a fall following a dizzy spell that was related to the concussion.

Hamlin had three visits with her primary care nurse practitioner between June and August 2017. She also began receiving massage therapy in July 2017, for a total of nine sessions through August 2017.

In September 2017, Hamlin met with a neurologist. That same month, she also received additional imaging studies and met with an eye surgeon. Hamlin then had six doctors' appointments from October 2017 until November 2017. She saw another eye specialist in December 2017, as well. She had no additional treatment.

Hamlin claimed she may need additional therapy for her vision issues. However, her counsel had not yet decided whether to ask for future medical expenses at trial.

Hamlin claimed lost her job three months after the crash due to performance issues. Her counsel argued that Hamlin's concussion caused these performance issues. Hamlin had a part-time teaching job at the time of the crash. She continued in this position after being fired from her marketing job. However, she never regained full-time employment.

Hamlin sought \$14,539.55 in past medical expenses, \$265,977.66 in past lost earnings/benefits, \$2,099.99 for the paid time off that she utilized prior to her termination, and between \$363,921.33 and \$624,025.33 in future lost earnings/benefits. She also sought damages for past and future pain and suffering.

The defense's neurology expert examined Hamlin and determined that Hamlin did not suffer a permanent head injury. Defense counsel also contended that Hamlin's medical records from November 2017 noted only minor cognitive defects. The defense further contended that the evidence did not support Hamlin's claim that she lost her job as a result of the accident.

Result:

The parties negotiated a pretrial settlement. The defendants' insurer agreed to pay Hamlin \$180,000.

Trial Information:

Judge: Jaiza N. Page

Trial Length: 0

**Trial
Deliberations:** 0

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.
Additional information was gleaned from court documents.

Writer Melissa Siegel

Author asserted that she wasn't able to focus after car crash

Type: Settlement

Amount: \$100,000

State: Ohio

Venue: Warren County

Court: Warren County, Court of Common Pleas, Lebanon, OH

Injury Type(s):

- *arm*
- *back* - sprain, lumbar; strain, lumbar
- *head* - headaches; concussion
- *knee* - knee contusion
- *neck* - sprain, cervical; strain, cervical
- *brain* - traumatic brain injury
- *other* - chiropractic; massage therapy; unconsciousness; physical therapy
- *shoulder*
- *face/nose* - jaw
- *mental/psychological* - cognition, impairment; memory, impairment; post-concussion syndrome; concentration, impairment

Case Type:

- *Motor Vehicle* - Rear-ender; Multiple Vehicle; Automobile Insurance; Underinsured Motorist
- *Insurance* - First-party Benefits

Case Name: Melissa Ward-Brown aka Melissa Brown, and Kurt Brown v. State Farm Mutual Automobile Insurance Co., Carla Jan Bledsoe, Billy Janice Miley, UMR Inc. and Sarah Morrison, Administrator Bureau of Workers Compensation, No. 18CV091010

Date: May 16, 2019

Plaintiff(s):

- Kurt Brown
- Melissa Ward-Brown (Female, 43 Years)

Plaintiff Attorney(s):

- Christopher J. Snyder; McKenzie & Snyder, LLP; Hamilton OH for Kurt Brown, Melissa Ward-Brown

**Plaintiff Expert
(s):**

- David P. Schwartz Ph.D.; Psychology/Counseling; Hamilton, OH called by: Christopher J. Snyder
- Thomas Sullivan Ph.D.; Psychology/Counseling; Fairfield, OH called by: Christopher J. Snyder

Defendant(s):

- UMR Inc.
- Carla Jan Bledsoe
- Billy Janice Miley
- State Farm Mutual Automobile Insurance Co.
- State of Ohio Bureau of Workers' Compensation

**Defense
Attorney(s):**

- John R. Wykoff; Eagen & Wykoff Co., LPA; Cincinnati, OH for Carla Jan Bledsoe, Billy Janice Miley
- None reported for State Farm Mutual Automobile Insurance Co., UMR Inc., State of Ohio Bureau of Workers' Compensation

Insurers:

- State Farm Insurance Cos.

Facts:

On April 18, 2016, plaintiff Melissa Ward-Brown, 43, an author and an employee of Butler County, was driving a vehicle in Warren County. Carla Jan Bledsoe was driving another vehicle on the same road and rear-ended Ward-Brown's vehicle. Ward-Brown claimed neck, back, head and shoulder injuries.

Ward-Brown sued Bledsoe; the owner of the vehicle Bledsoe was driving, Billy Janice Miley; and the underinsured motorist carrier, State Farm Mutual Automobile Insurance Co. Ward-Brown alleged that Bledsoe was negligent in the operation of her vehicle and that Miley was vicariously liable. She also claimed she was entitled to underinsured motorist benefits. UMR Inc. and the State of Ohio Bureau of Workers' Compensation were also brought into the case to assert their liens.

State Farm was dismissed prior to the settlement. The case proceeded against Bledsoe and Miley only.

Liability for the accident was not in dispute.

Injury:

Ward-Brown suffered a temporary loss of consciousness at the scene and later claimed she suffered a traumatic brain injury, specifically post-concussion syndrome with memory impairment. She was also diagnosed with a contusion to her left knee and sprains and strains to her neck, lower back, mid-back and left shoulder and had complaints of head, jaw and left arm pain.

Ward-Brown was placed in an ambulance at the scene of the accident and was transported to Atrium Medical Center. She was treated and released.

Ward-Brown began chiropractic treatment and massage therapy in April 2016. She had 38 chiropractic sessions from April 2016 until April 2017 and 26 massage therapy sessions from April 2016 through March 2017. She also had 11 physical therapy sessions from June to August 2016.

In May 2016, Ward-Brown began treating with a psychologist. At that time, she was diagnosed with the post-concussion syndrome. She received six counseling sessions between May 2016 and August 2017.

Ward-Brown recovered well from her knee, neck, back and shoulder injuries. However, she claimed that her traumatic brain injury continued to affect her.

Ward-Brown was a published author who had written multiple books prior to the crash, but has not written any books since the accident. She alleged that her head injury made it tough to focus and that she frequently got headaches when she tried to write. She further stated that the accident impaired her memory. She said her headaches started to diminish prior to the settlement and that she has tried to get back into writing.

Ward-Brown sought damages for past and future pain and suffering. Her husband, Kurt Brown, filed a derivative claim for loss of consortium.

Result:

The parties negotiated a pretrial settlement, with the liability carrier tendering its \$100,000 policy.

Trial Information:**Editor's
Comment:**

This report is based on information that was provided by plaintiffs' counsel. Counsel of Bledsoe and Miley did not respond to the reporter's phone calls. The remaining defendants' counsel were not asked to contribute.

Writer

Melissa Siegel

Suit: Semi-truck driver caused chain-reaction rear-ender

Type: Mediated Settlement

Amount: \$93,000

State: Ohio

Venue: Montgomery County

Court: Montgomery County, Court of Common Pleas, OH

Injury Type(s):

- *back* - strain, lumbar; strain, thoracic
- *head* - headaches; concussion
- *neck* - strain, cervical
- *chest*
- *other* - soft tissue; chiropractic; physical therapy; strains and sprains
- *shoulder* - rotator cuff, injury (non-tear)
- *sensory/speech* - vision, impairment; vestibular deficits; speech/language, impairment of
- *mental/psychological* - cognition, impairment; memory, impairment

Case Type:

- *Motor Vehicle* - Rear-ender; Multiple Impact; Multiple Vehicle

Case Name: Adam Lacy and Charles Zimmerle v. Bowling Transportation, Inc., David Banks, Farmers Insurance Company, Travelers Insurance Company, Anthem Blue Cross Blue Shield and CareSpring Employee Benefit Plan c/o The Phia Group, No. 2019 CV 00389

Date: May 07, 2020

Plaintiff(s):

- Adam Lacy (Male, 40 Years)
- Charles Zimmerle (Male, 50 Years)

Plaintiff Attorney(s):

- Benjamin D. Felton; Dyer, Garofalo, Mann & Schultz; Dayton OH for Adam Lacy, Charles Zimmerle

Plaintiff Expert(s):

- Kelsey Logan M.D.; Head Injury; Cincinnati, OH called by: Benjamin D. Felton

Defendant(s):

- David Banks
- Farmers Insurance Co.
- Travelers Insurance Co.
- Bowling Transportation Inc.
- Anthem Blue Cross Blue Shield
- CareSpring Employee Benefit Plan

Defense Attorney(s):

- None reported for Farmers Insurance Co., Travelers Insurance Co., Anthem Blue Cross Blue Shield, CareSpring Employee Benefit Plan
- Adair M. Smith; Reminger Co., L.P.A.; Cincinnati, OH for Bowling Transportation Inc., David Banks
- Timothy B. Spille; Reminger Co., L.P.A.; Cincinnati, OH for Bowling Transportation Inc., David Banks

Insurers:

- Acuity Insurance Co.

Facts:

On Feb. 21, 2017, plaintiff Adam Lacy, 40, an electrical engineer and freelance sports photographer, was driving a pickup truck south on Interstate 75, in Harrison. Plaintiff Charles Zimmerle, 50, a licensed clinical therapist, was driving a compact car in the same direction on that road. David Banks was driving a tractor-trailer semi-truck south on Interstate 75, as well, and was in the course and scope of his employment with Bowling Transportation Inc. Banks rear-ended a vehicle, sparking a chain-reaction collision. Zimmerle's car was rear-ended, which pushed Zimmerle's car into the back of Lacy's truck, which then rear-ended another compact car. Lacy claimed injuries to his back and head. Zimmerle claimed injuries to his neck, back, chest and shoulders.

Lacy and Zimmerle sued Banks. The plaintiffs alleged that Banks was negligent in the operation of his vehicle. The plaintiffs also sued Bowling Transportation for vicarious liability. Farmers Insurance Company, Travelers Insurance Company, Anthem Blue Cross Blue Shield, and CareSpring Employee Benefit Plan c/o The Phia Group were additionally sued for subrogation purposes.

Banks and Bowling Transportation conceded liability. The matter proceeded to damages.

Injury:

Lacy was placed in an ambulance and transported to Huber Heights Medical Center. He was treated and released.

Lacy was ultimately diagnosed with a lumbar strain, and a vestibular concussion with headaches, vision problems, memory loss and cognition issues.

After being released from the hospital, Lacy followed up with his family physician and received an MRI of his lower back. At that time, he was diagnosed with the lumbar strain, for which he received 2.5 months of physical therapy.

One or two weeks after the crash, Lacy's wife began to notice that Lacy was having neurological symptoms. Lacy went to see a neurologist who diagnosed the vestibular concussion. With regard to the cognition problems, he had particular trouble remembering certain words. He received approximately 3.5 months of speech language pathology treatment and 9.5 months of vestibular therapy. He admitted that he felt 90 to 95 percent better following these treatments

Lacy's neurologist initially took Lacy off work following the concussion diagnosis. Lacy ultimately quit his engineering job because he said the concussion made it hard for him to focus. He decided to turn his full attention to his photography career. However, he claimed that his head injury affected his ability to contort his body for the ideal shot, and he thus had to serve as a consultant in the months after the accident. He continues to consult, but is now able to photograph sporting events.

Lacy sought recovery of past medical expenses, past lost earnings and damages for past pain and suffering.

Zimmerle was placed in an ambulance and transported to Miami Valley Hospital. He was treated and released.

Zimmerle was diagnosed with a strain of his left shoulder and a possible rotator cuff injury in his right shoulder. He also had strains of his chest and of his cervical, thoracic and lumbar spine.

Zimmerle underwent 3.5 months of chiropractic care. His shoulder complaints resolved on their own without treatment. He had no lasting limitations following the crash.

Zimmerle sought recovery of past medical expenses and damages for past pain and suffering.

Plaintiffs' counsel claimed that a post-accident inspection of the semi-truck showed black electrical tape covering the antilock brakes warning lamp. While there was no proof that the tractor-trailer's brakes were faulty, plaintiffs' counsel planned to use the tape to argue that punitive damages were warranted.

Defense counsel disputed whether the accident caused Lacy's concussion. The defense claimed that Lacy's concussion symptoms did not appear right away and that Lacy did not complain of any vision or memory problems at the scene. The defense additionally noted that the emergency room doctors gave Lacy a score of 15 on the Glasgow coma scale following the crash. The defense also pointed out that Lacy could not recall hitting his head during the accident. Lacy's treating head injury specialist, however, noted that delayed symptoms and a Glasgow score of 15 are typical of a vestibular concussion.

The defense further argued that the value of Zimmerle's damages was minimal since he only suffered soft tissue injuries.

Result:

The insurer for Banks and Bowling Transportation agreed to pay \$70,000 to Lacy and \$23,000 to Zimmerle from a policy that provided \$1 million of coverage.

The two claims were settled in separate mediations with Jeffrey A. Hazlett.

Trial Information:

Judge:

Jeffrey A. Hazlett

Editor's Comment: This report is based on information that was provided by plaintiffs' counsel. Additional information was gleaned from court documents. Counsel of Banks and Bowling Transportation declined to contribute, and the remaining defendants' counsel were not asked to contribute.

Writer Melissa Siegel

Motorist rear-ended by semi claimed ongoing neck, back pain

Type: Settlement

Amount: \$75,000

State: Ohio

Venue: Franklin County

Court: Franklin County, Court of Common Pleas, OH

Injury Type(s):

- *back*
- *head* - concussion
- *neck* - sprain, cervical; strain, cervical
- *other* - soft tissue; chiropractic; strains and sprains

Case Type:

- *Motor Vehicle* - Truck; Rear-ender; Multiple Vehicle

Case Name: Scott Pierce v. Marc Allan Saulnier and Freymiller Trucking, Inc., No. 19 CV 000016

Date: March 31, 2020

Plaintiff(s):

- Scott Pierce (Male, 40 Years)

Plaintiff Attorney(s):

- John K. Fitch; The Fitch Law Firm, LLC; Columbus OH for Scott Pierce

Plaintiff Expert(s):

- Titus Wolverton D.C.; Chiropractic; Dayton, OH called by: John K. Fitch
- Jeremy Traylor D.O.; Emergency Medicine; Kettering, OH called by: John K. Fitch
- Douglas Paul D.O.; General Surgery; Kettering, OH called by: John K. Fitch
- Jonathan Pedrick M.D.; Physical Medicine; Columbus, OH called by: John K. Fitch
- Theodore Poelking D.C.; Chiropractic; Dayton, OH called by: John K. Fitch

Defendant(s):

- Marc Allan Saulnier
- Freymiller Trucking Inc.

- Defense Attorney(s):**
- Mark S. Maddox; Frost & Maddox Co., L.P.A.; Columbus, OH for Marc Allan Saulnier, Freymiller Trucking Inc.
- Defendant Expert(s):**
- Thomas Sullivan Ph.D.; Neuropsychology; Fairfield, OH called by: for Mark S. Maddox
 - Christopher D. Holzaepfel M.D.; Orthopedic Surgery; Westerville, OH called by: for Mark S. Maddox
- Insurers:**
- Travelers Property Casualty Corp.

Facts: On Jan. 10, 2018, plaintiff Scott Pierce, mid-40s, was operating a vehicle eastbound on U.S. 33 near Monterey Drive in Dublin. He stopped his vehicle in response to an emergency vehicle that had activated its lights and sirens nearby. Upon stopping, he was rear-ended by a semi-truck driven by Marc Allan Saulnier. Pierce claimed neck and back injuries.

Pierce sued Saulnier and the owner of the truck he was driving, Freymiller Trucking Inc. Pierce alleged that Saulnier was negligent in the operation of the truck and that Freymiller Trucking was vicariously liable.

Liability for the accident was not in dispute.

Injury: Pierce drove himself from the scene of the accident and presented to Southview Medical Center. He was treated and released.

Pierce complained of concussion-type symptoms at the hospital. He also claimed that the crash caused soft tissue sprains and strains in his neck and back.

Pierce underwent approximately six weeks of chiropractic treatment. While his symptoms largely resolved, he said that he still has some ongoing neck and back pain.

Pierce sought past medical expenses and damages for past and future pain and suffering. He claimed approximately \$50,000 in specials.

The defense maintained that the crash was a minor impact, and that any injuries Pierce suffered in the accident had resolved.

Result: The parties negotiated a pretrial settlement. The defendants' insurer agreed to pay \$75,000.

Trial Information:

Judge: Julie M. Lynch

Editor's Comment: This report is based on information that was provided by plaintiff's counsel. Additional information was gleaned from court documents. Defense counsel did not respond to the reporter's phone calls.

Writer

Melissa Siegel

Claim for future treatment disputed by auto defense

| | |
|-------------------------------|---|
| Type: | Settlement |
| Amount: | \$75,000 |
| State: | Ohio |
| Venue: | Franklin County |
| Court: | Franklin County, Court of Common Pleas, OH |
| Injury Type(s): | <ul style="list-style-type: none">• <i>back</i> - stenosis; annular tear; herniated disc, lumbar; herniated disc at L4-5; herniated disc, lumbar; herniated disc at L5-S1• <i>head</i> - concussion• <i>neck</i> - stenosis; annular tear• <i>other</i> - ablation; physical therapy; epidural injections• <i>mental/psychological</i> - post-concussion syndrome |
| Case Type: | <ul style="list-style-type: none">• <i>Motor Vehicle</i> - Rear-ender; Multiple Impact; Multiple Vehicle |
| Case Name: | Lynnsey Ralston v. Eugene J. Doon and Richard A. Beard, No. 14-CV-005834 |
| Date: | January 07, 2016 |
| Plaintiff(s): | <ul style="list-style-type: none">• Lynnsey Ralston (Female, 29 Years) |
| Plaintiff Attorney(s): | <ul style="list-style-type: none">• Sue A. Salamido; Cloppert Latanick Sauter & Washburn; Columbus OH for Lynnsey Ralston |
| Defendant(s): | <ul style="list-style-type: none">• Eugene J. Doon• Richard A. Beard |
| Defense Attorney(s): | <ul style="list-style-type: none">• Thomas J. Downs; Thomas J. Downs, Attorney at Law; Columbus, OH for Eugene J. Doon, Richard A. Beard |
| Insurers: | <ul style="list-style-type: none">• Nationwide Mutual Insurance Co. |

Facts:

On July 2, 2012, plaintiff Lynnsey Ralston, 29, a nursing student and bartender, was driving east in a Volkswagen Jetta on Interstate 270 near Westerville. Ralston was stopped for traffic on the Westerville exit off ramp when her vehicle was rear-ended by a Honda Odyssey operated by defendant Eugene Doon. The force of the impact caused Ralston to strike the vehicle ahead of her. Ralston's vehicle then spun out and hit a guardrail to her right before coming to a stop facing the opposite direction. Ralston claimed a concussion and lumbar spine injuries as a result of the impact.

Ralston sued Doon, alleging that Doon had been negligent in the operation of a motor vehicle. Ralston also named Richard Beard, the owner of the vehicle operated by Doon, for negligent entrustment. However, Beard was voluntarily dismissed and the case proceeded against Doon only.

Ralston alleged that Doon failed to maintain an appropriate distance. Ralston also argued that Doon failed to keep a proper lookout and failed to avoid the collision.

Doon conceded liability, but disputed the extent of Ralston's injuries.

Injury:

Ralston was taken by ambulance to Westerville Medical Campus, where she was treated and released. Ralston was initially diagnosed with a concussion, as well as post-concussion syndrome. She was later diagnosed with lumbar disc herniations at L4-L5 and L5-S1, with annular tears at both levels. Ralston was also diagnosed with spinal stenosis in the lumbar spine.

Ralston underwent a month of physical therapy following the accident. She received two nerve blocks in September 2013, and underwent multiple ablation procedures in 2014 at L1-L2, L2-L3 and L4-L5. Ralston believes she will require future ablations. Ralston's treating orthopedist recommended that Ralston not undergo further surgery due to her young age.

Ralston complained of chronic lower back pain. She believes her condition makes nursing school activities, such as moving patients, difficult. Ralston's treatment records were exchanged between counsel.

Ralston sought \$100,000 in damages, the full extent of Doon's liability policy. Ralston's demand included approximately \$29,000 in past medical expenses.

Doon disputed whether Ralston would require future medical treatment, such as further ablations.

Result:

Prior to jury selection, the parties agreed to a \$75,000 settlement.

Trial Information:**Judge:**

Mark A. Serrott

**Editor's
Comment:**

This report is based on information that was provided by plaintiff's counsel. Defense counsel declined to contribute.

Writer

Max Robinson

Driver of mowing tractor failed to keep lookout, per motorist

Type: Settlement

Amount: \$44,500

State: Ohio

Venue: Court of Claims

Court: Court of Claims, OH

Injury Type(s):

- *hip*
- *back* - sprain, lumbar; strain, lumbar; sprain, thoracic; strain, thoracic
- *head* - headaches; concussion
- *neck* - sprain, cervical; strain, cervical
- *other* - soft tissue; subluxation; sacroiliac joint
- *pelvis*
- *face/nose* - face; fracture, facial bone; fracture, occipital bone

Case Type:

- *Motor Vehicle* - Multiple Vehicle
- *Government* - State and Local Government

Case Name: Lauri Morrow-Stackhouse and Raymond Stackhouse v. Ohio Department of Transportation and Office of Risk Management, No. 2016-00556JD

Date: June 28, 2018

Plaintiff(s):

- Raymond Stackhouse
- Lauri Morrow-Stackhouse (Female, 42 Years)

Plaintiff Attorney(s):

- A. James Tsangeos; Lonas, McGonegal, Tsangeos & Struhar; Canton OH for Lauri Morrow-Stackhouse, Raymond Stackhouse

Defendant(s):

- Office of Risk Management
- Ohio Department of Transportation

Defense Attorney(s):

- Eric A. Walker; Attorney General's Office; Columbus, OH for Ohio Department of Transportation, Office of Risk Management

Facts:

On July 23, 2014, plaintiff Lauri Morrow-Stackhouse, 42, employed, was operating her motor vehicle eastbound on State Route 151 in North Township. She was involved in a collision with a 2011 John Deere mowing tractor owned by the Ohio Department of Transportation. Morrow-Stackhouse claimed neck, back, hip, face and head injuries as a result of the accident.

Morrow-Stackhouse sued the Ohio Department of Transportation for the negligence of its employee, Clayton Fierbaugh.

Morrow-Stackhouse alleged she was driving at or below the posted speed limit as Fierbaugh exited from a private driveway on the north side of the roadway and entered her lane of travel. She claimed she had no time to avoid a collision. Morrow-Stackhouse asserted that Fierbaugh failed to yield the right-of-way to her vehicle, failed to keep a proper lookout and failed to avoid the accident.

Evidence suggested that Fierbaugh had been mowing in a westerly direction on the north side of the highway and backed into a private driveway on the north side just prior to the collision. He then reportedly attempted to cross to the south side of the highway to begin mowing in an easterly direction on the southern side of the roadway.

ODOT contended that Morrow-Stackhouse had the last chance to avoid the accident, but failed to do so.

Injury:

Morrow-Stackhouse was transported via EMS to an emergency room with complaints of face, neck, back, hip and head pain. She was diagnosed with an occipital fracture, concussion, neck and back sprains/strains, and subluxation of the cervical, thoracic and lumbar spine, sacrococcyx and pelvis.

Morrow-Stackhouse claimed she experienced serious headaches following the accident. She also alleged that her injuries limited her ability to enjoy life activities and negatively impacted her earning capacity.

Morrow-Stackhouse claimed \$81,137.20 in medicals (\$7,383 unpaid), as well as damages for pain and suffering. Her spouse, Raymond Stackhouse, sought damages for loss of consortium.

The defense disputed the nature and extent of the injury claims and argued that Morrow-Stackhouse should have recovered from her injuries.

Result:

The parties reached a settlement of \$44,500. The Ohio Department of Transportation was self-insured through the state.

Trial Information:**Editor's
Comment:**

This report is based on information that was provided by defense counsel. Additional information was gleaned from court documents. Plaintiff's counsel did not respond to a request for comment.

Writer

Margi Banner

Parties disputed who started chain of rear-end collisions

Type: Mediated Settlement

Amount: \$40,500

State: Ohio

Venue: Franklin County

Court: Franklin County, Court of Common Pleas, OH

Injury Type(s):

- *arm*
- *back* - lower back; sprain, lumbar; strain, lumbar
- *head* - headaches; concussion
- *neck* - sprain, cervical; strain, cervical
- *other* - chiropractic; physical therapy
- *epidermis* - numbness

Case Type:

- *Motor Vehicle* - Passenger; Rear-ender; Multiple Impact; Multiple Vehicle

Case Name: Jessica Foster and Carla Green v. Cheri Barr and Liberty Mutual Insurance Company, No. 19 CV 008792

Date: November 05, 2020

Plaintiff(s):

- Carla Green (Female, 30 Years)
- Jessica Foster (Female, 30 Years)

Plaintiff Attorney(s):

- Ryan H. Lauer; Schiff & Associates Co., LPA; Columbus OH for Jessica Foster, Carla Green

Defendant(s):

- Cheri Barr
- Liberty Mutual Insurance Co.

Defense Attorney(s):

- Daniel P. Whitehead; Law Office of Daniel P. Whitehead; Columbus, OH for Cheri Barr
- None reported for Liberty Mutual Insurance Co.

Insurers:

- Government Employees Insurance Co.

Facts:

On Aug. 28, 2019, plaintiff Jessica Foster, an OhioHealth employee in her 30s, was driving a sedan on Interstate 70 near Route 33, in Columbus. Her friend, plaintiff Carla Green, a corrections officer in her 30s, was a front-seat passenger. Their vehicle was struck in the rear by a trailing compact car operated by Cheri Barr. The plaintiffs' vehicle also hit the back of the vehicle in front of it. Foster claimed injuries to her head, neck and back. Green claimed injuries to her back.

Foster and Green sued Barr. The plaintiffs alleged that Barr was negligent in the operation of her vehicle. They also sued the underinsured motorist carrier, Liberty Mutual Insurance Company.

The claim against Liberty Mutual was dismissed.

The plaintiffs maintained that their vehicle was stopped for traffic when Barr rear-ended them. The plaintiffs said that this impact pushed their vehicle into the back of the vehicle ahead of them.

The defense contended that Foster started the crash by rear-ending the vehicle ahead of her and that Barr then rear-ended the plaintiffs after this initial impact.

Injury:

Neither plaintiff went to the hospital from the scene. They each sought treatment at an urgent care facility the day of the crash.

Foster was diagnosed with a concussion. She also had sprains/strains of her cervical and lumbar spine. She complained of headaches and right arm numbness, as well.

Foster underwent 14 months of chiropractic care. She also saw her primary care physician a few times to get treatment for her headaches.

Foster missed two weeks of work following the crash. She did not claim any permanent impairments.

Foster sought recovery of past medical expenses, past lost earnings and damages for past pain and suffering.

Green was diagnosed with a sprain/strain of her lumbar spine. She treated with her primary care doctor and had six physical therapy sessions. Green had no further treatment and did not claim a permanent injury.

Green sought recovery of past medical expenses and damages for past pain and suffering.

The defense contended that the plaintiffs' damages should be limited since they did not suffer permanent injuries.

Result:

The parties negotiated pretrial settlements. Barr's insurer agreed to pay Green \$11,500. Then, at a mediation in front of Magistrate Judge Jennifer Hunt, Barr's insurer agreed to pay Foster \$29,000.

Trial Information:

Judge: Julie M. Lynch, Jennifer Hunt

Trial Length: 0

Trial 0
Deliberations:

Editor's This report is based on information that was provided by plaintiffs' counsel and defense
Comment: counsel for Barr. Additional information was gleaned from court documents. Counsel for
Liberty Mutual was not asked to contribute.

Writer Melissa Siegel

Failure to adhere to low bunk restriction led to injury: inmate

Type: Decision-Plaintiff

Amount: \$35,000

State: Ohio

Venue: Court of Claims

Court: Court of Claims, OH

Injury Type(s):

- *arm* - bruise
- *back* - bruise
- *head* - headaches; concussion
- *other* - sutures; laceration; soft tissue; decreased range of motion; scar and/or disfigurement
- *shoulder* - fracture, shoulder; fracture, clavicle

Case Type:

- *Negligence Per Se*
- *Government* - Prisoner Suit
- *Worker/Workplace Negligence*
- *Slips, Trips & Falls* - Fall from Height

Case Name: Samuel C. Stein v. Ohio Department of Rehabilitation and Correction, No. 2014-00780

Date: April 05, 2017

Plaintiff(s):

- Samuel C. Stein (Male)

Plaintiff Attorney(s):

- Richard F. Swope; Swope & Swope; Reynoldsburg OH for Samuel C. Stein

Defendant(s):

- Ohio Department of Rehabilitation and Correction

**Defense
Attorney(s):**

- James P. Dinsmore; Attorney General's Office; Columbus, OH for Ohio Department of Rehabilitation and Correction
- Frank S. Carson; Attorney General's Office; Columbus, OH for Ohio Department of Rehabilitation and Correction

**Defendant
Expert(s):**

- Ronald J. Bloomfield M.D.; Internal Medicine; Columbus, OH called by: for James P. Dinsmore, Frank S. Carson

Facts:

On April 11, 2014, plaintiff Samuel C. Stein, an inmate at the Ross Correctional Institution (RCI), injured himself when he fell from a top bunk. Stein claimed a concussion and broken clavicle, among other injuries, as a result of the fall.

Stein sued the prison for negligence. The issues of liability and damages were bifurcated and the case proceeded to trial first on the issue of liability.

Stein testified that he began his prison term in October 2012 at the Correctional Reception Center (CRC), where he underwent a medical examination while being processed. He claimed he related his medical history during this examination, including episodes of hypoglycemia (low blood sugar) as a result of type-one diabetes. Stein stated that he must take insulin shots three times per day to prevent a hypoglycemic episode. He testified that the shots are administered in the morning, mid-day and evening. Stein said he received a low bunk restriction while at CRC. He was subsequently transferred to the Lebanon Correctional Institution (LCI) where a second medical examination was performed. Thereafter, he claimed he received a second medical low bunk restriction. According to Stein, he was informed at that time that he would have a low bunk restriction for as long as he was insulin dependent.

After remaining at LCI for approximately three weeks, Stein was transferred to RCI at the end of October 2012. Upon his arrival at RCI, the medical staff performed an examination and Stein subsequently received a third medical low bunk restriction. Each medical restriction statement was reportedly marked "long term restrictions (more than 6 months)" and "low bunk," and indicated a "start date" and a "review date." The final medical restriction statement issued prior to Stein's fall reportedly indicated a start date of Oct. 29, 2012 and a review date of Oct. 29, 2013. Stein asserted that he was not provided a copy of any medical restriction statements.

Stein testified that, despite the medical low bunk restriction, he was assigned to top bunks on multiple occasions while at RCI. According to Stein, whenever he is assigned to a top bunk, he discusses his restriction with his cellmate or a corrections officer in an effort to obtain a low bunk, but that such attempts often prove futile.

At RCI, Stein was initially assigned to housing unit 4B, where he remained for approximately eight months. On April 8, 2014, he was moved from RCI housing unit 4B to 3A. When he arrived at housing unit 3A, he claimed he was told that he was assigned to cell 250 and pointed in the direction of the cell. When he arrived at cell 250, Stein asserted that another inmate was already on the lower bunk. According to Stein, he informed a corrections officer about his medical low bunk restriction, but the corrections officer informed him it was count time and issues relating to bunk assignments needed to be addressed later. Stein testified that he informed both corrections officers and medical staff over the next few days that he had a medical low bunk restriction, but was in a top bunk.

On April 10, 2014, Stein alleged that he went to bed at approximately 11 p.m. He said he was unable to recall when he fell, but he woke up at the Ohio State University Medical Center (OSU), where he learned that he suffered a hypoglycemic episode, fell out of bed and suffered a concussion and broken clavicle, among other injuries.

Stein asserted that he had previously lost consciousness on a couple of occasions due to two hypoglycemic episodes that occurred while in the custody of the Department of Rehabilitation and Correction (DRC), both of which predated the hypoglycemic episode that is the subject of this lawsuit. After being released from OSU, Stein returned to RCI, where he remained in the institution hospital for several weeks.

The defense challenged the assertion that Stein fell from a top bunk. The defense claimed that Stein was assigned to a lower bunk at the time of the incident and called a corrections officer who testified that the procedure for regular head-counts required inmates to stand next to their bunks. The officer said that this procedure would have revealed to counting officers if Stein was not in compliance with his lower bunk assignment. The defense also noted that the latest medical directive for Stein's assignment to a lower bunk had "expired."

To rebut the contention that Stein did not fall from an upper bunk, Stein called two inmates who shared his unit both before and after the falling incident. Both inmates were also insulin dependent and testified that they were aware that Stein should not have been assigned an upper bunk and one of them had actually complained to prison officials on Stein's behalf.

Injury:

Stein claimed he suffered a concussion, laceration above his left eye that required stitches, and left clavicular fracture. He reported that he was experiencing excruciating pain in his left shoulder, pain in his head, spinning sensations, ringing sounds and bruising of his back and arm at that time. Stein testified that the pain at that time exceeded any amount of pain he had previously felt during his lifetime.

After receiving stitches above his eyebrow and a sling for his arm, Stein returned to RCI some time around noon on April 11, 2014, to recover in the infirmary. He continued to experience pain in his left arm and head in addition to a pinching sensation from the stitches above his eyebrow. While he was in the infirmary, Stein claimed he was unable to use his left arm and remained in his bed to rest. He said he had difficulty sleeping due to the pain in his left shoulder.

Stein was prescribed Ultram, a pain medication, which he said facilitated more restful sleep and otherwise dulled the pain. He remained in the infirmary for approximately three weeks before being released back to general prison population at RCI.

Stein testified that, following his return to the general prison population, he continued to experience headaches, dizziness, disorientation, vertigo, bruising and pain. He reported that the bruising continued for a little more than two months following his fall. Stein also stated that he continued to take medication to manage his pain and that the pain gradually changed from what he described as a stabbing pain to a dull throbbing pain. For the next several months until December 2014, Stein continued to return to the infirmary for medical appointments related to his injuries. He claimed the pain he experienced in his head continued for approximately one year following his fall.

Stein testified that the clavicular fracture caused a callus, or a knot, in his shoulder, which continues to cause pain and is plainly visible. He asserted that he now feels aches in his shoulder whenever there is a change in weather patterns. He also claimed he experiences pain in his left shoulder at night while attempting to sleep. Stein added that the pain in his shoulder often wakes him at night. He also reported a limitation of motion in his left arm and an inability to extend his arm high in the air behind, to the side, or in front of him. He provided the court with a demonstration of his perceived abilities and limitations of movement. Stein also testified that he can no longer engage in basketball, football or handball games or perform push-ups or pull-ups. He claimed continuing occasional dizziness while walking. Finally, he claimed he now has a scar above his eyebrow.

Regarding the future effects of his injury, Stein testified that he believed his injury will impact his ability to earn wages once he has completed his prison sentence. He asserted that he is eligible for judicial release and that his sentence will be completed at the latest in 2021. Stein testified that, prior to entering prison, he held jobs in agriculture, factories, construction and warehouses, where he performed various physically-demanding tasks. Additionally, Stein testified that he worked for a commercial carrier loading and unloading trucks as a package handler for three years immediately preceding his incarceration. Stein asserted that, due to the limitation in mobility and diminished strength in his left arm and shoulder, he can no longer perform such tasks.

By way of deposition, the defense presented the testimony of an internal medicine expert who testified that he performed a physical examination of Stein at RCI. As a part of that examination, the expert reviewed the medical records from both RCI and OSU and obtained Stein's medical history. The defense expert opined that Stein gradually healed over the course of a year as demonstrated by multiple post-injury X-rays. After reviewing an X-ray dated May 13, 2014, the defense expert explained that healing had not started at that time and that Stein's clavicle was still separated at the fracture site. After reviewing an X-ray dated July 10, 2014, the doctor stated that the only minor change was that the callus (new bone growth uniting the clavicle) was beginning to develop. In a Sept. 5, 2014 X-ray, there was evidence that the clavicle was beginning to heal.

Result:

Following a bench trial, Magistrate Gary Peterson found that the greater weight of credible evidence established that Stein did fall from an upper bunk and had not been assigned the lower bunk as required by his medical profile. The decision also found that the "expiration" of the medical protocol for an upper-bunk assignment was not dispositive. Liability was attributed to the Ohio Department of Rehabilitation and Correction.

At the damages phase of the bifurcated bench trial, Magistrate Peterson determined that Stein was entitled to an award of \$35,000.

Trial Information:

Judge: Patrick M. McGrath, Magistrate Gary Peterson

Trial Length: 2 days

**Editor's
Comment:**

This report is based on information that was provided by plaintiff's and defense counsel.

Writer

Jon Steiger

Intersection crash was cause of claimed injuries: plaintiff

Type: Settlement

Amount: \$32,700

State: Ohio

Venue: Montgomery County

Court: Montgomery County, Court of Common Pleas, OH

Injury Type(s):

- *back* - lower back; strain, lumbar
- *head* - concussion
- *neck* - strain, cervical
- *other* - physical therapy; steroid injection; epidural injections; decreased range of motion
- *shoulder*

Case Type:

- *Motor Vehicle* - Broadside; Red Light; Intersection; Multiple Vehicle

Case Name: Sean Walker v. Sharon Caldwell-Beauchamp and Erie Insurance Company, No. 2019 CV 00407

Date: October 15, 2020

Plaintiff(s):

- Sean Walker (Male, 47 Years)

Plaintiff Attorney(s):

- Jack R. Hilgeman; Cowan & Hilgeman; Dayton OH for Sean Walker

Plaintiff Expert(s):

- Lance M. Tigyer D.O.; Orthopedics; Dayton, OH called by: Jack R. Hilgeman

Defendant(s):

- Erie Insurance Co.
- Sharon Caldwell-Beauchamp

**Defense
Attorney(s):**

- Joyce Lavender Che; Allstate staff counsel; Cincinnati, OH for Sharon Caldwell-Beauchamp
- None reported for Erie Insurance Co.

**Defendant
Expert(s):**

- Steven S. Wunder M.D.; Physical Medicine; Cincinnati, OH called by: for Joyce Lavender Che
- Rebecca A. Reier; Coding & Billing (Medical); Greenville, OH called by: for Joyce Lavender Che

Insurers:

- Encompass Insurance Co.

Facts:

On Jan. 28, 2017, plaintiff Sean Walker, 47, was operating a pickup truck eastbound on Shiloh Springs Road, in Trotwood. Upon entering the intersection with Salem Avenue, the front driver's side of her truck was struck by a southbound vehicle driven by Sharon Caldwell-Beauchamp. Walker claimed neck, back and shoulder injuries.

Walker sued Caldwell-Beauchamp. Walker alleged that Caldwell-Beauchamp was negligent in the operation of her vehicle. Walker also sued Erie Insurance Company for underinsured motorist benefits.

Erie was dismissed from the case. The case proceeded against Caldwell-Beauchamp only.

Walker alleged that the accident was caused when Caldwell-Beauchamp, who had been traveling on Salem Avenue, ran a red light at the intersection.

Caldwell-Beauchamp conceded liability, but disputed injury causation.

Injury: Walker was placed in an ambulance and transported to Good Samaritan Hospital. He was treated and released.

Walker was diagnosed with a concussion. He also claimed strains to his neck, lower back and left, non-dominant shoulder.

Walker had five visits with an orthopedic specialist. He underwent eight physical therapy sessions, as well. He additionally received three epidural injections of a steroid-based pain killer. The injections addressed his cervical spine and took place in June and July 2017.

Walker complained of pain and reduced range of motion during his months of treatment. He continued to complain of flare-ups in his neck.

Walker sought recovery of past medical expenses and damages for past and future pain and suffering.

The defense noted that Walker had pre-existing shoulder issues that had necessitated treatment with an orthopedic surgeon. Defense counsel also pointed out that Walker fell off a riding lawn mower in the months after the subject crash, and that it was this lawn mower incident that caused Walker's ongoing symptoms.

Result: The parties negotiated a pretrial settlement. Caldwell-Beauchamp's insurer agreed to pay Walker \$32,700.

Trial Information:

Judge: Mary E. Montgomery

Trial Length: 0

Trial Deliberations: 0

Editor's Comment: This report is based on information that was provided by plaintiff's counsel. Additional information was gleaned from court documents. Counsel for Caldwell-Beauchamp did not respond to the reporter's phone calls. Counsel for Erie Insurance was not asked to contribute.

Writer

Melissa Siegel

Rear-ended motorcyclist claimed residual pain, stiffness

Type: Settlement

Amount: \$25,000

State: Ohio

Venue: Franklin County

Court: Franklin County, Court of Common Pleas, OH

Injury Type(s):

- *back* - lower back; sprain, lumbar
- *head* - concussion
- *other* - soft tissue; labrum, tear; physical therapy; strains and sprains
- *shoulder*
- *hand/finger* - finger

Case Type:

- *Motor Vehicle* - Motorcycle; Rear-ender; Multiple Vehicle

Case Name: Kyle Smith v. Michael B. Anderson, No. 16 CV 002179

Date: February 15, 2017

Plaintiff(s):

- Kyle Smith (Male, 25 Years)

Plaintiff Attorney(s):

- Ronald E. Plymale; Plymale & Dingus; Columbus OH for Kyle Smith

Defendant(s):

- Michael B. Anderson

Defense Attorney(s):

- Kelly N. Grigsby; Williams, Moliterno & Scully Co., L.P.A.; Westerville, OH for Michael B. Anderson

Insurers:

- Allstate Insurance Co.

Facts: On July 31, 2015, plaintiff Kyle Smith, 25, a small equipment repair technician, was was operating his motorcycle southbound on State Route 315 in Columbus. He was stopped for traffic when he was rear-ended by a vehicle driven by Michael B. Anderson. Smith claimed finger, shoulder and lower back injuries as a result of the impact.

Smith sued Anderson, alleging that Anderson was negligent in the operation of a motor vehicle.

Smith alleged that Anderson failed to maintain an assured clear distance ahead. He also argued that Anderson failed to keep a proper lookout.

Anderson filed a general denial of the claims, but ultimately agreed to settle the matter.

Injury: Smith was placed in an ambulance and was transported to Mount Carmel Hospital Columbus. Smith sustained a sprain of the non-dominant left middle finger, a labral tear of the non-dominant left shoulder, lumbar sprain and a mild concussion. Smith's finger and shoulder were immobilized and healed over time. Approximately three to four weeks after the collision, Smith commenced a six-week course of physical therapy.

Smith claimed he was unable to work for nine weeks. Also, he asserted that he has residual pain in the left shoulder and stiffness in his injured finger. He sought recovery for past and future pain and suffering.

Result: Two weeks prior to the start of trial, the matter settled for \$25,000.

Trial Information:

Judge: Julie Lynch

Editor's Comment: This report is based on information provided by plaintiff's and defense counsel.

Writer Christine Barcia

Lawsuit filed by tow truck driver injured in head-on crash

Type: Settlement

Amount: \$20,000

State: Ohio

Venue: Pickaway County

Court: Pickaway County, Court of Common Pleas, Circleville, OH

Injury Type(s):

- *back* - upper back; strain, thoracic
- *head* - headaches; concussion
- *neck* - strain, cervical
- *other* - chiropractic; strains and sprains
- *shoulder*

Case Type:

- *Motor Vehicle* - Head-On; Center Line; Multiple Vehicle; Uninsured Motorist; Automobile Insurance

Case Name: Nicholas Cassady v. Burdak Pavel, Eitels Towing Inc. and Grange Mutual Casualty Company, No. 2020CI0084

Date: March 11, 2021

Plaintiff(s):

- Nicholas Cassady, (Male, 26 Years)

Plaintiff Attorney(s):

- Sean Heffernan; McCarty & Heffernan, LLP; Grove City OH for Nicholas Cassady

Defendant(s):

- Burdak Pavel
- Eitels Towing Inc.
- Grange Mutual Casualty Co.

Defense Attorney(s):

- Lori E. Thomson; Gallagher, Gams, Tallan, Barnes & Littrell, L.L.P.; Columbus, OH for Grange Mutual Casualty Co.
- Gerhardt A. Gosnell II; Arnold & Clifford LLP; Columbus, OH for Burdak Pavel
- None Reported for Eitels Towing Inc.

Insurers: • Grange Mutual Casualty Co.

Facts: On May 18, 2018, plaintiff Nicholas Cassady, 26, a tow truck driver, was in a commercial tow truck owned by Eitels Towing. He was traveling on State Route 762 in Scioto. Burdak Pavel was operating a pickup truck in the opposite direction of the same road. For unknown reasons, Pavel crossed over the center line. His truck collided with Cassady's vehicle head-on. Cassady claimed injuries to his head, neck and back, plus an injury to a shoulder.

Cassady sued Pavel. Cassady alleged that Pavel was negligent in the operation of his vehicle. Pavel did not have bodily-injury insurance, so Cassady also sued the tow truck's insurance provider, Grange Mutual Casualty Co., for uninsured-motorist benefits. The lawsuit additionally included a bad faith claim against Eitels.

Liability for the accident was not greatly in dispute.

Injury: Cassady went to a hospital the day of the crash. He did not require an ambulance. He was treated and released.

Cassady experienced head pain after leaving the hospital, so he returned to the medical facility the next day for a head CT. He was again released without admission.

Cassady was diagnosed with a concussion. He was also diagnosed with strains to his cervical spine, thoracic spine and shoulder. He underwent one month of chiropractic treatment.

Cassady claimed he suffered from headaches following the crash, but has since fully recovered. He sought recovery of past medical expenses and damages for past pain and suffering.

Result: The parties negotiated a pretrial settlement. Pavel agreed to personally pay Cassady \$17,500 and Grange Mutual agreed to pay an additional \$2,500, for a total settlement of \$20,000. Eitels Towing did not contribute to the settlement.

Trial Information:

Judge: P. Randall Knece

Trial Length: 0

**Trial
Deliberations:** 0

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel. Defense counsel for Pavel and Grange Mutual did not respond to the reporter's phone calls. Counsel for Eitels Towing was not asked to contribute.

Writer Melissa Siegel

Mother, son claim soft tissue injuries following rear-ender

Type: Settlement

Amount: \$11,000

State: Ohio

Venue: Lorain County

Court: Lorain County, Court of Common Pleas, OH

Injury Type(s):

- *back* - sprain, lumbar; strain, lumbar
- *head* - concussion
- *knee*
- *neck* - sprain, cervical; strain, cervical
- *other* - soft tissue; chiropractic; back and neck; loss of services; strains and sprains
- *shoulder*
- *mental/psychological* - depression; emotional distress

Case Type:

- *Motor Vehicle* - Rear-ender; Multiple Vehicle

Case Name: Jacob T. Axford, Lisa G. Axford and Mark D. Axford v. Deana N. Norman, Lease Plan USA, Inc., Altria Group Distribution Co. and State Farm Mutual Automobile Insurance Co., No. 15CV186652

Date: December 08, 2015

Plaintiff(s):

- Lisa G. Axford (Female, 51 Years)
- Mark D. Axford (Male, 50 Years)
- Jacob T. Axford (Male, 16 Years)

Plaintiff Attorney(s):

- Robert W. Gray; Robert W. Gray & Associates; North Ridgeville OH for Jacob T. Axford, Lisa G. Axford, Mark D. Axford

Plaintiff Expert (s):

- Robert Baumbick D.C.; Chiropractic; North Ridgeville, OH called by: Robert W. Gray

Defendant(s):

- Deana N. Norman
- Lease Plan USA Inc.
- Altria Group Distribution Co.
- State Farm Mutual Automobile Insurance Co.

**Defense
Attorney(s):**

- Sean M. Kenneally; Kenneally & Associates; Rocky River, OH for State Farm Mutual Automobile Insurance Co.
- Justin Monday; Gallagher Sharp; Cleveland, OH for Deana N. Norman, Lease Plan USA Inc., Altria Group Distribution Co.

Insurers:

- Ace Group of Cos.

Facts:

On June 12, 2013, plaintiff Jacob Axford, 16, was operating his parents' vehicle, with his mother, plaintiff Lisa Axford, 51, unemployed, as a front-seat passenger. They were traveling northbound on US Route 20 in Elyria, just north of Taylor Street. Jacob Axford came to a complete stop in traffic. While stopped, the Axford vehicle was rear-ended by a vehicle driven by defendant Deana Norman, who was in the course of her employment. Jacob Axford claimed injuries to his head, back and knees. Lisa Axford claimed injuries to her shoulders, head, neck and back.

The Axfords sued Norman, alleging that Norman was negligent in the operation of a motor vehicle. They also sued Lease Plan USA, Inc., which owned the vehicle Norman was driving, and Altria Group Distribution Co., Norman's employer, as vicariously liable parties.

The Axfords alleged that Norman failed to maintain an assured clear distance ahead. They also claimed she failed to keep a proper lookout.

Norman claimed that she was unable to stop in time to avoid the collision.

Injury:

The plaintiffs did not seek immediate medical attention. The plaintiffs presented to a chiropractor later the same day.

Jacob Axford claimed he suffered a concussion, bilateral knee sprains and sprains, and soft tissue strains of the lumbar spine.

Jacob Axford commenced a course of conservative care that addressed his various sprains and strains. The treatment consisted of chiropractic care that was rendered 18 times between June 14 and Oct. 9, 2013. He claimed the injury had resolved and that he would not require future care.

Jacob Axford sought recovery of past medical expenses. He also sought damages for past pain and suffering.

Lisa Axford claimed head, lumbar spine, cervical spine and bilateral shoulder injuries.

Lisa Axford commenced a course of conservative care that addressed her various sprains and strains. The treatment consisted of chiropractic care administered 20 times between June 14 and Oct. 9, 2013. She also claimed that the accident caused emotional distress, namely depression. She further claimed the injuries diminished her ability to care for her husband, Mark Axford, who was suffering from an unnamed illness and was on constant oxygen.

Lisa Axford sought recovery of past medical expenses. She also sought damages for past pain and suffering.

Mark Axford sought recovery of damages for the loss of his wife's services.

The plaintiffs' treating chiropractor submitted a report in which he opined that the plaintiffs' injuries were all causally related to the subject accident.

Result:

The parties agreed to a pretrial settlement, with \$6,000 paid to Jacob Axford, \$4,000 to Lisa Axford and \$1,000 to Mark Axford.

Trial Information:**Judge:**

James Miraldi

**Editor's
Comment:**

This report is based on information that was provided by plaintiffs' and defense counsel.

Writer

Jack Deming

Concussion claimed by plaintiff following rear-ender

| | |
|-------------------------------|---|
| Type: | Settlement |
| Amount: | \$9,000 |
| State: | Ohio |
| Venue: | Delaware County |
| Court: | Delaware County, Court of Common Pleas, OH |
| Injury Type(s): | <ul style="list-style-type: none">• <i>head</i> - headaches; concussion• <i>neck</i> |
| Case Type: | <ul style="list-style-type: none">• <i>Motor Vehicle</i> - Rear-ender; Limited Tort; Multiple Vehicle |
| Case Name: | Ashaunta Stallworth v. Philip J. Salwan and American Family Insurance, No. 19 CV C 09 0542 |
| Date: | August 31, 2020 |
| Plaintiff(s): | <ul style="list-style-type: none">• Ashaunta Stallworth (Female, 22 Years) |
| Plaintiff Attorney(s): | <ul style="list-style-type: none">• Sean Heffernan; McCarty & Heffernan, LLP; Grove City OH for Ashaunta Stallworth |
| Defendant(s): | <ul style="list-style-type: none">• Philip J. Salwan• American Family Insurance |
| Defense Attorney(s): | <ul style="list-style-type: none">• Wilbur H. Hane; American Family Insurance Co.; Madison, WI for Philip J. Salwan• None reported for American Family Insurance |
| Insurers: | <ul style="list-style-type: none">• American Family Insurance |

Facts:

On Sept. 29, 2017, plaintiff Ashaunta Stallworth, 22, a nurse's assistant, was driving a mid-sized car in traffic on I-71, in Columbus. Philip Salwan was operating another vehicle directly behind Stallworth's car. Salwan struck the rear fender of Stallworth's car at a slow rate of speed. Stallworth claimed injuries to her head and neck.

Stallworth sued Salwan. Stallworth alleged that Salwan was negligent in the operation of his vehicle. Stallworth also initially sued Salwan's insurance provider, American Family Insurance.

American Family was voluntarily dismissed prior to the resolution of the case.

The defense conceded liability. The matter proceeded on damages.

Injury:

Stallworth was placed in an ambulance and transported to Avita Ontario Hospital. She was treated and released.

Stallworth was diagnosed with a minor concussion. She also had general pain to her upper neck.

Stallworth had eight appointments with a concussion specialist at Avita Ontario. She had another three visits to a therapy center for additional concussion care. Her treatment lasted for three months.

Stallworth missed approximately one month of work due to the crash. She claimed that the concussion caused debilitating headaches in the weeks after the accident. She has since fully recovered from her injuries.

Stallworth sought recovery of past medical expenses, past lost earnings and damages for past and future pain and suffering. She had approximately \$6,000 in medical bills, with a \$1,500 lien.

Stallworth became pregnant shortly after the accident. Salwan's insurer initially contended that her symptoms were due to the pregnancy rather than the subject crash. However, the case settled shortly after the insurer's counsel got involved in the case.

Result:

The parties negotiated a pretrial settlement. American Family Insurance agreed to pay Stallworth \$9,000, out of a policy that provided \$25,000 of coverage.

Trial Information:

Judge: David M. Gormley

Trial Length: 0

**Trial
Deliberations:** 0

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel. Additional information was gleaned from court documents. Defense counsel did not respond to the reporter's phone calls.

Writer Melissa Siegel

Concert-goers claim injuries in transport bus accident

Type: Settlement

Amount: \$7,500

State: Ohio

Venue: Court of Claims

Court: Court of Claims, OH

Injury Type(s):

- *back* - sprain, lumbar; strain, lumbar
- *head* - concussion
- *neck* - sprain, cervical; strain, cervical
- *other* - soft tissue; back and neck; unconsciousness

Case Type:

- *Motor Vehicle* - Bus; Passenger; Rear-ender; Multiple Vehicle

Case Name: John Brill and Heather Brill v. Ohio State University, No. 2015-00165

Date: February 18, 2016

Plaintiff(s):

- John Brill (Male, 40 Years)
- Heather Brill (Female, 40 Years)

Plaintiff Attorney(s):

- David A. Goldstein; David A. Goldstein Co. LPA; Columbus OH for John Brill, Heather Brill

Defendant(s):

- Ohio State University

Defense Attorney(s):

- Daniel R. Forsythe; Attorney General's Office; Columbus, OH for Ohio State University
- Frank S. Carson; Attorney General's Office; Columbus, OH for Ohio State University

Facts:

On March 6, 2013, plaintiff John Brill, 40s, and his wife, plaintiff Heather Brill, 40s, attended a Pink concert at the Schottenstein Center on the campus of Ohio State University (OSU) in Columbus. Prior to the concert, Mr. Brill parked his vehicle in a lot that provided a Campus Area Bus Service (CABS) shuttle bus to transport concert-goers to the arena. After the concert, the Brills utilized the CABS shuttle bus to be transported back to their vehicle. The driver of the CABS bus was an employee of OSU. A rear-end accident occurred when the bus in which the Brills were traveling collided with the back of the bus in front of it. The Brills, who had been standing on the bus, were thrown to the floor. They claimed soft tissue back and neck injuries as a result of the incident.

The Brills sued OSU for the negligence of its bus driver. The lawsuit asserted that the Brills' host bus was following two other CABS buses that were traveling in the same direction to return to the parking lot. The Brills were standing passengers because all other seats were occupied. They claimed the bus they were on (Bus #3) struck the rear of the CABS bus in front of it (Bus #2), pushing that bus into the rear of the bus in front of it (Bus #1).

The Brills' lawsuit asserted that OSU was vicariously liable for the negligence of its bus driver and was liable for the breach of the duty of care owed them when the bus struck the bus in front of it. They also argued that the driver of Bus #3 failed to maintain an assured clear distance ahead, which was the proximate cause of the Brills' injuries.

Although OSU admitted that the driver was its employee and the bus he was driving collided with the bus in front of it, the defense argued that another driver, not a party to this action, initially drove her vehicle into the path of Bus #1, which caused Buses #1 and #2 to stop suddenly. The defense argued that the accident would not have occurred had it not been for the negligence of the driver who pulled out in front of Bus #1 and, therefore, the court cannot find that OSU was the sole proximate cause of the Brills' injuries.

Injury:

Both Brills were taken by ambulance to a nearby hospital emergency room where they were examined in connection with complaints of head, neck, and back pain. No fractures or subluxations were discovered, but it was noted that John Brill had suffered some loss of consciousness at the time of the accident and was diagnosed with a concussion.

Heather Brill received no additional medical treatment. She did continue to complain of back and neck pain that was consistent with the discharge diagnosis from the ER of cervical and lumbar strain and sprain.

John Brill followed up with his primary care physician, who prescribed heat treatments, muscle relaxers and some pain medication.

Result:

The case settled for \$7,500 well in advance of the trial date.

Trial Information:**Judge:**

Patrick M. McGrath

**Editor's
Comment:**

This report is based on information that was provided by plaintiffs' counsel. Defense counsel declined to contribute to the report.

Writer

Jon Steiger

Middle school student claimed concussion after bus crash

Type: Settlement

Amount: \$6,000

State: Ohio

Venue: Montgomery County

Court: Montgomery County, Court of Common Pleas, OH

Injury Type(s):

- *head* - headaches; concussion
- *mental/psychological* - post-concussion syndrome

Case Type:

- *Motor Vehicle* - Bus; Passenger; Multiple Vehicle
- *Government* - State and Local Government

Case Name: Selyna L. Holland Individually & As Mother & Natural Guardian for & On Behalf of, Sherlena L. Baker, A Minor v. Dayton Public Schools And Ohio Department of Medicaid, No. 2018 CV 01497

Date: November 07, 2018

Plaintiff(s):

- Selyna L. Holland
- Sherlena L. Baker (Female, 12 Years)

Plaintiff Attorney(s):

- David R. Salyer; E.S. Gallon and Associates; Moraine OH for Selyna L. Holland, Sherlena L. Baker

Plaintiff Expert (s):

- Alex Bunce D.O.; Primary Care Physician; Dayton, OH called by: David R. Salyer
- Nicklaus J. Hess D.O.; Family Medicine; Dayton, OH called by: David R. Salyer

Defendant(s):

- Dayton Public Schools
- Ohio Department of Medicaid

Defense Attorney(s):

- Brian L. Wildermuth; Subashi & Wildermuth; Dayton, OH for Dayton Public Schools
- Robert J. Byrne; Attorney General's Office; Columbus, OH for Ohio Department of Medicaid

**Defendant
Expert(s):**

- Ann Pakalnis M.D.; Pediatric Neurology; Columbus, OH called by: for Brian L. Wildermuth
- Arthur Hughes M.D.; Neurology; Cincinnati, OH called by: for Brian L. Wildermuth
- Gerald S. Steiman M.D.; Neurology; Columbus, OH called by: for Brian L. Wildermuth
- Steven S. Wunder M.D.; Physical Medicine; Cincinnati, OH called by: for Brian L. Wildermuth
- Timothy Herron M.D.; Neurology; Sandusky, OH called by: for Brian L. Wildermuth

Facts:

On April 5, 2016, plaintiff Sherlena Baker, 12, a seventh-grade student, was riding a Dayton Public Schools bus near Dennison Avenue and Weaver Street, in Dayton. The bus was involved in a collision with another DPS bus. Sherlena claimed the accident caused a head injury.

Sherlena's mother, Selyna Holland, acting individually and on behalf of her daughter, sued Dayton Public Schools. Holland alleged that the bus drivers were negligent in the operation of their respective vehicles and that Dayton Public Schools was vicariously liable for the drivers' actions. Holland also sued the Ohio Department of Medicaid so a representative would explain in court proceedings how much of Sherlena's medical bills were paid by Medicaid. Medicaid paid approximately \$1,000 worth of her medical bills and sought recovery of a lien.

Dayton Public Schools conceded that one or both of its drivers was negligent.

Injury:

Sherlena went to school following the accident. While she was there, she went to the nurse complaining of concussion-like symptoms. She continued to complain about these symptoms after she arrived home from school.

Sherlena's grandparents drove Sherlena to Dayton Children's Hospital that day. Sherlena was diagnosed with a concussion. She was treated and released.

Sherlena had multiple follow-up appointments with her family doctor. She was diagnosed with post-concussion syndrome and was sent to a neurologist for four or five rehab appointments. The rehab sessions addressed Sherlena's balance issues.

Sherlena was limited from participating in gym class for the rest of the school year. She also had trouble walking up stairs. In addition, she was told to limit the amount of time she spent looking at computers or tablets. Her symptoms resolved after approximately three months.

Sherlena's mother sought past medical expenses. Sherlena also sought damages for past pain and suffering.

The school district disputed whether the accident caused Sherlena's injuries. The defense specifically noted that Sherlena did not complain of any injuries at the scene of the crash. The defense also argued that her injuries could not have been significant since Medicaid only covered \$1,000 of Sherlena's medical bills.

Result: The parties negotiated a pretrial settlement. The school district agreed to pay \$6,000 from its self-insured policy. As part of the settlement, the plaintiffs also agreed to pay Medicaid \$600 of the medical lien.

Trial Information:

Editor's Comment: This report is based on information that was provided by plaintiff's counsel and defense counsel for the Ohio Department of Medicaid. Additional information was gleaned from court documents. Counsel for the Dayton Public Schools did not respond to the reporter's phone calls.

Writer Melissa Siegel