

Fatal crash spurs \$838,000 settlement

By: Phillip Bantz March 16, 2012

A horrific crash that claimed the life of a 29-year-old pregnant woman nearly four years ago resulted in a complex wrongful death suit against several defendants who agreed last month to settle the case for more than \$800,000.

The woman was riding in a sport utility vehicle in November 2008 in Wilmington when a dump truck driver in oncoming traffic attempted to change lanes and clipped an 18-wheeler. The dump truck veered away from the semi, hit a guardrail and launched over the median, landing on the SUV.

The woman and her six-month-old fetus were killed instantly.

Attorneys for her estate, H. Mitchell Baker III and M. Troy Slaughter of Baker & Slaughter in Wilmington, sued the dump truck driver, the truck's owner and the independent contractor who was driving the tractor-trailer. The case settled on Jan. 5, after lengthy negotiations with insurers and a handful of other claimants who were affected by the crash.

The dump truck driver, who was charged with misdemeanor death by vehicle, admitted negligence in the civil suit. He was not an employee of the dump truck company and had been driving as a favor to the owner.

The estate was able to recover from the driver's two personal insurance policies, though the insurance carrier initially disputed liability because the crash involved a commercial vehicle, Slaughter said.

The estate also collected a portion of the truck owner's insurance, but only after eight hours of mediation with three other claimants. The SUV driver and a second passenger both survived the crash and filed separate suits. The woman's estranged husband, who was not involved in the crash, also sued.

"There was a big fight among the four claimants about how to divvy up the liability proceeds of the dump truck owner," Slaughter said.

He added that the case was further complicated by a paternity dispute between the SUV driver and the woman's husband. A Superior Court judge eventually issued an order confirming that the driver was the father.

The final hurdle was proving the tractor-trailer driver's negligence. Baker and Slaughter argued that the driver should have slowed to make room for the dump truck, relying on witness statements and the findings of an accident reconstruction expert.

"After numerous depositions, we were able to show that the driver would have been negligent if this had gone to trial," Slaughter said.

Insurance carriers for the dump truck driver, the truck owner and the tractor-trailer driver ultimately agreed to settle the case for a total of \$838,000.

Settlement Report

Type of action: Wrongful death

Injuries alleged: Vehicular death of woman and unborn child

Verdict or settlement: Settlement

Date: Jan. 5

Amount: \$838,000

Plaintiff's most helpful expert: Michael A. Sutton, accident reconstruction (Cary)

Plaintiff's attorney: M. Troy Slaughter and H. Mitchell Baker III (Wilmington)