

Plaintiff's speeding complicates wrongful death case

Suit over deadly collision settles for \$1.75 million

By: Allison Retka May 20, 2011

A car crash that left an 80-year-old man with fatal brain damage has settled confidentially for \$1.75 million.

The October 2008 crash occurred when a small commercial truck ran a stop sign. The plaintiff, driving from the truck driver's right, hit the truck's front-side corner, causing the truck to flip over and skid to the other side of the intersection.

The plaintiff's vehicle stayed upright but sustained massive damage. The plaintiff suffered traumatic brain injury that he never recovered from, said his family's Wilmington attorney, M. Troy Slaughter.

"He never regained consciousness," Slaughter said. The plaintiff received nursing home care for two years until his death, Slaughter said.

"He was unable to feed himself. The family thinks he recognized some family members occasionally, but not very often."

What appeared on the surface to be an easy case of liability changed when the defendant corporation obtained information from the decedent plaintiff's airbag. Airbag sensors indicated the decedent plaintiff had been speeding through the intersection, traveling at approximately 57 mph in a 45 mph zone. Additionally, a 35 mph "cautionary sign" had greeted the decedent plaintiff just before he entered the intersection.

"[The defendant] thought they had a good contributory argument. If the decedent had been going any slower, the wreck wouldn't have happened," Slaughter said. "The further we got in the case, the less strong that defense became."

The defendant corporation argued that the decedent plaintiff should have realized sooner the commercial truck was going to run the stop sign, Slaughter said.

But Slaughter said he countered that the notice clock didn't start running for his client until the client had entered the intersection.

"Do you measure [notice] when the client got up and that he shouldn't have taken so long to brush his teeth? No, you go from the point where he realized the truck was not going to stop," Slaughter said. "That's when you start"

The confidential defense attorney confirmed the settlement amount but declined further comment.

Verdict report

Type of action: Motor vehicle collision/wrongful death

Injuries alleged: Death

Case name: Confidential

Case number: Confidential

Court: Confidential

Mediator: Bob Beason

Verdict or settlement: Mediated settlement

Date: May 2, 2011

Amount: \$1.75 million