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VERDICTS & SETTLEMENTS

Insurance for tow truck key to resolution of case

\$675,000 Settlement

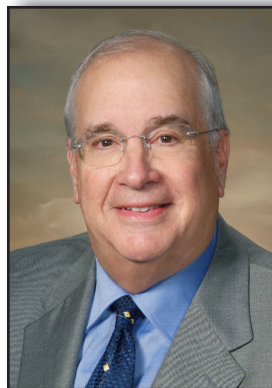
This claim arose out of an accident involving a minivan being struck by a flat-bed tow truck. The plaintiff, a 14-month old infant, sustained a severe traumatic brain injury, which necessitated multiple hospitalizations and treatment and caused permanent physical and cognitive disabilities. A products liability case was mediated with a confidential settlement.

After resolution of the products liability case, plaintiff's counsel filed a declaratory judgment action to determine whether there was insurance covering the tow

truck at the time of the accident. A commercial tow truck policy had been written insuring the tow truck company; however, the tow truck involved in the accident was not listed on the policy.

In accordance with Virginia law, the carrier had submitted a motor carrier filing to the Department of Motor Vehicles stating that this particular tow truck company was covered for \$750,000. Plaintiff maintained that this filing required the carrier to provide coverage for the tow truck involved in the accident although it was not owned by the insured nor specifically described in the policy.

The carrier maintained that the policy did not provide coverage to this tow truck because it was not listed on the policy. The carrier also asserted that there had been a material misrepresentation on the policy application. On the application, the owner of the company had listed as the sole driver



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a person who did not actually drive the vehicle and who was never intended to drive the vehicle. The owner testified in deposition that the agent taking the application was aware of these facts.

Furthermore, the carrier argued that even if coverage applied to this action, it was unlikely it would have exposure because a jury would have to return a verdict higher than the settlement in the product liability case. The tort action was not scheduled for trial until after the declaratory judgment action.

The case was resolved prior to trial of the declaratory judgment action for \$675,000.

[10-T-026]

Type of action: Automobile accident – product liability

Injuries alleged: Severe traumatic brain injury

Name of case: Confidential

Verdict or Settlement: Settlement

Amount: \$675,000

Plaintiff's attorneys: Jay Tronfeld and Elizabeth West, Richmond