

# VIRGINIA LAWYERS WEEKLY

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## VERDICTS & SETTLEMENTS

### Ambulance driver was texting shortly before fatal collision

#### \$800,000 Settlement

On Jan. 6, 2012, the decedent was a passenger in a private transport ambulance. The decedent was 82 years old and had undergone an aortic valve replacement at the University of Virginia Medical Center several weeks earlier. On the morning of the accident, the decedent was discharged from the hospital to a nursing home in Buckingham County for further care until he could return home. In addition to issues with his heart, the decedent also had anemia and chronic kidney disease.

**Type of action: Wrongful death – auto accident**

**Court: Charlottesville Circuit Court**

**Mediator: Johanna Fitzpatrick**

**Date resolved: May 28, 2013**

**Special damages: Medical expenses - \$12,041.12; funeral expenses - \$5,468.50; loss of income and services - \$136,355**

**Verdict or settlement: Settlement**

**Amount: \$800,000**

**Attorneys for plaintiff: Kelly B. Martin and Jay Tronfeld, Richmond**

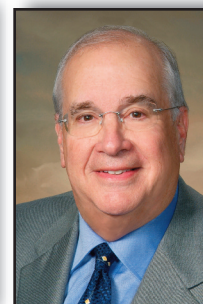
While in route to the nursing home, the driver of the ambulance veered into an oncoming lane and struck a fully loaded cement truck head-on. The ambulance driver died as a result of the collision. The decedent was alive, but not responsive, immediately after the accident. He was air-lifted to U.Va. Medical Center, where he died approximately an hour and half after the accident. There were no eyewitnesses to the accident other than the cement truck driver.

The ambulance company never admitted liability. The download of the ambulance's electronic data recorder revealed that the ambulance was traveling 57 miles per hour immediately before the accident. The ambulance's cruise control was activated and the driver never applied his brakes. During discovery, counsel obtained the ambulance driver's cell phone records that revealed he was sending and receiving text messages shortly before the collision. The ambulance driver's cell phone was never recovered.

The plaintiff initially filed the lawsuit only against the ambulance driver's estate and the ambulance company. However, the plaintiff amended the complaint after deposing the cement truck driver and added the cement truck driver and his employer as defendants. The plaintiff amended the complaint based on the cement truck driver's



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testimony regarding his attempts to avoid the ambulance.

The decedent was survived by his wife of approximately 40 years and two adult daughters from an earlier marriage, ages 57 and 60. The decedent's medical bills were \$12,041.12. The funeral bills were \$5,468.50. The plaintiff also made a claim for loss of income and services of \$136,355 based on the expected testimony of the decedent's heart surgeon that the decedent would have lived an additional seven years but for the accident.

The \$800,000 settlement was paid entirely by the insurer for the ambulance company. The insurer paid \$750,000 on its behalf and \$50,000 in exchange for the cement truck company waiving its property damage and loss of use claims against the ambulance company and the plaintiff's settling her claim against the cement truck company.

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