

# VIRGINIA LAWYERS WEEKLY

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## VERDICTS & SETTLEMENTS

### Final offer for man injured in chain-reaction crash was \$4K

#### \$87,500 Verdict

A four-vehicle chain-reaction collision occurred on Nov. 23, 2009, in Farmville. The plaintiff, a 56-year-old male, was the driver of the first vehicle in a line of three vehicles stopped at a red light. The defendant failed to stop and struck the vehicle in front of her, which was pushed into the vehicle in front of it, which in turn was pushed forward and struck the plaintiff's vehicle. At trial, the defense focused heavily on the fact that there was very minor damage to the

plaintiff's vehicle. Plaintiff and his wife testified that the vehicle that struck them went under their jeep, which is why there was little visible damage.

The defendant contested liability and argued that she applied her brakes in time but slid on the wet roadway. Plaintiff and one of the other drivers involved testified that the roadway was wet, but there was no standing water. They also testified that they experienced no difficulty stopping their vehicles.

The plaintiff did not seek medical treatment on the day of the accident, but presented to his family doctor the next day with complaints of neck, back and right shoulder pain. He underwent physical therapy from Dec. 4, 2009 through Jan. 4, 2010. On the last physical therapy visit, he reported feeling "much better."

In July 2010, the plaintiff returned for additional treatment with an orthopedic surgeon, reporting that his neck pain and spasms had returned approximately three weeks earlier. He also reported that he had tingling in his right hand since the accident, which had not improved. Although a cervical MRI showed extensive cervical degenerative disc disease, the treating orthopedic surgeon testified via video deposition that the injuries were related to the accident since the plaintiff was asymptomatic prior to the accident.

The plaintiff was subsequently referred to a different orthopedic surgeon in the same practice for complaints of right shoulder pain. An MRI on Aug. 19, 2010, revealed complete, full thickness tears of the supra and infraspinatus with medial tendon retrac-



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tion and a posterosuperior degenerative labral tear. The orthopedic surgeon that treated the shoulder testified via video deposition and opined that the tear was caused by the motor vehicle accident. On cross-examination, he conceded that the plaintiff had severe arthritis in his shoulder but maintained his opinion that the tear was caused by the accident. Again, his opinion was based on the lack of

any prior symptoms and the fact that the pain started with the accident.

The defense retained an orthopedic surgeon, who also testified via video deposition. The surgeon opined that the plaintiff had fully recovered from his injuries by the time he finished physical therapy approximately six weeks after the accident. He further testified that the rotator cuff tear was degenerative in nature and unrelated to the accident. The defense expert related less than \$2,000 of plaintiff's special damages to the accident. He noted that the plaintiff continued to work manual labor at a furniture factory for seven months after the accident and did not miss any time from work. The plaintiff testified that he continued to work because he "had to," but that he was frequently in pain at work. On cross-examination, the defense expert conceded that his review of the records did not reveal any complaints of neck or shoulder pain prior to the accident.

The jury returned a verdict of \$87,500. The final offer from the liability carrier prior to trial was \$4,000.

[13-T-028]

**Type of action:** Personal injury – auto accident

**Injuries alleged:** Rotator cuff tear and cervical radiculopathy

**Name of case:** Lee v. Glover

**Court:** Prince Edward Circuit Court

**Case no.:** CL12-70

**Tried before:** Jury

**Judge:** Leslie Osborne

**Date:** Jan. 9, 2013

**Special damages:** \$23,565.80 in past medicals

**Offer:** \$4,000

**Verdict or settlement:** Verdict

**Amount:** \$87,500

**Attorney for plaintiff:** John Newby, Richmond

**Insurance carrier:** State Farm