

VERDICTS & SETTLEMENTS

Passenger in tractor-trailer wreck rendered quadriplegic

\$4.25 million settlement



NEWBY

The plaintiff was a passenger in a tractor-trailer that ran off the road and overturned when the driver lost control. The driver was killed as a result of the accident. The plaintiff suffered catastrophic injuries including a C7 spinal cord injury which rendered her quadriplegic. The plaintiff required extensive medical treatment and hospitalizations. Over time she regained the use of her upper extremities but has limited fine motor skills in her hands and fingers due to contractures and spasticity.



SPEER

The case was complicated by the fact that the plaintiff's host driver had a blood alcohol level of .14. The defense claimed plaintiff assumed the risk of injury by riding with an intoxicated driver. However, the plaintiff did not know the decedent had been drinking, and no one that interacted with the decedent that day noticed any signs of impairment prior to the accident. Accordingly, plaintiff moved to exclude the alcohol and strike the defense of assumption of the risk. This motion was pending before the court and had not been ruled on at the time of settlement.

A further complication was that there was no insurance coverage for the tractor-trailer. The owner was a sole proprietor whose liability coverage had lapsed due to non-payment several months prior to the accident. Plaintiff filed suit against two additional defendants, the shipper of the product being hauled and the broker that had arranged the shipment. Plaintiff alleged vicarious liability and negligent hiring of an independent contractor against both defendants. The defense vigorously contest-

ed both theories of liability. The defendants asserted that the driver and owner of the tractor trailer were independent contractors and disputed the existence of an agency relationship. Regarding the claim for negligent hiring of an independent contractor, the defendants asserted this theory of liability did not apply to the facts of the case. The defense argued that Virginia law imposed no duty to investigate the background of an independent contractor hired to drive a tractor trailer. The defense further asserted that even if such a duty did exist, the information available would not have suggested to a reasonable person that the owner or driver was unfit to drive a tractor trailer. Plaintiff's counsel believed there was sufficient evidence for both theories to go the jury and that a favorable verdict would have been obtained at trial. The case settled at mediation with the settlement amount paid by the broker on behalf of all defendants.

[020-T-126]

Type of action: Personal injury

Name of judge or mediator: Hon. Thomas S. Shadrack (Ret.)

Date resolved: 07/30/2020

Verdict or settlement: Settlement

Amount: \$4,250,000

Attorney(s) for plaintiff (and city): John Newby, Richmond; Eric Speer, Richmond