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Traumatic brain injury alleged from low-impact rearender

\$1,250,000 Verdict

Plaintiff was the passenger in a car in a lane of traffic that came to a stop when the vehicle in front was making a left turn. The defendant did not stop and struck the rear of the plaintiff's vehicle at a speed of 25 mph or less. There was moderate damage to the rear of plaintiff's vehicle including the rear window shattering.

Plaintiff's car was pushed into the car in front of her, causing damage to the front end as well. Plaintiff did not lose consciousness. However, she was momentarily dazed and confused.

She complained her head hurt and she was taken by EMTs to Mary Washington Hospital. In the ambulance she was assessed as having a Glasco coma scale of 15 and at the hospital she was assessed as being alert and oriented, but experiencing headache and dizziness.

Shortly after the accident plaintiff started experiencing memory, attention and speech problems. All neuroimaging, such as CAT scan and MRI, was nega-

tive, all EEGs were negative, and all gross neurological exams were normal throughout the course of her treatment. She underwent neuropsychological testing four different times, all of which showed some deficits consistent with brain injury, particularly in verbal learning and attention.

Prior to the accident, she was employed as a policy advisor where she would have to wear a telephone headset and take calls concerning policy issues. After the accident, she was unable to continue on the telephone headset due to slow processing, attention, and divided attention difficulties.

She voluntarily, with the help of her employer, downgraded to a position that was more routine and did not require new learning. At the time of the trial she was working full time in that capacity. She also continued to work her part-time job that she had had before the accident on the weekends, but with accommodations.

Defense of the case revolved around the testimony of a neuropsychological expert, Dr. Ryan, who said the plaintiff

did not exhibit the typical markers of a traumatic brain injury that would result in the persistence of cognitive symptoms after one year.

Dr. Ryan used the Millon Personality Test (MCMI-III) to justify a diagnosis of a histrionic personality disorder, which he then changed during his discovery deposition to a histrionic personality trait, as it was clear that she did not meet the criteria for the diagnosis.

It was Dr. Ryan's opinion that it was that psychological factor that accounted for her not getting better and why she continued to exhibit these cognitive deficits both by history and on testing. Although his testing showed one failed effort test, overall he agreed that she exhibited good effort for the testing and was not malingering.

The automobile accident itself was defended with the excuse that the sun was glaring on the rear of the plaintiff's vehicle, which made it impossible for the defendant to see the plaintiff's brake lights.

[09-T-081]

Type of Action: Automobile collision

Injuries: Mild traumatic brain injury

Name of Case: Confidential

Court: Stafford County Circuit Court

Tried Before: Jury

Special Damages: Medical bills - \$36,932.04; future medical bills - \$365,614.06; loss of earning capacity - \$281,208.93

Verdict or Settlement: Verdict

Amount: \$1,250,000

Date: April 8, 2009

Demand: \$1,000,000

Highest Offer: \$60,000

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