

Defendant driver moves into plaintiff's lane, causing her to lose control and roll over

VEHICLE NEGLIGENCE

Motor Vehicle v. Motor Vehicle/Lane Change/Rollover/Interstate/Freeway/Excessive Speed/Negligent Entrustment-Vehicle

LOS ANGELES COUNTY SUPERIOR COURT

Confidential v. Confidential, Docket number: Confidential, Confidential. Judge: Not reported. Trial type: Settlement. Settlement date: 5/17/2010.

SETTLEMENT: \$2,200,000

The case settled on the first day of trial.

COUNSEL

Plaintiff: Roger Booth, Booth & Koskoff, Torrance.

Defendant: Confidential.

FACTS/CONTENTIONS

According to plaintiff: Defendants were a company and one of its retired employees, who leased a company car. The accident occurred at 5:15 a.m. on the northbound #5 freeway near Valencia, California. Plaintiff was traveling in a group of vehicles when she lost control of her vehicle, left the roadway, and rolled over. There were three eyewitnesses. Two of them, who were traveling in the same vehicle, testified that plaintiff passed them at 100 mph, frequently changed lanes as she approached a group of vehicles up ahead and lost control because of her excessive speed and erratic driving. The third eyewitness agreed that plaintiff was traveling at a high rate of speed and frequently changing lanes but testified that another vehicle moved into her lane and cut her off, causing plaintiff to take evasive action and lose control of her vehicle. The driver who cut her off did not stop, but the eyewitness chased after him, wrote down his license plate number, and later confronted him at a gas station. Based on the license plate number and the eyewitness's description, plaintiff's counsel identified the defendant retired employee of the company.

Plaintiff alleged that the retired employee was the primary cause of the accident because he moved into plaintiff's lane and thereby caused her to lose control of her vehicle.

Plaintiff further alleged that defendant company was liable because it had negligently entrusted the vehicle to the retired employee, who had a record of multiple at-fault accidents and traffic tickets during the several years prior to the subject accident. Approximately 10 months prior to the subject accident, the company had purported to suspend the retired employee's privileges to drive the vehicle, but they let him keep physical possession of it and he kept driving it. Plaintiff argued that standard practice in the fleet

management field required that the company remove the vehicle from the retired employee's possession once it determined that he was an unsafe driver.

Defendant retired employee testified that he was not involved in the subject accident and that this was a case of mistaken identity. Both defendants contended that plaintiff was the sole cause of the accident because of her excessive speed and erratic driving. Defendant company contended that it was not liable for negligent entrustment because it did not, in fact, entrust the vehicle to the retired employee at the time of the subject accident. Rather, it had suspended his driving privileges.

CLAIMED INJURIES

According to plaintiff: Fracture/dislocation at C7-T1; paraplegia; 24-hour care.

CLAIMED DAMAGES

Not reported.

SETTLEMENT DISCUSSIONS

Not reported.

EXPERTS

Plaintiff: Tamorah G. Hunt, Ph.D., economist, Formuzis, Pickersgill & Hunt Inc., Santa Ana (714) 542-8853. Sandra Schneider, M.S., vocational rehabilitation consultant, Sandra Schneider & Associates, Los Angeles (310) 820-8675. Sharon K. Kawai, M.D., physiatrist, St. Jude Medical Center, Fullerton (760) 931-5430. Berton Grayson, fleet management, Nicholasville, KY. Charles Dickerson, accident reconstructionist, Mesa, AZ.

Defendant: Edward L. Bennett, M.A., vocational rehabilitation consultant, Coast Rehabilitation Services Inc., Santa Barbara (805) 682-7020. Thomas F. Fugge Jr., P.E., accident reconstructionist, Accident Research & Biomechanics, Valencia (661) 257-8189. Glenna Tolbert, M.D., orthopedic surgeon, Center for Wellness and Rehabilitation Inc., Encino (818) 784-7197. Mitchell Buck, fleet management, Simons, GA.

COMMENTS

According to plaintiff: Plaintiff did not have liability insurance at the time of the accident, and, thus, was limited to recovering economic damages only, pursuant to Proposition 213 (Civil Code § 3333.4(a)). Defendant company's insurance carrier denied coverage as to the retired employee because he was not authorized to drive the vehicle at the time of the accident. The retired employee did not have any personal insurance coverage of his own.