

Auto Negligence - Passenger Injured — Truck Rear-Ended — Neck, Back Pain — Defendant Drunk — Prior DWI Conviction — Plaintiff Videotaped — Award

by admin

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Brief Statement of Claim: The plaintiff, a passenger in an auto stopped at a traffic light, was injured when a delivery truck struck the auto from behind. The truck driver registered a blood alcohol level of .28. He pled guilty to DWI and failing to reduce speed. The plaintiff claimed negligence and requested punitive damages.

Principal Injuries (in order of severity): The plaintiff, who was visiting Durham, didn't complain of neck or back pain immediately after the wreck. She was later seen by a New York orthopedic surgeon, who treated her on several visits. Starting almost one year after the accident, the plaintiff began chiropractic treatments in New York which lasted three and one-half years. She received a 5 percent permanent partial disability rating of the neck and lower back due to continuing complaints of pain.

Special Damages: \$11,389 in medical bills, more than \$10,000 of which was for chiropractic treatments

Tried or settled: Tried

County where tried or settled: Durham

Case Name and number: Shaheen v. Smith (Durham County Superior Court)

Date Concluded: July 19, 1994

Name of Judge: Ronald Stevens

Amount: \$81,389 in compensatory damages; \$100,000 in punitive damages

Insurance Carrier: n/a

Expert Witnesses and areas of expertise: n/a

Attorneys for plaintiff: Robert B. Glenn Jr. and William S. Mills of Glenn, Mills & Fisher, Durham

Other Useful Info: After the accident, the plaintiff continued to garden, care for her home and work part-time. She also played golf twice each week. The defendants called a private detective who played a videotape for the jury showing the plaintiff's daily activities such as grocery shopping and gardening. However, an orthopedic surgeon who examined the plaintiff two years after the accident gave an "independent" opinion of the causation and permanence of her injuries. His testimony, coupled with the plaintiff's, had a significant impact on the favorable outcome on compensatory damages.

The favorable outcome on punitive damages was due to the fact that the defendant had prior DWI convictions. In interviews after the trial, jurors said they wanted to send a message that drunk driving will not be tolerated.