

Pediatrician hit by recycling truck settles for \$1.1 million

by admin

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The plaintiff, a 35-year-old pediatrician, was injured in a motor vehicle collision with a municipal recycling truck.

The recycling truck turned directly in front of her vehicle as she was driving to work on the morning of Jan. 3, 2007, the plaintiff claimed.

She suffered a comminuted fracture of the talus bone in her right foot, fractures in the radius and ulna in her left arm and transverse process fractures of the L1-L3 vertebrae.

The plaintiff was hospitalized for 10 days. She underwent extensive physical therapy but continued to experience limitations in her right foot and ankle.

The plaintiff's treating orthopaedic surgeon gave her a 45 percent impairment rating for the injuries to her foot and ankle.

At the time of the wreck, the plaintiff worked 20-30 hours per week. Following the wreck, she was unable to work for five months.

She initially returned to her practice on a reduced basis. She returned to 20-30 hours per week in August 2007.

The plaintiff's injuries to her right foot have lingered and have permanently limited her ability to work more than a part-time schedule.

The plaintiff filed suit against the municipality and its driver in September 2007. The defendants answered by admitting liability and asserting governmental immunity.

The plaintiff had approximately \$100,000 in medical expenses, \$150,000 in lost wages, scarring, permanent injury and a claim for diminished earning capacity.

The defendants disputed the amount of the plaintiff's claims for past lost wages and diminished earning capacity.

In October 2008, the case was resolved at a mediated settlement conference. The defendants agreed to pay the plaintiff \$1.1 million.

Type of action: Motor vehicle negligence against municipality

Injuries alleged: Fractures of the foot, forearm and lumbar spine

Case name: Confidential

Case number: Confidential

Court: Confidential

Verdict or settlement: Settlement (mediation)

Name of mediator: Ronald Perkinson

Date: October 2008

Amount: \$1.1 million

Demand: \$3.5 million

Special damages: \$100,000 (medical expenses); \$150,000 (past lost wages); \$2.5 million (future lost wages)

Experts: Kevin Logel, M.D. (treating physician); Gary R. Albrecht, Ph.D. (economist)

Insurer: Self-insured for the initial \$1 million and insured by Illinois Union Insurance Co. for amounts in excess of \$1 million

Plaintiff's attorneys: William S. Mills and Carlos E. Mahoney of Glenn, Mills, Fisher & Mahoney (Durham)

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Settlement to cost city \$1.1 million

Author(s): David Bracken Staff Writer **Date:** December 31, 2008 **Section:** News

The city of Raleigh has agreed to pay a woman \$1.1 million for injuries that resulted from a 2007 car accident involving a city recycling truck.

One of the largest ever paid out by the city, the settlement brings an end to a civil suit that was filed by Nirali Manish Dubal in September 2007.

On Jan. 3, 2007, Dubal was driving a Toyota Camry south on Stonehenge Drive in North Raleigh when she was struck head on by a northbound city recycling truck.

Dubal suffered a fractured right ankle, left arm and spine as a result of the accident.

Dubal, who worked as a pediatrician at North Raleigh Pediatric Group at the time of the crash, sued both the city of Raleigh and the driver of the recycling truck, Gerardo Gomez Hurtado.

The suit claimed Hurtado failed to yield the right of way to Dubal and failed to properly signal before attempting to turn left on to Bredon Court.

Carlos Mahoney, Dubal's attorney, said his client has been given a permanent disability rating by the state because of the foot and ankle injuries she sustained during the crash.

"She's just really happy that the city finally did the right thing," Mahoney said.

The settlement, which was finalized Dec. 4, releases the city and Hurtado from any future claims related to the accident.

Raleigh is insured for anything over \$1 million, meaning the city's liability insurance carrier will pay \$100,000 of the Dubal settlement.

The city's \$1 million payment to Dubal will come from a reserve fund that Raleigh uses to pay for workers compensation and liability claims. Jeff McCauley, the city's deputy financial officer, said after the Dubal settlement the city has \$14 million in the fund.

Thomas McCormick, Raleigh's city attorney for the past 33 years, said the \$1.1 million settlement is the largest during his tenure.

The city of Durham paid \$1.75 million in 2004 to the family of Matthew West, a teen killed in a wreck caused by a city police officer. Durham also paid \$2 million in 1995 to a child orphaned when a police cruiser collided with a car driven by the boy's parents.

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