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VERDICTS & SETTLEMENTS

Phila. Jury Sides With Defense In Intersection Collision

Davis v. Onipko Defense Verdict

Date of Verdict: June 25.

Court and Case No.: C.P. Philadelphia No. 130403509.

Judge: Mark I. Bernstein.

Type of Action: Motor vehicle.

Injuries: Back injuries.

Plaintiffs Counsel: Scott T. Taggart, Spear, Greenfield & Richman, Philadelphia, for Eric Ligon; Jason Manus, Page Law, Philadelphia, for Kenneth Davis.

Defense Counsel: Robert M. Cavalier and Ryan A. Nolan, Lucas and Cavalier, Philadelphia.

Plaintiffs Experts: Dr. Mark D. Allan, orthopedic surgeon, Philadelphia.

Defense Experts: Dr. Gary Muller, orthopedic surgeon, Philadelphia.

Comment: On July 14, 2011, plaintiff Kenneth Davis was driving through the intersection of Cottman Avenue and East Roosevelt Boulevard in Philadelphia with plaintiff Eric Ligon as passenger, when the sedan Davis was driving collided with a sedan being driven by defendant Halyna Onipko, according to the plaintiffs' complaint. Davis allegedly sustained neck and back injuries, and Ligon allegedly sustained back injuries.

Both plaintiffs sued Onipko, alleging she was negligent in the operation of her vehicle. The plaintiffs argued that Onipko failed to stop at a red light.

According to Onipko's pretrial memorandum, Onipko contended that she was not negligent, but that Davis caused the accident. She argued that Davis had the red light, and that she entered the intersection under a green light. She noted that the damage was to her right rear bumper and

to Davis' front, and that her vehicle was more than halfway through the intersection at the time of the impact. She further argued that the placement of her vehicle at the time of the impact and the damage indicated that she entered the intersection under a green light.

Davis claimed that the accident led to cervical, thoracic and lumbar sprains, as well as bulging discs at C2-3, C3-4 and C4-5.

Ligon contended that the accident caused lumbar and thoracic sprains, as well as disc protrusions at L5-S1, L4-5 and T11-12 and a disc herniation at T12-L1.

Court documents said that, following the accident, Davis drove the plaintiffs to Nazareth Hospital, where they were treated and released. Both plaintiffs underwent physical and chiropractic therapy for several months.

The plaintiffs' expert, Dr. Mark D. Allen, opined that both suffered permanent injuries as a result of the accident, and that they could both possibly require pain-relieving injections.

Onipko contended that any injuries the plaintiffs claimed were not the result of the accident.

Onipko noted that Davis did not testify during depositions that he missed any time from work and that he maintained a normal lifestyle following the accident. Onipko also noted that Ligon testified during depositions he maintained the same lifestyle and exercise routine following the accident.

The defendant's expert orthopedic surgeon opined that Davis' soft-tissue injuries had healed, and that he had pre-existing mild disc dessication and bulges in the cervical spine. The expert further

opined that any ongoing complaints Davis had were unrelated to the accident. Muller also opined that Ligon had degenerative disc disease, and any injuries were the result of the natural progression of the disease and not due to the accident.

Onipko initiated a counterclaim against Davis and Ligon. Davis and Ligon contended that she had signed a consent and release agreement, and therefore could not pursue a counterclaim. Davis and Ligon's motion in limine to preclude the counterclaim was denied.

According to Onipko's pretrial memo, the plaintiffs demanded \$25,000 each to settle the case, and Onipko offered \$4,000 for Davis and \$2,500 for Ligon.

Following trial, a jury found that Onipko was 45 percent liable and Davis was 55 percent liable for the accident. The jury did not award the plaintiffs any money.

Onipko's attorney, Ryan A. Nolan, said the jury was very responsive to the expert's testimony.

"We were really pleased with the verdict," Nolan said. "Especially to get a defense verdict in Philadelphia County."

Scott T. Taggart of Spear, Greenfield & Richman did not return a call for comment, and Jason Manus of Page Law declined to comment.

— Max Mitchell, of the Law Weekly •

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