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Verdicts & Settlements

Head Injury Plaintiff Gets Million-Plus Jury Verdict After "No-Contact" Wreck

**Contrib Defense — Expert Evidence On Plaintiff's Speed
Excluded — \$1.18 Million Award**

Type of Action: Personal Injury - Motor Vehicle Accident

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Injuries Alleged: Closed Head Injury involving epidural hematoma; Lateral Orbital Wall Fracture; Fractured Clavicle; Bilateral Lung Contusions; Pulmonary Embolism

Name of Case: *Brent Taylor v. Christy Flowers Gachuz*

Court/County: Johnston County Superior Court 99 CVS 464

Case No.: 99 CvS 464

Tried Before: Jury

Name of Judge: Hon. Knox V. Jenkins, Jr.

Special Damages: Medical Expenses: \$126,435

Verdict/Settlement: verdict

Amount: Total Judgment, w/ pre-judgment interest and cost: \$1,186,774: \$968,140 for personal injuries and \$14,450 property damage and costs and interest

Verdict Date: August 28, 2001 verdict; September 18, 2001 judgment entered

Demand: Settlement demand withdrawn after insurer refused to pay \$95,000.

Offer: \$100,000 just before jury selection (\$60,000 pretrial)

Experts: See below

Insurer: Farm Bureau

Plaintiff's Attorney: Jay Trehy, Raleigh

Other Useful Info: This case involved a "no contact" motor vehicle accident. When the defendant's vehicle emerged from a servient road and into an intersection, the plaintiff, driving on the dominant road, swerved to miss her. In so doing, the plaintiff lost control of his vehicle, which rolled over and crashed into a nearby field.

In addition to denying negligence, the defense argued that the plaintiff was contributorily negligent, according to the plaintiff's counsel.

In a pretrial motion in limine, counsel for the plaintiff challenged the admissibility of the defense expert's opinions on speed, relying on two separate grounds: (1) That *Hicks v. Reavis*, 337 S.E.2d 121 (N.C.App. 1985) has not been overruled by an appellate court; and (2) if the *Hicks* decision is outdated and no longer the law, the particular methodologies used by the defense expert were flawed and incomplete.

Judge Knox V. Jenkins Jr. conducted a "preliminary assessment" pursuant to *State v. Goode*, 461 S.E.2d 631, 639 (N.C. 1995), during which the plaintiff's counsel conducted a voir dire of the defense expert in an effort to expose the problems in the accident reconstruction methodologies utilized. At the conclusion of the hearing, Judge Jenkins excluded the defense expert's preferred opinions on the plaintiff's speed.

The defense prevailed on the issue family purpose doctrine. The jury rejected the claim against Charles Ray Flowers, father of Christy Flowers Gachuz.

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