

# Jury awards wreck victim \$3.8 million

*Reduction will be sought*

By JULE HUBBARD

LADD Furniture Inc. was on Friday ordered to pay \$3.8 million to a Wilkes County man in the culmination of a two-week Wilkes Superior Court civil trial.

The jury's award to Jason L. Whitley, 42, of the Rock Creek community is the largest ever in a Wilkes motor vehicle negligence case, said court officials.

The jury of four men and eight women deliberated for about 6 1/2 hours, beginning at 2:20 p.m. Thursday and returning with a verdict at 12:40 p.m. Friday. Whitley's wife, Elaine Whitley, was awarded \$50,000 by the jury for loss of consortium.

The Whitleys sued Greensboro-based LADD in October 1997, claiming the company was negligent in maintaining brakes on its 1975 International box truck that struck the rear of Whitley's Nissan king cab pickup at the stop light intersection of Second Street and N.C. 115 on March 7, 1996.

The Whitleys were represented in the suit by Attorneys Don Strickland and Howard Twiggs of Raleigh. Strickland said the wreck left Whitley permanently and totally disabled. "Jason now suffers from chronic and debilitating pain in his neck, shoulder and head. He has practically no range of motion in his neck and his left shoulder is frozen in an elevated position due to microscopic nerve root damage and muscle damages," said Strickland.

"He will never be able to return to his job at UPS, where he had worked as a driver for 17 years, and it is unlikely he will be able to resume his ministry as a preacher, a position he held for 15 years at Pleasant View Baptist Church in Harmony, due to his chronic pain and memory problems. His entire life has been drastically altered by this wreck," Strickland added.

Strickland said Whitley was wearing a seatbelt and stopped at a red light on Second Street to turn left onto N.C. 115 when the American Drew truck, driven by Reggie Absher, came up from behind and struck the rear of the pickup.

American Drew, a division of LADD with furniture

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manufacturing plants in North Wilkesboro, and Absher were initially named with LADD as defendants in the suit. American Drew and Absher later were dropped from the suit because they were agents of LADD.

## Faulty Brakes

LADD defended the case on the grounds that brakes on its truck suddenly and unexpectedly failed, causing its driver to be unable to avoid the collision with the Whitley pickup at the bottom of Second Street hill.

An examination of the brakes following the collision discovered that a spring in the check valve of the truck's braking system had corroded and broke causing the brakes to malfunction, he said.

However, Whitley's attorneys presented evidence that the truck had brake problems in December 1995, less than three months before the collision with Whitley, and that LADD's mechanic replaced the wrong part.

"LADD did not do a proper inspection of the brakes when they failed in December. LADD had not provided its mechanic with a service manual for this old truck. If the mechanic for LADD had had a service manual and had followed its instructions, he would have discovered the faulty check valve and this wreck would have never happened," said Strickland. The problem Absher reported to LADD in December (a hard pedal) was the identical problem Absher reported following the wreck with Jason Whitley," added Twiggs.

The driver of the LADD truck testified that he was only traveling 20 to 25 mph at the time of impact. Strickland said that a major part of LADD's defense was that Whitley could not be as severely injured as he claimed due to the low impact of the collision.

"Fortunately Doug Rhoades, who repaired the Whitleys' pickup truck, advised the Whitleys to keep the dented bumper and twisted metal seatback. This evidence, along with the repair records which indicated the truck had frame damage refuted LADD's claim that the LADD truck could have been going as little as 5 to 15 miles per hour at the time of impact," said Twiggs.

LADD's contention that Whitley was exaggerating his injuries was also refuted by one of LADD's own expert medical witnesses. Strickland said that one of LADD's witnesses, Dr. Mitchell Freedman, a neurologist from Raleigh who had not examined Whitley before he testified, admitted on the stand after seeing Whitley for the first time in court, that Whitley's injuries were real, were severe enough to keep him from working, were probably permanent and were caused by the wreck.

"I have known Dr. Freedman for a long time and I knew that he would give an honest opinion once he knew all of the facts. LADD had asked Dr. Freedman to form his opinions about the case based solely on Jason's medical records which did not tell the whole story. Once Dr. Freedman had a chance to see Jason's disfigured condition and learn more about the nature of the impact, he testified that Jason was permanently disabled by the wreck, just like Jason's treating physicians Dr. (John) Bond and Dr. (Kevin) Tebrugge had testified earlier in the trial," explained Strickland.

According to Twiggs, witnesses called on behalf of Whitley testified that prior to the wreck, Jason had an excellent work history both at UPS and with his church. Witnesses also testified that Jason's character was exceptional and that his reputation for honesty and truthfulness was beyond reproach. "The evidence was overwhelming that Jason would never exaggerate an injury to get money in a lawsuit. LADD's suggestion to the contrary probably hurt LADD's credibility and it should have," said Twiggs.

Strickland also explained that Elaine Whitley testified that on the day of the wreck Keith Gsell, LADD's former vice president of human relations, admitted to the Whitleys that the wreck was LADD's fault and that LADD would take care of them. "LADD brought Mr. Gsell to the courtroom to deny his admission of liability to the Whitleys. Gsell's denial of his admission of LADD's fault was not believable and I'm sure the jury believed Elaine Whitley over Keith Gsell. The Whitleys are some of the finest people I have ever met and are well respected in the community."

caused by LADD," said Strickland. "I do not believe this jury was concerned about the size of their town or what other juries had done in other cases."

While the case can be appealed to the N.C. Court of Appeals, Strickland said that he hoped LADD's insurance companies would do the right thing by paying the verdict and letting the Whitleys get on with their lives. "LADD and its insurance companies, just like the Whitleys, have now had their day in court. They were represented by excellent attorneys who did a good job presenting LADD's defense. Judge Burke gave LADD a fair trial and no justification exists to prolong this litigation."