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Trial Reports

Negligence

Federal Tort Claim - Pedestrian Run Over By FBI Van - Organic Brain Damage, Personality Disorder - \$2.1 Million Award - Largest Federal Tort Claim Award In State

Brief Statement of Claim: Plaintiff, a 49 year old telemarketing manager, suffered severe and permanently disabling injuries when she was struck in a crosswalk by an FBI van at the intersection of Hargett and Dawson streets in Raleigh.

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Principal Injuries (in order of severity): As a result of the collision, plaintiff suffered organic brain damage which caused her to suffer memory loss, lack of energy, inability to concentrate, incontinence, total and permanent loss of her senses of taste and smell and an organic personality disorder. In addition to her brain injury, plaintiff also suffered significant physical injuries including a fractured forearm, pelvis and spine; misalignment of her jaw and several

cracked teeth. Plaintiff also suffered a permanent scar on her right arm and a bald spot on her head.

Special Damages: \$210,000 in past medical expenses; \$270,000 for past and future lost earnings

Tried or settled: Tried without a jury

County where tried or settled: U.S. District Court for the Eastern District, Raleigh

Case Name and number: Troutman v. United States of American (EDNC No. 92-507-CIV-5-BO)

Date Concluded: March 9, 1994

Name of Judge: U.S. District Judge Terrence W. Boyle

Amount: \$2,116,705

Insurance Carrier: n/a

Expert Witnesses and areas of expertise: Plaintiff's treating neuropsychiatrist, Thomas Gualtieri, M.D.; her treating neuropsychologist, Robert Conder, Ph.D. and her treating neurologist, Allen Finkel, M.D. Plaintiff's expert rehabilitation consultant was Anne Neulicht, Ph.D. who presented an extensive life care plan. Plaintiff's expert economist was J.C. Poindexter, Ph.D.

Attorneys for plaintiff: Don Beskind and Don Strickland of Blanchard, Twigg, Abrams & Strickland, Raleigh

Other Useful Info: This award is believed to be the largest personal injury award by a federal court in North Carolina in a Federal Tort Claims action. The highest offer made by the government prior to trial was \$1.3 million. dollars.

Plaintiff was initially treated at Wake Medical Center and Wake Rehabilitation Center in Raleigh. However, due to the nature of her brain injury, she was transferred to a community re-entry program for brain injured persons at Learning Services Carolina Regional Campus in Durham where she was treated for approximately nine months. Plaintiff received treatment from a multitude of health care providers including orthopaedic surgeons, neurologists, neuropsychologist, neuropsychiatrist, and rehabilitation therapist. At the time of trial, plaintiff had incurred \$210,000 in medical bills.

Plaintiff's attorneys report that their biggest challenge at trial was to effectively demonstrate the severity of plaintiff's cognitive dysfunction and the severe emotional problems plaintiff was having due to her personality disorder. As in most head injury cases, plaintiff's worst damages resulted from injuries that could not be seen. At the time of trial, plaintiff lived independently, drove a vehicle and appeared to be a fairly normal looking person.

Plaintiff demonstrated the severity and nature of her brain injury through the testimony of her treating neurologists, neuropsychologist, and neuropsychiatrist and a brief appearance in court by plaintiff in which she testified for approximately 30 minutes.

At the time of the accident, plaintiff was earning approximately \$18,000 per year and Judge Boyle concluded, based on plaintiff's evidence, that she was entitled to recover \$270,000 for past and future loss of earnings. Despite the severity of plaintiff's injuries, the medical evidence was that her injuries would not shorten her life expectancy. In addition to awarding plaintiff full compensation for her past medical expenses and past and future lost wages, Judge Boyle awarded plaintiff \$600,000 for future medical expenses, \$36,000 for scarring, and \$1 million for her pain, suffering and disability bringing the total judgment to \$2,116,705.

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