



... And Justice For All

A LEGAL NEWSLETTER FROM THE LAW OFFICES OF

Moore, O'Brien, Yelenak & Foti

SPRING 2013

REAR END COLLISION ON HALLOWEEN

In 2008 our client was driving on Halloween and stopped at a traffic light when a vehicle rear ended her. The impact was strong enough to push her vehicle into the vehicle in front of her.



As a result of the collision, she injured her neck, lower back, right shoulder, right knee and right ankle. She described her low back pain as a persistent burning sensation from her tailbone down both of her legs. She was diagnosed with a herniated disc at L5-S1. She went through various types of conservative treatment such as physical therapy and medication but eventually needed surgery.

During this time our client confronted another problem. The pain she experienced was from both her herniated disc and a benign tumor located on her spinal cord towards the middle of her back. Prior to the motor vehicle collision, the large tumor was asymptomatic. However, the collision aggravated the tumor. She tried everything to avoid surgery but despite those attempts her pain persisted. She underwent two surgical procedures. One to remove the tumor in her back and a second to undergo a major fusion surgery on her herniated disc.

A lawsuit was filed in October, 2010, against her own insurance carrier for uninsured motorist benefits because her damages far exceeded the negligent driver's policy limit. Moore, O'Brien, Yelenak & Foti partner Garrett Moore Sr. represented our client. Settlement discussions between Attorney Moore and the insurance company were limited. For that reason, an offer of compromise was filed by the plaintiff for \$900,000. The insurance company never offered more than \$400,000.

As liability was not in question, the case moved forward to a hearing in damages.

Our client testified she remained in daily pain despite multiple surgeries. She explained that she had to move back in with her mother, who took care of her during and after both surgeries. It also became clear at trial that she was very active and athletic before the back injury. She liked to swim, scuba dive, ski, bike, horseback ride and go for walks.

She loved spending time with children, but has concerns about whether she will be able to care for children of her own in the future because of her injuries. For example, she is upset she is no longer able to pick up her god children. The most basic daily activities have become painful considering the fact that any time she stands up or sits down for too long she experiences pain.

At trial, her mother testified that her daughter used to be athletic and active, was good with children and that her life has changed dramatically since the accident. Ultimately, our client was awarded \$976,413.

CONNECTICUT CITY RANKED HIGHEST IN US FOR DRUNK DRIVING FATALITIES

Connecticut drivers may be surprised to learn that their state is home to the city with the highest proportion of fatal car accidents caused by drunk driving. According to a recent article in the Atlantic, intoxication is a factor in 55.8 percent of fatal vehicle crashes in Stamford, Connecticut. This is the highest of any city in the U.S., according to the report, which relied on federal data from the Fatality Analysis Reporting System.

Just behind Stamford in the ranking was Flint, Michigan, which came in at a close second with 55.6 percent of fatal crashes involving alcohol. At the other end of the spectrum was Birmingham, Alabama, which had the lowest rate of alcohol-related traffic fatalities at just 13.6 percent.

The reasons for the vast discrepancies remain unclear; however, the report underscores the point that drunk driving remains a serious safety issue on Connecticut roads. In 2011, 92 people were killed in alcohol-related traffic accidents in Connecticut, and hundreds more were injured.

Car Accidents May Trigger Financial Domino-Effect

For victims of traffic accidents, the initial injuries suffered in the crash are often just the tip of the iceberg, setting off a series of cascading effects that can be both physically and financially crippling. Along with the pain and emotional distress of being hurt in a car accident, victims often require hospitalization and other extensive medical treatment for their injuries. Unfortunately, the cost of medical care after a car crash can quickly become overwhelming.

The challenge of making ends meet after a car accident becomes even more problematic when a person is unable to work as a result of his or her injuries, whether temporarily or permanently. When this occurs, crash victims may struggle not only to pay for their necessary medical care, but also to support their families and keep up with payments on a home, car or other debts. Perhaps not surprisingly, medical debt is one of the leading causes of bankruptcy in the United States.

Compensation For Crash Victims

Fortunately, many Connecticut accident victims are able to successfully obtain financial compensation for their injuries and related expenses through the court system. By filing a personal injury lawsuit after a crash, it is often possible to recover compensation for losses such as hospitalization, medical bills and rehabilitative care, as well as lost income, property damage and other expenses.

When pursuing compensation after a vehicle accident in Connecticut, it is important to enlist the help of a personal injury lawyer who has experience negotiating with insurance companies and can advocate on your behalf for an optimal outcome.

DISTRACTED DRIVERS MAY FACE CIVIL LIABILITY AS WELL AS CRIMINAL CHARGES

A teenage driver is facing criminal charges after she allegedly struck and killed a jogger in a March 2012 distracted driving accident. The driver, who was age 16 at the time of the crash, is accused of surfing the web on her smartphone at the time of the crash. According to news reports, prosecutors claim that the girl viewed a website on her smartphone within two seconds of the first 911 call about the crash, and that she did slow down before striking the jogger. The driver has been charged as an adult with negligent homicide and is expected to appear in court on September 22.

Civil Liability May Apply, Regardless of Criminal Charges

Distracted drivers who cause accidents that kill or injure other people can face civil liability for their actions regardless of whether or not they are charged or convicted of a crime in connection with the crash. This typically occurs when an injured accident victim files a personal injury lawsuit against the distracted driver or his or her insurance company. In cases involving fatalities, the victim's surviving family members may elect to file a wrongful death lawsuit.

By filing a personal injury lawsuit, a person who has been injured in a crash with a distracted driver can receive monetary damages to help compensate for the losses they have suffered as a result of the crash. A financial settlement can help provide the injured person with the tools they need to make the best recovery possible after an accident. Depending on the circumstances, a person who has been injured in a distracted driving crash in Connecticut may be able to recover compensation for:

- Past, present and future medical costs
- Rehabilitative care
- Loss of income
- Other monetary losses sustained as a result of the crash
- Nonfinancial harm, such as pain and suffering or permanent disfigurement

When a person dies as a result of a distracted driving accident, his or her family may be able to receive financial compensation from the person who caused the crash, or from that person's insurance company. Damages in a Connecticut wrongful death lawsuit may include compensation for:

- Medical costs
- Hospitalization
- Funeral expenses
- Loss of income and support
- Nonfinancial losses, such as pain and suffering or mental anguish

While no amount of money can make up for the loss of a loved one, a financial settlement can help an accident victim's surviving family members cope with the sudden change in economic circumstances and begin putting their lives back together again. To learn more about seeking compensation after a distracted driving crash, accident victims and their families are encouraged to speak with an experienced personal injury lawyer.

CASEFRONT

Moore, O'Brien, Yelenak & Foti has recently resolved by settlement or verdict the following cases which may be of interest to our clients. Of course, the results here should not be applied to other cases.

DOG BITE WHILE APARTMENT HUNTING

In 2011, our client fell over a porch railing, while apartment hunting, when a prospective landlord's dog approached her in an aggressive manner and jumped on top of her. This caused her to suffer a torn ACL, a partially torn MCL, and a torn lateral meniscus. She underwent surgery and had extensive physical therapy. Her medical bills totaled \$65,000 at the end of treatment. She suffered a permanent injury to her left leg as a result of the incident but the defense disputed her damages. At trial, the defense called a neighbor to testify in support of their case. The neighbor said that she witnessed the incident and that the dog was not aggressive and did not jump on her. The jury did not find the neighbor credible and ultimately found in favor of the plaintiff. Moore, O'Brien, Yelenak & Foti partner Gregory O'Brien represented our client at trial. Prior to the conclusion of trial, the last demand made by the plaintiff was \$135,000. The last offer from the defense was \$105,000. Following deliberations, the jury came back with a verdict for the plaintiff in the amount of \$380,000 plus interest.

SCHOOL BUS CRASH

In January of 2010 our client was a passenger on a school bus headed to the season opening robotics competition when a motor vehicle traveling in the same direction collided with the bus. The school bus lost control and went off-road near Exit 46 on Interstate 84 causing our client to suffer severe injuries and losses.

As a result of the collision, our client suffered significant injuries including scalp laceration, fractured ribs, lung puncture, liver laceration, kidney laceration, ulna fracture, scarring to his head, elbow, chest and psychological trauma. He had surgery on his right elbow, which involved inserting a metal plate and six screws in the right elbow to hold it in place. His asthma condition made it difficult to breath in the hospital with a punctured lung from the accident so a chest tube was necessary to help him. The only thing our client remembered of the accident was feeling a few bumps before the school bus went off-road and then being carried on a stretcher up a hill. When he woke up in the hospital he found out that not only had he been injured, but one of his closest friends had been killed in the accident.

Prior to the crash our client was excelling in mathematics and sciences in school and in his extracurricular activities as well at the University of Connecticut, School of Engineering. Now, at age 19 our client still has difficulty completing the most basic daily tasks. He has pain while writing, playing basketball, football, bowling, putting on a turban, tie, winter

jacket or making twisting movements.

Following a two-day mediation, our client, represented by Attorney Alexander Bates, accepted a settlement offer of \$625,000.

TEENAGER CRASHES

In November of 2010, our client went out for a ride with her friends. She was a backseat passenger in her friend's car that was owned by his father's construction company. The defendant was traveling at a high rate of speed, approximately eighty five miles per hour, in Oxford, Connecticut when he lost control of his vehicle, went off the roadway and collided with a utility pole causing the vehicle to catch fire. After the collision, our client was trapped inside the vehicle and a witness pulled her out.

By the time the paramedics arrived and the police were contacted, our client remained on the scene with a broken back among other significant injuries. She suffered a fractured left femur, fractures in her cervical spine, head injury with headaches, permanent disfigurement, scarring, chest contusions and abrasions.

In July of 2011, Moore, O'Brien, Yelenak & Foti filed a lawsuit. During the course of the lawsuit the defendants' position was that our client assumed the risk of getting into a vehicle with a 16 year old newly licensed driver. Moore, O'Brien, Yelenak & Foti successfully moved to strike that defense. Our client, represented by Attorney Garrett Moore Sr. and Attorney Garrett Moore Jr. accepted a settlement of \$795,000 as compensation for her injuries.

REAR END COLLISION WITH PREGNANT DRIVER

In 2009, our client who was 28 years old, and also four months pregnant, was on her way to work as a bus driver when she was rear ended while stopped for traffic. The defendant was traveling at approximately 40 miles per hour when he smashed into the back of our client's vehicle. Our client was thrown back and forth within her vehicle and sustained bruising on her stomach. As a result of the collision she suffered injuries to her neck, back, headaches and loss of consciousness. However, her biggest concern was her pregnancy. Especially, because a year before she was in another motor vehicle collision that caused her to miscarry.

Following treatment, it was determined our client suffered a permanent injury to her neck and back. Additionally, tests were performed after the collision to see whether her baby was harmed. Although the doctor determined her baby was unharmed, our client continued and continues to worry about her daughter's health as a result of the collision.

A lawsuit was brought against the other driver and a trial took place in 2010. During the trial our client testified that she was an emotional wreck after the collision. She testified that since the collision she experienced pain in both her neck and back. She testified she cannot work as much and drives one bus route per day as opposed to the two bus routes she would drive before the accident. Her ongoing pain has caused her to question her own ability to properly care for her children. She testified that she worries she is not as good of a mother as she wants to be because she still has trouble

while lifting and carrying her two daughters. Following the trial, our client was awarded \$130,817 through the effort of Attorney Erica Pilicy.

CAR VS. HORSE CRASH

In 2011 our client was riding her horse on Fairwood Road at its intersection with Deerfield Lane in Bethany, Connecticut when the defendant crossed the double yellow lines and struck our client's horse which caused our client to be thrown from the horse. As a result of the accident, our client sustained a right hand injury, fractured middle finger, concussion, migraine headaches, partial loss of vision requiring her to wear glasses and emotional trauma from witnessing the fatal injuries to her horse.

At the time of the accident our client was 16 years old. At trial, Moore, O'Brien, Yelenak & Foti partner Joseph Foti represented the plaintiff. At the hearing in damages she testified that she had resumed riding horses and planned to become an equine veterinarian. She described her emotional trauma as a result of witnessing the fatal injuries to her horse and that her horse was her "best friend." She also testified that the vision problems she developed as a result of the trauma affected her ability to see the blackboard in classes and caused flashbacks of the accident. She further testified, her wrist now "clicks" and goes in and out when she picks things up. Her mother also testified during the trial and stated that her daughter has been more emotional since the accident and displays an attitude more often. Additionally, her grades suf-

fered and she now needs a tutor. On November 15, 2012 a judgment was entered in our clients favor in the amount of \$267,744.54.

GUILLIAN-BARRE SYNDROME FROM FLU VACCINATION

Moore, O'Brien, Yelenak & Foti recovered \$140,000 for our client who developed Guillian-Barre Syndrome after receiving an influenza vaccination on October 11, 2011. She was 67 years old at the time and retired. Guillian-Barre Syndrome caused symptoms such as facial weakness, difficulty talking and swallowing, and double vision. Our client has made progress with her symptoms, but she still has residual effects from the Guillian-Barre Syndrome. She has difficulty reading and writing, can no longer drive, and still has problems with her speech.

In order to recover, we filed a claim with the United States Court of Federal Claims under the National Vaccine Injury Compensation Program. Attorney Pamela Cameron of our firm is one of the few attorneys in Connecticut admitted to practice in the U.S. Court of Federal Claims on behalf of clients who have become ill due to a vaccination. The National Vaccine Injury Compensation Program has special rules that are different from bringing a case in court in Connecticut. One of those rules is that attorney's fees are paid separately by the Court and do not come out of the client's recovery. Therefore, the entire \$140,000 was able to go directly to our client.

Moore, O'Brien, Yelenak & Foti
700 West Johnson Avenue
Cheshire, Connecticut 06410
203-272-5881