

VERDICTS & SETTLEMENTS

\$30 million for brain-damaged teenager

By Justin Rebello
Staff writer

A Mississippi jury has awarded \$30 million to Ethan Bryant, 19, and his parents after the teenager was severely injured following a deadly truck accident in August 2006.

Bryant was 16 when he and his friend Patrick Taylor drove through an intersection in Southaven, Miss., near the Tennessee border. A gravel truck driven by Chad McCarty was unable to stop at the intersection's red light, and plowed into Bryant's vehicle.

The force of the impact caused the teens' Dodge Dakota to careen about 100 feet away from the intersection. Taylor was dead at the scene and Bryant lapsed into an eight-month coma. After awakening from the coma, he developed a severe disorder limiting oxygen to the brain. He now suffers from quadripalegia and episodic seizures.

According to the plaintiffs' attorney, Robert R.

Morris III of Batesville, Miss., the accident occurred because McCarty's truck was overloaded past the level allowed under state vehicle regulations by nearly 20,000 pounds. As a result, the truck was unable to come to a stop at the intersection.

"The weight of the truck pushed him through so hard [that] there was no way for the driver to stop the collision," said Morris. "The amazing thing was, he was only going about 50 miles per hour [when he attempted to brake], so he wasn't speeding."

AT-A-GLANCE

◆ The plaintiffs' attorney claimed that the truck was overloaded past the level allowed under state vehicle regulations by nearly 20,000 pounds.

◆ As a result of the weight of the load, he claimed, the truck was unable to come to a stop at the intersection.

The lawsuit named McCarty; APAC-Tennessee,

the asphalt paving company that commissioned McCarty; and Memphis

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Stone & Gravel, the company that loaded the truck. Attorneys for the defense could not be reached for comment.

Independent contractor?

According to Morris, the primary challenge at trial was establishing that APAC-Tennessee was an employer of McCarty, and thus at fault for failing to supervise the loads he was carrying.

Documents found during discovery showed that McCarty had made at least 15 trips with a haul that exceeded the state limit. He had also not received his trucking license until

July 31 of that year but had driven loads for APAC-Tennessee for about three weeks prior to that.

"APAC-Tennessee stridently defended that this man was an independent contractor," said Morris.

To refute this claim, Morris had to show that McCarty did not have to apply to carry the load, knew about the job and was assigned to it, and was not contracted out to any other shipping company. Morris also used APAC's own policy against it.

"They claim that if you haul an illegal load, they won't pay you. But documents showed that McCarty [carried] several illegal loads for them and always got a paycheck," said Morris.

Damages challenge

Because Bryant's health was so volatile, Morris said that another major challenge going into trial was trying to decide what amount of damages to request.

"Ethan is terribly, terri-

bly injured,” said Morris. “After his coma, he was able to walk across the stage for his graduation. But then the seizures started and pretty much erased all the progress he had made.”

To attach an accurate figure, Morris called in a life-care planner, an economist and Bryant’s physiatrist, Dr. Darryl Kaelin of the Shepherd Center in Atlanta, which operates in conjunction with the Christopher and Dana Reeve Foundation.

Following five days of trial and five and a half hours of deliberations, the jury awarded \$30 million to Ethan and his parents for past and future medical

expenses and loss of income.

The jury found APAC-Tennessee 70 percent responsible for the accident; Memphis Stone & Gravel

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was found 20 percent responsible and McCarty was found 10 percent responsible.

McCarty had previously pleaded guilty to manslaughter

and aggravated assault and was put on 15 years probation.

The verdict was rendered unanimously by the jurors, many of whom Morris selected because they were parents.

“We were looking for people with children who would understand such a horrific situation and what they might do if it happened to them,” said Morris.

He added that the most emotional aspect of the reading of the verdict was not the dollar amount, but the fact that it was unanimous.

“[APAC-Tennessee] had denied liability for so long

that when all 12 jurors stood up and agreed they were at fault, it was very meaningful to the parents,” Morris said.

Plaintiffs’ attorneys:

Robert R. Morris III and Paul R. Scott of Smith Phillips Mitchell, Scott & Nowak, LLP in Batesville, Miss.

Defense attorney: William O. Luckett of Luckett Tyner LLP in Clarksdale, Miss.

The case: *Bryant v. APAC-Tennessee*; August 14, 2009; DeSoto County Circuit Court; Judge Bob Chamberlain.

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