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\$3.5M settlement for man who was hit by SUV and suffered brain damage

By: Bill Cresenzo August 7, 2020

A man who suffered brain damage after he was hit by an SUV while on vacation in Charleston has confidentially settled a lawsuit against the at-fault driver for \$3.5 million, the victims' attorneys report.

Kenneth Berger and Brad Lanford of the the Law Office of Kenneth Berger in Columbia, Mark Bringardner of the Joye Law Firm in Charleston and Chris Finney of St. Louis, Missouri, report that the man and his wife are from the Midwest and were visiting Charleston in 2017.

The couple was walking down a sidewalk and approached the driver, who was about to turn right out of a parking lot. The driver backed up, ostensibly to let them pass on the sidewalk, but when the couple was in front of the SUV, the driver suddenly drove forward and hit the husband, knocking him to the ground, Berger said. His head hit the pavement, causing skull fracture and damage to his ear canal. He also suffered multiple leg fractures because the SUV rolled on top of him.

The husband was rushed to the hospital, where he was diagnosed with multiple cerebral hemorrhages and a midline shift of the brain due to intracranial pressure, Berger said. While those injuries didn't require surgery, his leg injuries did. He spent one week in the hospital before discharging himself against medical advice. His wife and mother drove him back home, where he began treatment with neurological and orthopedic specialists, Berger said. After two months, doctors declared that he had made a "remarkable recovery," but that wasn't the case, Berger said.

"His wife, parents, extended family, and friends all noticed the man was a shadow of his former self," Berger said. "His work, marriage, relationships, and mental health all suffered."

A MRI in April 2018 confirmed bilateral encephalomalacia, or dead brain tissue, and permanent brain damage. Berger said the man had a well-documented pre-injury IQ of over 145.

"He was a near-prodigy as a child and a literal genius until his brain was damaged," Berger said. "He traveled the world for work prior to being struck, and was among the most respected, technically-proficient performers in his field."

The driver's attorneys disputed the extent of the man's injuries and contended that he was comparatively negligent in not making eye contact or confirming that the driver saw him before walking into the vehicle's path, Berger said.

The injured man's wife was a co-plaintiff who brought a loss of consortium claim and was represented by Bringardner. Berger said that separate counsel for the plaintiffs was a strategic decision, as it would have given the couple "two bites at the apple during opening statements, witness exams, and closing arguments" had the case gone to trial.

"The couple had been married less than two years when the incident occurred," Berger said. "A wife in many ways lost a husband and received a brain injury patient."



Berger



Bringardner

Due to a confidentiality agreement, other details about the case, including the identities of the defendant and the defense attorneys, were not available.

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SETTLEMENT REPORT — NEGLIGENCE

Amount: \$3,500,000

Injuries alleged: Skull fracture, subdural hematoma, subarachnoid hemorrhage, permanent brain damage, broken leg and broken ankle

Case name: Confidential

Court: Confidential

Date of settlement: July 8

Attorneys for plaintiff: Kenneth Berger and Brad Lanford of the Law Office of Kenneth Berger in Columbia, Mark Bringardner of the Joye Law Firm in Charleston and Chris Finney of St. Louis, Missouri

Attorney for defendant: Withheld

Tagged with: NEGLIGENCE

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