

Mulvey v. Roy and Fleet Operations, Inc.
Hampden Superior Court C.A. No. 04-781
November 7-9, 2006

Defense Verdict - - Rear-End Collision

The plaintiff claimed she had permanent back and neck pain resulting from being rear-ended in a chain collision accident on a bridge where traffic often backs up at rush hour. The plaintiff was the third car in line. The lead car stopped suddenly, causing the other cars to attempt to stop suddenly. The plaintiff was in the third car. After obtaining a policy limits settlement from the vehicle which rear-ended her, the fourth car, she brought suit against the defendant which was the fifth car in line.

The plaintiff claimed she was struck twice in the back, the first was a tap and the second was a major collision. She claimed the second impact pushed her into the vehicle in front of her. There was noticeable damage to her back bumper, but her car was driveable. After providing information to police she drove 10 miles to pick up her boyfriend at work, went to a fast food restaurant, and then went to a hospital emergency room. There was airbag deployment in the vehicle which struck her, as well as the defendant's vehicle. The first vehicle in line - - whose sudden stop caused the accident - - got out of his car, surveyed the wreckage and then fled the scene and was never identified.

At the time of the accident, the plaintiff was in the early stages of pregnancy with twins, who were later born three months premature. She had two years of treatment consisting of physical therapy, chiropractic treatment and pain injections, with much diagnostic testing. At trial she offered bills totaling \$15,000, and claimed lost wages of approximately \$70,000. The plaintiff offered various narrative reports from her family doctor, her chiropractor and the spine treatment center which assigned her various disability ratings between 10-18% based on her reported pain and cervical disc dessication at three levels.

The plaintiff did not treat with any doctor for two years but after this case appeared on the trial list she saw her PCP twice and obtained prescriptions for Vicodin. She had yearly OB/GYN visits and never complained of any musculo-skeletal or neurological symptoms. She also went to the beach out of state numerous times and went to the Carribean on vacation for seven days in mid-2005. After first denying it, she reluctantly conceded that before filing this lawsuit she took the position the fourth car in line was negligent caused her injuries. After testifying on direct about the difficulties of her delivery and pre-mature birth of her twins and their complications, she conceded no doctor had ever told her the accident had any role in the course and outcome of her pregnancy.

On behalf of the defendant she was examined by DeWitt Brown, M.D., who found no objective signs of injury, no disability, and was at a loss to explain the cause of the plaintiff's reported pain symptoms.

The defendant called three witnesses. The third car in line, the driver whose vehicle actually rear-ended the plaintiff, testified he did not see her brake lights before striking her. He was uncertain whether he struck the plaintiff first or was rear-ended by the defendant first. The operator of the second car in line testified and confirmed the first car stopped short and caused her to attempt to stop suddenly, and damage to the back of her car from plaintiff's car striking it was minor. The defendant testified she was in no hurry and courteously let the fourth car cut in to her lane then further down the bridge was confronted with sudden brake lights. She did the best she could to react but there was an impact with the fourth car. Before the accident she was paying attention, was following at what she judged to be a safe following distance and an appropriate speed.

The jury was out 3½ hours before returning a verdict of no negligence. The plaintiff's last demand was \$80,000, and the last offer was \$5,000.