

Drunken Driver Causes Injuries for Young Student

Inebriated driver has three young students in his car when accident occurs.

At approximately noon on December 20, 2004, Mark Berman drove to his son's school to pick him up. Tyler Painter, a friend of Mr. Berman's son, and another child, joined Mr. Berman in his vehicle for the ride from school. At 12:49 p.m., Mr. Berman's vehicle was involved in a serious accident. The collision fractured several of Tyler's front teeth. Shockingly, the accident investigation revealed that Mr. Berman was considerably under the influence of alcohol when he drove to the school at noon. The blood samples taken from him at the hospital registered .156 and .152 grams of alcohol per 100 ml, almost twice the legal limit.

Tyler's parents, Robert and Sally Painter, were deeply concerned about the injuries sustained by Tyler in the accident, and the grossly negligent actions exhibited by Mr. Berman in driving his vehicle, with three young children as passengers, while under the influence of alcohol. Tyler's teeth were repaired. However, because of his age and the fact that the fractures involved his permanent front teeth, he will have to undergo multiple dental procedures in the future. Such an injury and the resulting change in appearance is a great concern to a boy of Tyler's age. Mr. and Mrs. Painter filed a claim against Mr. Berman and his insurance company, State Farm. John Shipley represented the Painters and their son.

In the insurance business, there are cases that clearly need to be settled and other cases that clearly need to be defended. The circumstances and the entitlement in this case were quite clear. A settlement for the bodily injury policy limit of \$100,000, and property damages of \$581, was quickly reached with the insurance company. ■

**\$100,000
Settlement:
DRUNKEN DRIVER
CAUSES SERIOUS
ACCIDENT**

Failure to Replace Protection Barriers Causes Fatality

In September 2000, road construction was underway on the intersection of I-10 and I-95 in Duval County, Florida. As part of the construction project, two concrete dividing walls were built in a V-shape on the eastbound portion of I-10. Six sand-filled barrels were placed in front of the concrete walls, along with three warning signs, to protect motorists from the dangerous conditions ahead. On September 9, at 1:25 a.m., a motorist traveling eastbound on I-10 struck the barrels, wiping them off of the roadway. It was later revealed that this motorist was charged with careless driving and driving under the influence of alcohol.

The Jacksonville Sheriff's Office responded to the accident. The officers called the Department of Transportation. The state's road construction contract required the contractor to respond to any accident scene within 45 minutes. When the Department of Transportation called the construction company's on-call representative, it woke him up. However, the employee just rolled over and went back to sleep. The employee stated that he did not know of the contract's response requirement. Testimony indicated that this worker had a history of failing to respond to calls.

Two and one-half hours later, Client X was also traveling eastbound on I-10. He never had a chance, because there was no warning of the cement wall placed in his path and there was no protective barrier in place. His car struck the cement wall with full force. Paramedics rushed to the scene, provided emergency care, and transported Client X to Shands Hospital. He died that day from injuries resulting from a crushing blow to his heart.

Client X leaves his wife of thirty-three years, his daughter and son-in-law, his son, and two grandchildren. His family lost a loving husband, father, and grandfather, and the community lost a successful attorney and businessman. The loss is incalculable, and clearly the fault of several parties. Not only did the impaired motorist crash into the protective barriers and destroy them, but the company responsible for the construction site protection failed to establish and maintain appropriate barriers and warning signs. The widow of Client X filed an action on behalf of Client X's estate against the several parties responsible for the accident. Attorney Sean Dornick represented her and the estate. Jacksonville attorney Howard Coker was brought in as local counsel. This was not a case of whether or not there was fault on behalf of the defendants, it was a case of just how much liability was owed by the persons at fault.

Due to the confidentiality of this settlement, specific terms and figures cannot be disclosed. However, the case was resolved with a settlement of seven figures. ■