

VEHICLE COLLISION RESULTS IN PERMANENT SPINAL CORD INJURY TO CONSTRUCTION WORKER

Complicated traffic accident results in significant settlement.

Mr. C and a friend moved to Florida after the 2004 hurricane season to work for some of the building contractors and craftsman in Indian River County. The devastation caused by Hurricanes Frances and Jeanne had created numerous opportunities for construction workers experienced in restoration work. Mr. C and his friend had operated a reconstruction business in Ohio. Despite being new to the area, Mr. C quickly developed a strong working relationship with one of the biggest general contractors in the Vero Beach area. The contractor had been in business in Indian River County for over 68 years. Mr. C's work ethic, skills and diligence insured that he would have all of the work opportunities that he could possibly want. His bright future was suddenly interrupted on August 4, 2005.

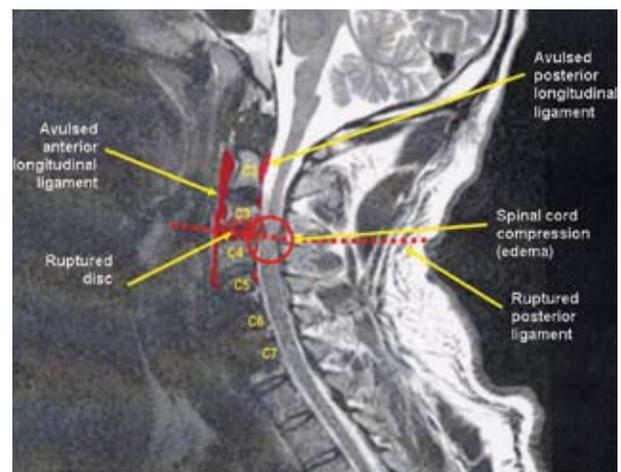
That day, Mr. C and another subcontractor working on the same projects, Mr. W, had been driving to job sites they had to inspect. The men had worked together on many projects and enjoyed their friendship. After they completed the inspections they stopped by the Fraternal Order of Eagles and spent about an hour at the bar. When they left the bar, Mr. W was driving his company's truck and Mr. C was seated in the front passenger seat. They headed south on Old Dixie Highway. Mr. W prepared to make a left turn at the intersection with 12th street. At that moment a northbound vehicle, a Mazda sedan owned and driven by Mr. B, was traveling toward the same intersection. As Mr. W began his left turn, Mr. B's vehicle slammed nearly head-on into Mr. W's truck. Mr. C suffered severe injuries and was quickly transported to Holmes Regional Medical Center, the local community's trauma hospital. At the hospital, Mr. C was diagnosed with a severe cervical spinal cord contusion. The injury was complicated by the fact that Mr. C had undergone a cervical fusion approximately three years earlier. Mr. C was hospitalized for twelve days. Under an emergency protocol, the doctors administered a high dose of corticosteroids in an effort

to prevent further damage to the spinal cord in hopes that they could salvage as much tissue as possible. Unfortunately, a central spinal cord injury can progress, and, in this case, Mr. C's injury worsened. As his condition deteriorated he was referred on an emergency basis to a spinal surgeon.

The spinal surgeon, Dr. Z also immediately prescribed a strong dose of intravenous corticosteroids. He then performed an emergency fusion to stabilize Mr. C's spine and to prevent further cord damage. Unfortunately, Mr. C's spinal cord was more prone to injury because of the earlier cervical fusion. He went on to develop myelomalacia, or scarring to the spinal cord caused by the collision. Indeed, Mr. C was at risk for becoming a quadriplegic. He would never again be able to perform the physical rigors required by his profession. For the rest of his life he would not be able to lift more than ten pounds at a time. His life now in tatters, Mr. C asked SDSBS attorney Greg Barnhart to represent him in an action seeking relief for his injuries.

There were numerous defenses to overcome. Each driver claimed that the other was responsible for the collision. Mr. W, the driver of the truck Mr. C occupied, insisted that Mr. B was at fault as he was traveling at an excessive speed approaching the intersection. Mr. B asserted that Mr. W was at fault for initiating a left turn directly into his path of travel. Because Mr. C had been partially ejected from the truck as a result of the collision, it was asserted that he had failed to wear his

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**\$2.1
Million
Settlement:
AUTO ACCIDENT**

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seatbelt and the failure to do so was the cause of the extent of his injuries. The defense also used Mr. C's prior medical record to assert that the damages to his spinal cord existed before the accident.

The color of the intersection's traffic light at the time of the collision was particularly important to determine liability. Greg Barnhart and his team of investigators were able to identify and locate an eyewitness to the crash that was not listed on the crash report. The eyewitness was filling his car with gas at a station on the northwest corner of the intersection at the time of the collision. He noted that both vehicles had their lights on. Importantly, the witness testified directly and unequivocally that the traffic light for the truck driven by Mr. W "had turned from yellow to red."

According to the investigating officer, Mr. B was traveling too fast for conditions and exceeding a safe speed, thereby contributing to the enormity of the crash.

The testimony of Mr. C's treating physicians and surgeons, in conjunction with the medical experts retained by Mr. Barnhart was overwhelming to the defense on damages. Mr. Barnhart was able to demonstrate that Mr. C's previous neck surgery had completely healed but in the event of a second trauma, Mr. C's spinal cord would be more susceptible to injury. Further, the medical experts and treating physicians were able to demonstrate the full extent of Mr. C's injury through a future medical care plan that outlined the need for diagnostic procedures and rehabilitation for the remainder of his life.

Because one of the drivers, Mr. B, was underinsured, carrying minimal bodily injury liability coverage, he was vastly underinsured for the amount of damages suffered by Mr. C. Fortunately, insurance coverage applied to the vehicle occupied by Mr. C. Based on the testimony of the witnesses, the investigating trooper and the medical experts, Mr. Barnhart was able to obtain for Mr. C the benefit of both bodily injury liability coverage and underinsured motorist coverage from the same policy insuring Mr. W's commercial truck. The case was successfully mediated just before the commencement of trial. Settlement resulted in a total recovery of \$2.1 million. ■