

Accident caused by tractor driver interrupts cancer treatment and results in over \$3 million award

Because of delay in treating skin cancer, it metastasized, requiring far greater surgeries

On December 4, 2013, Barry Davis, a 59-year-old security guard, was driving eastbound on Indiantown Road in Jupiter, Florida. As he neared the intersection of Indiantown Road and I-95, Mr. Davis' vehicle was struck on the driver's side by a tractor towing a bushhog – a large, heavy commercial grass mower. The tractor, operated by Dale Vannelli, Jr., was in the process of mowing the grass around the intersection under a contract between Mr. Vannelli's employer, South Florida Bushhog Service, Inc., and Florida's Department of Transportation. The tractor driver was attempting to cross Indiantown Road from a median beneath the I-95 overpass. Just prior to the crash, Mr. Davis had been traveling about 76 mph in a 50 mph speed limit, as noted by his 2007 Ford Mustang's data recorder.

Mr. Davis suffered a left hemopneumothorax which required a thoracostomy, a splenic rupture which required exploratory laparotomy and splenectomy, fractures of his left clavicle and multiple ribs, lumbar injuries, and other injuries. Due to the severity of his injuries, Mr. Davis was air-lifted to a nearby hospital. He was hospitalized for 22 days, enduring surgeries, therapy, and rehabilitation.

At the time of the crash, Mr. Davis had been undergoing radiation treatment for a squamous cell carcinoma on the left cheek/jaw area. The carcinoma had metastasized to his lymph nodes. Due to injuries suffered from the crash, Mr. Davis' cancer treatments were interrupted for two months. Within two years following the crash, doctors found that the squamous cell carcinoma had returned to Mr. Davis' left cheek and had already metastasized to the parotid gland. The diagnosis resulted in extensive surgery to remove the tumor, and massive skin grafts from his right arm to repair the surgical areas. Mr. Davis endured additional chemotherapy and radiation treatments. Because the crash had caused so much physical damage to Mr. Davis, and had so adversely affected his ability to obtain successful treatment of his cancer, he asked SDSBS attorney **Brian Denney** to represent him in a legal action to hold the tractor driver and his employer accountable for the damages.

The defendants argued that Mr. Davis was solely liable for the crash due to exceeding the speed limit, and that Mr. Davis' recurrent cancer on his left cheek was not related to the interruption of treatment caused by the accident. Further, since Mr. Davis had a long history of other superficial skin cancers, the recurrence of cancer on his left cheek would have occurred



Ed Ricci, Brian Denney, Barry Davis and Nick DeBellis

anyway. Further, they argued Mr. Davis should not have been driving at all due to his receiving cancer treatments on the day of the accident. SDSBS attorneys disputed this with a treating oncologist who testified that the cancer recurrence was caused by the lapse in Mr. Davis' treatments.

Due to injuries suffered from the crash, Mr. Davis' cancer treatments were interrupted for two months... the squamous cell carcinoma had already metastasized to the parotid gland, requiring extensive surgery.

When the defendant accepted no responsibility, Mr. Denney was forced to take the case to trial. The trial conducted by Brian Denney and **Ed Ricci** lasted two weeks. On December 9, 2016, a Palm Beach County jury found for the plaintiff, Mr. Davis, awarding him \$3,220,000 in damages and found the defendant 57% liable for the crash. ♦