

Failure to yield right-of-way results in horrific crash

On the eve of trial, the case was settled for \$975,000 following a second mediation.

One morning in June 2020, Jane Smith (not her real name) was driving to work heading east on Indiantown Road in Palm Beach County, Florida. Bob Jones (not his real name) was traveling west on the same road. Once in the intersection, Mr. Jones made a left hand turn on a red traffic light, crossing in front of Ms. Smith's oncoming 2003 Toyota Avalon. Mr. Jones's failure to yield to Ms. Smith's right-of-way caused her to veer to her right to attempt to avoid a collision. The move was unsuccessful, and the Toyota slammed forcefully into Mr. Jones's 2010 Lexus SUV. The collision caused the Toyota's airbags to deploy and catapulted the Toyota into a Volvo stopped at the traffic light. Emergency personnel were called to the scene.

Paramedics found that Ms. Smith had suffered an open right leg tibia-fibula fracture which they dressed and splinted. She had also suffered a left first rib fracture and damage to a lung. She was rushed by ambulance to a nearby hospital where medical personnel noted that she was confused and exhibiting possible brain injury. Scans of her brain confirmed no hemorrhage; however, she does not remember much about the crash or its aftermath. She underwent surgery to repair the fractured leg. Doctors had to reconstruct the tibia-fibula fracture by inserting a tibial nail and four screws. After five days in the hospital, she was discharged and returned home with a wheelchair and instructions for home health care and physical therapy.

Over the next 12 months, Ms. Smith participated in numerous physical therapy sessions to help her regain use of her right leg and improve her balance. She continued to suffer headaches and severe pain in her neck and upper body. Doctors conducted several MRI examinations of her neck, spine, and head to identify possible sources of her pain. The hardware inserted in her right leg was eventually removed, but physical therapy continued. She managed to improve sufficiently to move from a wheelchair to a walker and then to a cane but to this day continues to use the cane for balance. She has not driven a car since the crash.

Ms. Smith underwent an extensive neuropsychological examination which indicated that the crash had caused her to incur a mild traumatic brain injury. She was diagnosed with mild neurocognitive disorder/impairment and major depressive disorder. These deficits affect her learning/memory, abstract reasoning abilities, and manual dexterity in her dominant hand. It was recommended that she seek treatment from a psychologist to help with sleep disturbance and depression. In summary, she was no longer able to

maintain gainful employment. Examinations indicated she had a 22-30% permanent partial impairment and that her disabilities would likely increase over time with aging. Ms. Smith was 61 years old at the time of the accident. She had been a hard worker all her life. Certified to work with the disabled adults, she had spent the past 17 years as a home health aide. When not working, she cared for her disabled sister. The crash left Ms. Smith with considerable medical and physical therapy bills, a future of additional medical expenses, and a limited ability to continue employment.

Ms. Smith contacted Searcy Denney attorney **Karen Terry** to request assistance in holding Mr. Jones accountable for the damages she had incurred due to the collision. Mr. Jones and his insurance carrier strongly disputed liability and blamed Ms. Smith for driving erratically and speeding, thereby causing the crash. Experts were retained on both sides in accident reconstruction as well as in the areas of neuropsychology, neuroradiology, and physical medicine and rehabilitation. After deposing all of the witnesses to the crash and expert witnesses, Ms. Terry secured \$975,000 for Ms. Smith at the second mediation. ♦

Victim suffered open leg fracture, chest injuries, and possible brain damage. She was no longer able to maintain gainful employment and was left with considerable medical expense and physical therapy needs.

