

# VIRGINIA LAWYERS WEEKLY

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## VERDICTS & SETTLEMENTS

### Passenger suffered TBI in collision with tractor-trailer

The 23-year-old plaintiff was a passenger in a full-sized pick-up truck traveling the speed limit on a two-lane road in Suffolk. The weather was clear and the road conditions were dry. A vehicle traveling in the opposite direction, waiting to turn left into a driveway, stopped to allow plaintiff's vehicle to pass. The defendant tractor-trailer driver, traveling approximately 60 mph, was using his cell phone and failed to notice the vehicle in front of him until it was too late. The defendant attempted to swerve his tractor-trailer but sideswiped the stopped vehicle, causing his tractor-trailer to jackknife. The defendant skidded into the opposite lane, slamming into the vehicle in which plaintiff was a passenger, killing the driver of that vehicle and severely injuring plaintiff.

Plaintiff was flown to Norfolk Sentara hospital and treated for multiple injuries, including a left femur fracture and a traumatic brain injury. He remained hospitalized for nearly six weeks and afterward made a strong recovery. Total medical bills were \$454,936. Plaintiff also claimed a lifetime loss of earning capacity

of \$624,605. Several months after the accident, plaintiff began working for a benevolent employer on a farm but still had some unresolved issues with memory recall and executive functioning skills.

After the case was filed, and following an independent medical exam by a neuropsychologist chosen by defense counsel, the case was set for mediation before Thomas Shadrack. Prior to mediation, plaintiff had demanded \$4,000,000 (the remaining coverage). Defendant had proffered the \$1,500,000 left in the second layer of coverage after settlement of the wrongful death case brought by the driver of plaintiff's vehicle.

At mediation, plaintiff's presentation included videotaped statements from the plaintiff's family members as well as a compelling statement from plaintiff. Defense counsel contested the extent of plaintiff's injuries, the necessity of various items in plaintiff's proposed life care plan and alleged that pre-existing conditions contributed to plaintiff's difficulties. After a day of mediation, the case settled for \$3,500,000.



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**Type of action:** Personal injury – tractor-trailer accident

**Injuries alleged:** Left femur fracture, small bowel perforation, TBI

**Resolved by:** Mediation

**Mediator:** Thomas Shadrack

**Date resolved:** May 16, 2014

**Special damages:** Medical bills of \$454,936; lost earning capacity of \$624,605; life care plan

**Verdict or settlement:** Settlement

**Amount:** \$3,500,000

**Attorneys for plaintiff:** Randy Singer and Christian Blank, Virginia Beach

**Plaintiff's experts:** Dr. Michael Stutts, clinical psychologist (treating); Dr. Scott Sautter, neuropsychiatry; Susan Riddick-Grisham, RN, BA, CCM, CLCP, life care planner; Barbara Byers, vocational rehabilitation counselor; Dr. Jerome Paige, economist; James Overton, accident reconstruction; Alan Michaelis, multimedia services