

It **pays** to insure with **Lawyers Mutual.**

\$1 million dividend declared

**LAWYERS
MUTUAL** LIABILITY INSURANCE
COMPANY OF
NORTH CAROLINA
www.lawyersmutualinc.com

- Home
- News
- Verdicts & Settlements
- Opinion Digests
- Paralegal
- Events
- Advertising
- Subscribe
- Products
- Classifieds
- Resources
- Alert
- Search

NORTH CAROLINA
LAWYERS WEEKLY
nclawyersweekly.com

Subscribe
Manage your account
Log out



NORTH CAROLINA LAWYERS WEEKLY > VERDICTS & SETTLEMENTS > PLAINTIFFS RECOVER
\$13.575 MILLION FOR CHILD'S QUADRIPLÉGIA FROM SHIELD BOOSTER SEAT

Plaintiffs Recover \$13.575 Million For Child's Quadriplegia From Shield Booster Seat

Brief statement of claim: A grandmother lost control of her vehicle and spun out on a rain-slick portion of the eastbound lanes of Interstate 40 in North Carolina. Her grandson, then a five-year-old boy who weighed less than 40 pounds, was properly restrained in the rear passenger side position in a child safety booster seat.

The grandmother's vehicle slid to a stop in the middle of the two eastbound lanes facing the median. A tractor-trailer driver that had been traveling some distance behind the grandmother's vehicle hit his brakes when he saw her sitting sideways in the road and jackknifed into a ditch on the right side of the interstate without making any contact. A Ford Van was also traveling behind the grandmother and the tractor-trailer. When the tractor-trailer jackknifed to the right, the van veered to the left and then struck the grandmother's vehicle in the driver's side door.

Upon impact, the little boy was ejected from the booster seat and crashed through the vehicle's left rear window. The child landed in the grassy median. The child's father instituted suit against the child safety seat manufacturers, the retail sellers of the booster seat, the tractor-trailer truck company and its driver, and the driver of the van. For strategic reasons, the grandmother was not sued.

Principle injuries: The child suffered a high cervical spinal cord injury rendering him quadriplegic and ventilator dependent.

Special damages: At the time of mediation, the child's medical bills exceeded \$1 million; total economic damages: \$1.5 million past medical bills; \$42 million future medical bills; \$3.5 million loss of earning capacity

Verdict or settlement: Settled

County where tried or settled: Confidential

Case name and number: Confidential

Date concluded: Plaintiff settled with the manufacturer and retailer defendants shortly after a mediation in April 2003. Plaintiff settled with the truck company and its driver, the driver of the van, and the grandmother's insurance company in November 2003.

Name of judge: Confidential

Amount: Total recovery of \$13,575,000: \$13,000,000 (manufacturer and retailer defendants); \$500,000 (truck company and driver); \$50,000 (grandmother – policy limits); \$25,000 (van driver – policy limits)

Plaintiff's Experts: Jerry Wallingford, PE, accident reconstruction (San Antonio, TX); Charles Manning, PhD, PE and David McCandless, PE, accident reconstruction (Raleigh); Terry Winkler, MD, life care planner (Kansas City, MO); Cynthia Wilhelm, PhD, vocational rehab (Chapel Hill); Finley Lee, PhD, economist, (Chapel Hill) (No other experts had been disclosed at the time of settlement)

STAY CONNECTED WITH US



NC Lawyers Weekly keeps you connected with the latest legal news, Daily Practice and Breaking News alerts.

Sign up for NC Lawyers Weekly email alerts

The LL.M. in Estate Planning and Elder Law



Part-time.
Full-time.
Completely online.

SCHOOL of LAW
WESTERN NEW ENGLAND UNIVERSITY | WNE



Stay Current. Subscribe Today!

News and information you need to win.

Subscribe

NORTH CAROLINA
LAWYERS WEEKLY

Most Important Opinions

1. Criminal Practice – Abusive Boyfriend Convicted of Murder One

: The 4th Circuit affirms defendant's first-degree murder in the fatal shooting of his ex-girlfriend after a day of fishing and a fish fry on the reservation of the Eastern Band of Cherokee Indians; the trial court properly admitted evidence of defendant's prior violent acts and death threats against the victim, and

Defendant's Experts: James McElhaney (NC); Robert Piziali (CA); Mike Sutton, PE (NC); Ann Neulicht, PhD (Raleigh)

Attorneys for plaintiffs: Brian F. Davis and John M. McCabe of the law firm of Davis & McCabe, P.A., Knightdale; Doug Gentile, Randy Rhodes and Evan Douthit of Douthit Frets Rouse & Gentile, L.L.C., Kansas City, MO

Insurance carrier: Confidential

Other useful information: The type of child safety seat at issue in the case is known as a "shield booster" or "booster with shield." Since the late 1980's, child passenger safety advocates have cautioned against using booster with shield seats for children who weighed less than 40 pounds. The booster seat in this case is and has always been marketed as being safe for children as small as 30 pounds. However, dozens of children like the boy in this case who weighed less than 40 pounds have been seriously injured or killed after being totally or partially ejected from these seats and its predecessor model. The minor is now a 9-year-old ventilator dependent quadriplegic. Since his injury, his medical bills have exceeded \$1.5 million. His future medical needs have been estimated at \$42 million. Due to his injuries, the minor's lost earning capacity totals \$3.5 million.

Submitted by: Brian Davis



By
Published: February 16, 2004
Time posted: 1:00 am



[< Previous Article](#)

[Next Article >](#)



Already a subscriber? Claim Whitepapers here.

[Try Lawyers Weekly for 30 days and gain access.](#)

Recent topics include:

The road less traveled: unique legal practice areas

Exit strategy: a solo and small-firm lawyer's guide to the how and when of retirement



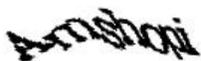
[Click here to enjoy the convenience of office or home delivery of North Carolina Lawyers Weekly.](#)

POST A COMMENT

Your name:

E-mail:

Homepage:



SOW

Type the text

[Privacy & Terms](#)



SUBMIT

Notify me of follow-up comments by email.

Notify me of new posts by email.

defendant "invited error" by refusing to allow a jury instruction on a lesser-included offense.

2. Administrative – Black Lung – Evidence – Disability – Rebuttal

Mingo Logan Coal Co. v. Owens An administrative law judge did not improperly limit a coal mining company's ability to rebut a presumption of black lung benefits for a claimant who had spent at least 15 years in an underground mine and had become totally disabled from breathing difficulties, and the 4th Circuit affirms the award of benefits.

3. Administrative – 'Market Rate' Debate in Black Lung Fee Award

Eastern Associated Coal Corp. v. Director, OWCP In this black lung benefits case, claimant's lawyers had sufficient market-based evidence to support their hourly rates of \$175 to \$300 and their quarter-hour billing did not lead to billing excessive hours, but the 4th Circuit said the record did not support some fees for legal assistants; the court affirms the award of over \$32,000.

[> All Opinions...](#)

