

DAILY BUSINESS REVIEW

VERDICTS & SETTLEMENTS

Attorneys Win \$3 Million Verdict for Man Injured in Car Crash

by Samantha Joseph

Domnick Cunningham & Whalen attorneys obtained a more than \$3 million verdict for a client injured in an early-morning crash with a tractor trailer.

After a 48-foot tractor-trailer injured Marc Rene in an early morning accident on a suburban road in West Palm Beach, the trucking company made a \$300,000 pretrial offer.

But a Palm Beach County jury awarded Rene 10 times that amount—more than \$3 million in damages—in his suit against Pat Salmon & Sons of Florida Inc. and driver Patrick Chancey.



Domnick Cunningham & Whalen attorneys Jeanmarie Whalen and Fred Cunningham.

Case: Marc Rene v. Pat Salmon & Sons, Inc. and Patrick Chancey

Case No.: #502015CA007601XXXXMB

Description: Auto v. Tractor Trailer Collision

Filing date: July 6, 2015

Verdict date: July 7, 2017

Judge: Richard Oftedal

Plaintiff attorneys: Jeanmarie Whalen, Esq. and Fred Cunningham, Esq.

Defense attorneys: Lee Cohen, Esq. and David Kirsch, Esq.

Verdict amount: \$3,001,000

“It’s a huge disparity,” said plaintiffs attorney Jeanmarie Whalen, the Domnick Cunningham & Whalen partner who teamed with shareholder Fred Cunningham to bring Rene’s suit. “The bottom line is we are very pleased Mr. Rene will have the funds necessary to pay for his future care, and that the jury compensated him for of the harms

and losses caused by the defendant’s negligence.”

Defense attorney David Kirsch of Cole Scott & Kissane said his clients intend to appeal on multiple grounds, including claims Rene’s blood alcohol level surpassed the legal limit, and that the treating physician was married at the time of the accident to an attorney linked to the plaintiff.

Rene was about a mile from home, traveling north in a Honda Accord along Benoist Farms Road around 5 a.m. Oct. 11, 2014.

Chancey, meanwhile, was on his way to a nearby post office for a haul from the U.S. Postal Service, and had just exited a truck yard on the west side of Benoist Farms Road. He was attempting to turn right into the southbound lanes, but made too wide a turn and entered the northbound lanes, facing the wrong direction, according to Whalen. Chancey was attempting to return to the southbound lanes and correct course when the accident occurred.

Neither driver saw the other vehicle until it was too late, according to court records.

Chancey's "attention was on the trailer because there was a sign on the property, and he wanted to make sure the trailer didn't hit the sign," Whalen said. "He made the turn every day, five days a week for two years, and he knew he couldn't make the turn without going into the northbound lane. But he did so anyway, knowing that my client was approaching."

Rene sustained injuries to the right side of his right lower body, including fractures of his hip and patella, or kneecap. He suffered a laceration over the patella, open wound to the right heel and fracture of the right hip and acetabulum, the point where the hip meets the femur. He underwent two surgeries during initial hospitalization, but has since developed post-traumatic arthritis and remains under continuous care of

an orthopedic surgeon, according to Whalen.

"Mr. Rene has been a prisoner to his pain since the ... accident and he has a lifetime of healing ahead of him," Whalen said. "The jury clearly agreed that the defendants did not exercise reasonable care on this fateful night and sought to right this wrong with their verdict."

Rene was 34 at the time of the accident and had two children, age 10 and 3 months. He sought about \$230,700 in past medical expenses and claimed he'd have to undergo future surgeries to delay full joint replacements and potential revisions.

But Kirsch and fellow defense attorney Lee Miller Cohen painted a different picture that they hope will result in a new trial and show Rene partially responsible for the accident.

"There were records from the hospital showing that the plaintiff was intoxicated at the time of the crash," Kirsch said. "We think that was very important evidence."

According to the defense, a hospital test showed Rene's blood test was 0.136—higher than the legal limit of 0.08. They also raised questions about the other side's medical expert, but Palm Beach Circuit Judge Richard Oftedal sided with the plaintiff on both issues.

"One of our points on appeal is that the doctor has a clear bias toward the plaintiff side, because it appears the plaintiff's treating doctor was married to the plaintiff's attorney during the time that doctor was recommending exten-

sive future care," Kirsch said. "The judge appears to have prevented us from including that evidence because the doctor was not married to the attorney at the time the doctor was testifying."

The jury largely sided with Rene, but found him negligent in the crash. It assigned him 30 percent of the blame, and shaved \$900,300 for comparative fault off his \$3,001,000 award.

The award included about \$230,700 for past medical costs, nearly \$534,900 for future expenses, \$670,631 for past and nearly \$1.57 million for future pain and suffering, physical impairment, disfigurement, mental anguish, inconvenience, aggravation of a disease of physical defect, or loss of the capacity for the enjoyment of life.

"The civil justice system is in place to ensure citizens have due recourse when they have suffered harm or loss due to the negligence of another," plaintiffs lawyer Cunningham said. It's "a great day for our clients because justice prevailed."

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