

MOTOR VEHICLE

Passenger — Intersection — Red Light — Right Turn

Passengers sued other driver for closed head injuries

VERDICT

Defense

CASE

Cheryl Smith as guardian of Michelle Smith and Mark Huber individually and as next friend of Jessica Huber v. Ross Road Boring Company, No. 78590A

COURT

Travis County Probate Court No. 1, TX

JUDGE

Guy Herman

DATE

8/22/2005

PLAINTIFF

ATTORNEY(S)

Josh Erwin, Spivey and Ainsworth,
Austin, TX
Jay Harvey, Winckler & Harvey,
Austin, TX
Jay L. Winkler, Winkler & Harvey,
Austin, TX

DEFENSE

ATTORNEY(S)

David L. Brenner, Burns Anderson Jury &
Brenner, Austin, TX
Jessica Warren, Burns Anderson Jury &
Brenner, Austin, TX

FACTS & ALLEGATIONS On November 19, 2002, plaintiffs Jessica Huber, age 4, and Michelle Smith, 21, were passengers in a vehicle driven by Reyna Noble when they collided with a Ford F550 truck, driven by an employee for Ross Road Boring Co., located in Austin.

The plaintiffs sued Ross Road Boring Co. for negligence claiming that the driver failed to keep a proper lookout when entering the intersection and was a cause of the accident.

The defense contended that Noble was entirely at fault after she ran a red light. Joe Thornhill, an accident reconstructionist and expert witness for the defense, testified that Noble entered the intersection 16 seconds after the light turned red. Although some specifics surrounding the damages were disputed, the defense focused its argument around liability.

closed-head injuries resulting in permanent cognitive disorders. Michelle Smith fell into a coma and spent a total of five weeks in the hospital. She had numerous tests conducted, including MRI's and a CP scan. Although she had no physician testify, her medical records reflected permanent brain damage and vision loss. Jessica Huber also had significant brain damage and vision loss. Due to her age, her rests were more limited.

The plaintiff's sought past and future medical expenses, totalling \$8,546,533.10. Although they sought non-economic awards, they did not submit a suggested amount. They opted not to file punitive damages.

RESULT The jury ruled in favor of the defense, placing blame for the accident entirely on Noble.

DEMAND 1,000,000.00
OFFER 100,000.00

INSURER(S) Empire Fire and Marine Insurance Co. for
Ross Road Boring Co.

TRIAL DETAILS Trial Length: 5 days
Trial Deliberations: 4.5 hours

**PLAINTIFF
EXPERT(S)**

James Mallory, PhD, accident
reconstruction, Hewitt, TX
Dr. Glenn Robinson, gastroenterology,
Round Rock, TX
Dr Dwight Stewart, economics,
Austin, TX
Dr. John Stokes, neurology, Austin, TX
Alex C. Willingham, M.D., life care
planning, San Antonio, TX

**DEFENSE
EXPERT(S)**

Newton Ellis, human factors — see also
technical-engineering-ergonomics,
College Station, TX
Joe Thornhill, P.E., Ph.D., accident
investigation & reconstruction/ failure
analysis/product liability, Leander, TX