

MASSACHUSETTS LAWYERS WEEKLY

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VERDICTS & SETTLEMENTS

Motor Vehicle Negligence Collision With 77 Year Old Pedestrian

\$500,000 Settlement

On Sept. 24, 1998, the 77-year-old plaintiff stepped across the eastbound travel lane of Waverly Street in Framingham and was struck by a truck owned by the defendant corporation and operated by its employee. The plaintiff had attempted to cross the street approximately 30 feet east of the controlled intersection. In dispute was whether or not there was a crosswalk at the intersection; there were traffic control devices.

The defendant reportedly was traveling southbound on Route 126 in his Dodge 1500 truck. He made a left turn at the intersection onto the eastbound lane of Waverly. The defendant operator claimed his vehicle was traveling only 5 to 10 mph on Waverly Street prior to the impact. The defendant asserted that the A pillar of his truck blocked his view of the plaintiff, who allegedly

stepped off the curb in the middle of the street and in front of the truck.

The police found the plaintiff in the middle of the eastbound lane of Waverly Street about 30 feet from the controlled intersection and a short distance from the truck. There was no dent or damage to the defendant's truck.

The defendant contended that the plaintiff was comparatively negligent for failing to cross within a crosswalk and/or failing to cross at the controlled intersection. Police photographs were inconclusive with respect to the presence or absence of a crosswalk at the controlled intersection.

The plaintiff sustained a traumatic brain injury, as well as multiple fractures of her spine and pelvic region. Her medical expenses were in excess of \$138,000.

The plaintiff was declared incompetent and is under the guardianship

of her daughter.

Injuries alleged:

Traumatic brain injury, fractures of spine and pelvic region

Name of case:

Withheld

Court/case #:

Withheld

Tried before judge or jury:

N/A (mediated)

Name of mediator:

Diane Zaar Cochran

Special damages:

\$138,127

Amount of settlement:

\$500,000

Date:

Sept. 20, 2000

Highest offer:

\$500,000

Attorneys for plaintiff:

Kenneth I. Kolpan, Boston, and Alan Cohen, Framingham

Attorney for defendant:

Withheld

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