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# Law Reporter

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**Head-on collision: Respondeat superior liability: Failure to properly educate employees: Wrongful death: Leg fracture: Settlement.**

*Hudson v. Bio Gro*, U.S. Dist. Ct., N.D. Ga., No. 1:99-CV 0846, Aug. 31, 1999.

Jemison, 47, a resident of New Zealand, was driving when a vehicle driven by a Bio Gro employee—a U.S. citizen on business in New Zealand—collided head-on with Jemison’s vehicle. She suffered fatal injuries. A teacher who had earned the equivalent of \$18,000 annually, she is survived by her husband, minor son, and four adult children.

Jemison’s son, 3, a passenger in the vehicle, suffered a fractured right femur. His medical expenses of \$6,500 were covered under New Zealand’s “no-fault” act.

Jemison’s husband, individually and on behalf of their minor son, and her estate sued Bio Gro in Georgia, alleging respondeat superior liability for its employee’s negligent operation of an automobile. Plaintiffs claimed defendant had failed to properly educate its employees traveling in New Zealand on the rules of that country’s highways.

Defendant argued that because New Zealand law does not allow litigation for personal injury or death arising out of automobile accidents, plaintiffs were barred from bringing their suit. Plaintiffs countered that New Zealand law specifically disallows such litigation in that country’s courts but anticipates litigation beyond New Zealand. Plaintiffs also argued that noncitizens could sue in any court where a defendant has minimum contacts. Defendant was a U.S. company that conducted business in Georgia. Moreover, the passenger in the vehicle driven by defendant’s employee had already filed suit in Georgia, where he resided.

Defendant conceded liability after discovery was completed. The parties then settled for \$300,000 plus round-trip airfare for three people between New Zealand and Georgia. Jemison’s husband received \$81,000; their son, \$50,000; Jemison’s adult children, \$10,000 each; and the estate, the remainder.

*Plaintiffs’ Counsel:*

\*Eric P. von Wiegen, Lexington, Ky.  
Barry S. Noeltner, Atlanta, Ga.

**Pedestrian struck by truck: Improper lookout, crossing into shoulder: Ruptured spleen: Leg fracture: Settlement.**

*Merrill v. Special Transport*, Md., settled before filing, Oct. 1, 1999.

Merrill, 31, was walking along a road’s right shoulder near an intersection when he was struck by a truck that had al-

legedly crossed into the shoulder to make a right turn. Merrill suffered multiple injuries, including a ruptured spleen, leg fracture, and an eye injury. His medical expenses totaled about \$310,300.

As a result of his injuries, Merrill now suffers from a residual limp. A painter who had earned \$24,000 annually, he has been unable to return to work.

Merrill claimed the truck driver had (1) failed to keep a proper lookout and (2) improperly crossed into the shoulder while attempting to turn.

Merrill settled with the driver’s employer for its policy limits of \$1 million.

*Claimant’s Counsel:*

\*David F. Albright Jr., Baltimore, Md.

**Driver runs red light: Speeding: Driving while intoxicated: Failure to use headlights: Brain damage: Verdict.**

*Bloniasz v. Phelan*, Mass., Worcester County Super. Ct., No. 95-0667, June 30, 1999.

A drunk driver ran a red light and collided with Bloniasz’s vehicle. Bloniasz, 21, suffered a fractured skull that resulted in brain damage.

She currently suffers from depression and has difficulty with verbal reasoning, idea generation, verbal memory, and mathematical skills. Her medical expenses totaled about \$163,800. Bloniasz was a college student at the time of the collision.

Bloniasz filed suit against the other driver, alleging (1) failure to heed a red light, (2) driving at an excessive speed, (3) driving while intoxicated, and (4) driving without headlights.

The jury awarded about \$22.66 million, including about \$7.66 million in interest.

Plaintiff’s expert was Dana Hewins, economics, Weston, Mass.

*Plaintiff’s Counsel:*

\*Edward C. Bassett Jr., Worcester, Mass.

[*Comment:* For other cases alleging driving while intoxicated, see *Marcellus v. Gridiron Sports Bar, Inc.*, 40 ATLA L. Rep. 129 (May 1997), and *Campbell v. Turner*, 41 ATLA L. Rep. 48 (Mar. 1998).

\*John R. Howie and \*William W. Camp, both of Dallas, Tex., and \*Dwain Dent, Fort Worth, Tex. represented plaintiffs in *Marcellus*. \*Martin H. Levin and \*Virginia M. Buchanan, both of Pensacola, Fla., represented plaintiffs in *Campbell*.]

[Documents in *Marcellus* and *Campbell* are available through the Court Documents section in the back of this issue, courtesy of plaintiffs’ counsel.]