

Brain Injury Case Against Verizon Settles for \$3 Mil.

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A woman who sustained a traumatic brain injury after being rear-ended by a Verizon bucket truck driver—who was on a cellphone while driving—settled her suit against the company for \$3 million.

The plaintiffs in *Pinkerton v. Verizon* reached settlement with Verizon after seven days of trial before a 10-person jury in Philadelphia Court of Common Pleas Judge Angelo J. Foglietta's courtroom.

According to one of plaintiff Patricia Pinkerton's attorneys, Joseph Messa of Messa & Associates, Verizon offered to settle the case before trial for \$200,000 and then for \$300,000 on the day of jury selection.

Messa said the case was important not only for the compensation the Pinkerton family received, but for the fact that it highlighted the continuing problem of distracted driving.

"Even more concerning is when someone is driving a heavy commercial vehicle that could cause a lot more damage and injury than a car," Messa said.

"This crash occurred half a block from an elementary school," Messa continued. "God forbid this accident was a half a block later and the guy hit a kid crossing the street."

Verizon's lawyer, Ernest Bernabei III of Harvey Pennington, said, "Verizon at all times recognized that this was a negligence case and also recognized that the plaintiff had legitimate damages. ... Verizon was very much interested in reasonably resolving this matter for some time."

The accident occurred Feb. 27, 2012, while Pinkerton, an operating-room nurse who had just finished her shift at Bryn Mawr Hospital, was stopped at a red light, according to the plaintiffs' pretrial memorandum.

"Verizon's truck slammed into Patricia Pinkerton's car with such force that she was knocked unconscious and had to be rescued by passersby from her car that caught fire," court papers said.

Pinkerton's neurologist, Dr. Christopher Reid, diagnosed her with a traumatic brain injury in addition to spinal injuries. Court papers said that as a result of her injuries, Pinkerton had problems with her memory and, upon returning to work, found herself handing surgeons the wrong instruments during operations as well as giving out the wrong medications to patients.

According to court papers, Verizon driver Robert McCollick said at the time of the accident, "My personal cellphone was on hold with a Verizon tester for the job I was coming from. I checked for the job ticket number. I recall looking down at the phone momentarily to retrieve the ticket number. When I looked up, I saw the plaintiff's car in front of me. I hit my brakes but was unable to avoid striking the plaintiff's car at a very low speed."

However, Bernabei said cellphone records indicate that McCollick was never on hold while driving.

Pinkerton blamed the ending of her 32-year career as a nurse on Verizon's policy of having its employees check the details of daily jobs on their cellphones. Court papers also noted that McCollick had been reprimanded by Verizon for a prior accident.

"Though Verizon has a policy that prohibits the use of cellphones during the operation of its trucks, in

conscious disregard for the health, welfare and safety of the community, and Patty Pinkerton, Verizon disregarded that policy and communicated with McCollick on his cellphone while he operated its eight-ton truck," court papers said.

In addition to being unable to work as a nurse, Pinkerton has difficulty sleeping, eating, dressing herself and remembering to pick up her daughter from school, court papers said.

Verizon, in its pretrial memorandum, disputed the severity of Pinkerton's injuries.

"It is admitted that [Pinkerton] has suffered cognitive impairment injuries related to a concussion and closed head injury with certain deficits," defense papers said. Her "injuries are consistent with mild traumatic brain injury. Any suggestion that these injuries are permanent is purely speculative."

Pinkerton continues to handle her family's finances and tax preparation, defense papers said, and also uses an iPad, reads, and participates in day-to-day household activities, according to defense papers.

"She worked for approximately one year after the accident," defense papers said. "While she alleges that she is unable to perform her duties as a surgical nurse, she successfully did so for that period and in fact received a raise."

Verizon said Pinkerton, as a longtime employee of Bryn Mawr Hospital, was "certainly capable" of finding work there as a nonsurgical nurse, according to defense papers.

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