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VERDICTS & SETTLEMENTS

College student struck by vehicle in new campus crosswalk

\$3,675,000 Settlement

On a rainy night, plaintiff, a full-time college student, was crossing with a friend in a crosswalk across a newly constructed roadway on campus when she was struck by a vehicle and severely injured. The crosswalk and adjacent signalized intersection were designed and constructed as part of a design/build-capital improvement project. The driver, operating a rental vehicle, never saw the plaintiff before striking her. Plaintiff, in the moments before she was struck, observed the approaching vehicle, pulled her friend out of its path and was struck.

The plaintiff suffered a traumatic brain injury with resulting hemiparesis and residual cognitive deficits. She also sustained serious orthopedic injuries including severe pelvic ring fracture including the superior anterior pubic ramus fracture of the left side, right pubic

fracture, left iliac wing fracture extending to the left sacroiliac joint and left sacral fracture stabilized with external fixation.

A negligence action was filed against the driver and settled for all available insurance coverage in the amount of \$1,275,000, with a covenant not to sue in accordance with §8.01-35.1. A second suit was filed against the parties responsible for the design and placement of the crosswalk. Plaintiff asserted that the crosswalk was not properly marked with MUTCD compliant signage, was not properly illuminated and was improperly located 65 feet in advance of the stop bar at the newly signalized intersection in violation of MUTCD, AASHTO and VDOT guidelines and other applicable engineering standards. Further, plaintiff asserted the roadway plan was not submitted to VDOT for approval as



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required. Defendants denied improper design and hotly contested liability as well as the extent of plaintiff's TBI. Numerous demurrers and pleas in bar were filed and argued. Defendants asserted plaintiff was contributorily negligent for failing to observe the vehicle and avoid being struck. Plaintiff relied upon the rescue doctrine and, because she had no memory of the accident, the presumption that she exercised ordinary care.

Three weeks before a scheduled four-week jury trial, while numerous substantive motions in limine were pending, the second suit settled for \$2,400,000 after a full-day mediation.

The recovery for the plaintiff from the two suits totaled \$3,675,000.

Plaintiff has returned to school as a part-time student.

[14-T-005]

Type of action: Personal injury

Resolved by: Mediation

Mediator: Donald Kent

Date: June 17, 2013

Special damages: Medical bills - \$239,578.54; life care plan; future lost wages

Verdict or settlement: Settlement

Amount: \$3,675,000

Attorney for plaintiff: Katherine M. Fogarty, Fairfax

Plaintiff's experts: Loren Staplin, Ph.D., human factors; Fred Hanscom, P.E., traffic and lighting engineering; Christopher Tiesler, P.E., traffic engineering; Steven Massie, standard of care of design/build contractor; Alexander Post, M.D., neurosurgeon; M.

Ruth Infante, M.D., psychiatrist; Tod Davis, O.D., optometrist; Donald Hope, M.D., neurosurgeon; Faisal Siddiqui, M.D., orthopedic surgeon; Daniel Heller, M.D., pain management; Jeffrey A. Wilken, Ph. D., neuropsychologist; Anthony Bird, MA, CRC, vocational rehabilitation counselor; Susan Riddick-Grisham, RN, BA, CCM, CLCP, life care planner; Richard B. Edelman, Ph.D., economist