

Auto Negligence/UM - The plaintiff complained of whiplash after a chain-reaction rear-ender – in this lawsuit he blamed the driver of the car that rear-ended him as well as his UM carrier, the middle driver claiming a John Doe driver pushed her into the plaintiff

Lanphear v. Gentry et al, 09-216

Plaintiff: David A. Lanphear,
Lanphear & Walton, Bowling Green

Defense: Tad T. Pardue, *Bell Orr Ayers & Moore*, Bowling Green for Gentry

Melissa T. Richardson and Joshua J. Leckrone, *Golden & Walters*,

Lexington for Westfield Insurance

Verdict: Defense verdict on liability for Gentry; \$9,600 for plaintiff

against UM carrier only predicated on fault of John Doe driver

Court: Warren, J. Grise,
4-24-14

Charles Lanphear, then age 62, was stopped at a red light on 1-20-03 on Scottsville Road. An instant later he was rear-ended by Anita Gentry. The impact knocked him into the next car.

Gentry had an explanation for the collision. She alleged that she safely came to a stop behind Lanphear, only to be rear-ended herself and pushed forward. The car that struck her was a John Doe driver who fled from the scene. Gentry was the only

witness that saw the phantom driver.

However it happened the Lanphear vehicle was struck and he claimed injury. He has since treated for whiplash symptoms and the aggravation of degenerative conditions. His injuries were confirmed by Dr. Vaughan Allen, Neurosurgery, Nashville.

In this lawsuit Lanphear moved against Gentry and sought damages. He also sued his UM carrier, Westfield Insurance, seeking damages occasioned by the tortious conduct of the John Doe driver. The jury then could apportion fault between Gentry and the John Doe. If Lanphear prevailed he sought his medicals of \$8,453 and \$150,000 more for pain and suffering.

Gentry's defense as noted above was simple. She was stopped when rear-ended by the John Doe. Westfield defended the UM claim and denied there was a phantom at all, noting that only Gentry had seen him.

The defendants also diminished damages with an IME, Dr. Martin Schiller, Orthopedics, Louisville. The expert believed that at best Lanphear had sustained only a transient soft-tissue injury. Schiller linked Lanphear's ongoing symptoms to degenerative conditions.

The jury's verdict was mixed on fault. Gentry was exonerated on liability, the jury finding John Doe 100% at fault. Lanphear having survived the \$1,000 in reasonably necessary medical bills query (the so-called threshold), the jury moved to damages.

Lanphear took \$2,100 in medicals and \$7,500 more for pain and suffering. The verdict totaled \$9,600. A consistent judgment was entered that exonerated Gentry. Similarly the judgment for Lanphear was against Westfield (the UM carrier) less PIP.