

Auto Negligence - Verdict in a sideswipe case on a narrow bridge leaves plaintiff with an award for medicals, but nothing for suffering

Wright v. Thorne, 01 CV 0114

Plaintiff: Roy G. Collins and Marcus E. Fannon, *Morgan Bailey & Collins*, Manchester

Defense: John W. Walters, *Golden & Walters*, Lexington

Verdict \$3,621 for plaintiff less 30% comparative fault

USDC: Lexington, J. Todd, 6-5-02

On 9-20-99, two vehicles approached one another from opposite directions on Greenwich Pike. They would meet on a narrow bridge. Plaintiff, Brenda Wright, age 52, familiar with Greenwich, had selected it when she heard on the radio that there was a wreck on Paris Pike. She drove a Cadillac Catera. At the same time, James Thorne was driving a truck pulling a horse trailer for his employer, Mill Run Farm.

Thorne was on the bridge first and he correctly perceived there wasn't room for the approaching car and his truck to pass. Slowing down, he pulled as far to the right as he could. For her part, Wright didn't notice anything amiss, that is until she heard a crashing noise and her passenger-side window shattering around her. There had been a moderate sideswipe collision.

Shaken at the scene, Wright was taken to the ER in Paris. She has since followed for whiplash symptoms, manifesting as a stiff neck. Her treating, Dr. Greg Wheeler, Neurology, Lexington, noted chronic pain and a nerve root irritation, linking it to a C4-5 disc injury. Wright

has also treated with Dr. David Beck, Chiropractor, Lexington.

Her medical bills were \$9,688 and in uncapped sums, she sought impairment and suffering. In this lawsuit, Wright blamed Thorne's too-large truck for having encroached her lane. Sued in state court, Thorne of Parkersburg, WV, removed on diversity grounds.

He defended on liability, noting several key points. First, the bridge was narrow and he was the first vehicle to reach it. Accordingly, it was Wright who should have yielded to him. This was even more significant, he explained, because while Wright was familiar with the area and the bridge, Thorne was not.

Thorne also defended with an IME, Dr. Daniel Primm, Orthopedics, Lexington. He found just a temporary strain injury, further opining there was no evidence of a disc herniation. On cross, Wright had sought to develop proof of Primm's prior involvement in unsuccessful writ litigation to prevent exposure of his IME finances. Answering, Primm explained that was a totally different issue, the result of a *plaintiff's attorney* who had attempted to intimidate him. For these published Court of Appeals opinions, see *Primm v. Isaac*, 2001-CA-001965-OA, rendered 3-22-02, (Primm challenging a Lexington trial court's order that he produce financial records) and *Metropolitan Ins. v. Overstreet*, 2001-CA-001909-OA, rendered 12-22-01, (here an insurer challenging an order that permitted the videotaping of an actual Primm examination.)

Primm aside, the federal jury found both drivers at fault, assessing 70% to defendant, remainder to Wright. To damages, plaintiff took \$3,621 of her medicals, but nothing for impairment or suffering. The court's consistent judgment reflected the verdict and that its award did not exceed PIP. Despite that zero finding, Judge Todd did award Wright her costs.