

Montco Jury Awards \$4.4 Million to Woman Hurt in Car Accident

BY AMARIS ELLIOTT-ENGEL

Of the Legal Staff

A Montgomery County jury awarded \$4.4 million to a woman who said being rear-ended in a 2005 car accident caused her to develop a debilitating pain syndrome.

Cristina Tarca's 2001 Toyota RAV4 was rear-ended while she was driving on DeKalb Pike in Montgomery County Dec. 8, 2005, by the 2001 Ford E-150 van driven by Irvin Johnson on behalf of his former employer, Norristown Ford, according to the plaintiff's amended pretrial statement in *Tarca v. Norristown Ford*.

Tarca's vehicle was pushed into the intersection of DeKalb Pike and Swede Road, both vehicles were declared a total loss and Tarca was flown to the Hospital of the University of Pennsylvania, the plaintiff's papers said.

Montgomery Common Pleas Court Judge Gary Silow presided over the trial, which resulted in a verdict Tuesday.

The verdict is one of the highest verdicts or settlements reported in Montgomery County over the last decade by the annual publication *PaLAW*, a supplement to *The Legal*. Over the last decade, the only recoveries that have been higher have been the \$35 million accord in the Bridgeport fire class action, a \$20 million verdict in the medical malpractice case *Egan v. Koller*, and a \$6.4 million settlement in the negligence case *Ottaviano v. Werner Enterprises*.

The parties stipulated that driver Johnson, as well as Johnson's former employer, Norristown Ford, were negligent and were the factual cause of Tarca's injuries, as well as that Tarca's past medical expenses were \$168,102.99, according to the verdict sheet.

Johnson was looking down at the delivery schedule he had dropped to the floor when his vehicle hit Tarca's vehicle, according to the plaintiffs' and defense pretrial memorandums.

The jury was asked to decide the amount of Tarca's other injuries as well as whether the plaintiffs were entitled to punitive damages. According to the verdict sheet, the jury found against the plaintiffs on punitive damages. The jury found that Tarca was entitled to \$20,000 in additional past medical expenses related to an experimental treatment she sought from a Florida medical provider, close to \$1.9 million in future medical expenses, \$142,010 in past lost earnings, \$714,251 in future lost earnings, \$142,010 in past non-economic losses and \$1.33 million in future non-economic losses. They also found that Tarca's husband, Dumitru Tarca, was entitled to \$50,000 for loss of consortium.

The plaintiffs demanded \$15.8 million prior to trial and \$5 million at the beginning of trial, said plaintiffs' counsel Joe Mayers, of Mayers, Mennies & Sherr in Blue Bell. Silow recommended settlement between \$2.5 million and \$5 million. The defendants' offer started at \$450,000, was raised to \$750,000 at the beginning and then to \$2 million after closing arguments, Mayers said.

While Mayers affirmed, from first-hand experience on the defense side, that Montgomery County juries have a reputation as relatively restrained in their damage awards, he said they will find in favor of plaintiffs when facts merit it.

Plaintiffs' co-counsel were John A. Anastasia and Christina Herrmann, also of Mayers, Mennies & Sherr.



JOSEPH B. MAYERS

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Elizabeth F. Walker, of Zurich's staff counsel firm Kennedy Campbell Lipski & Dochney in Philadelphia, represented both defendants up through trial, Mayers said. Fred B. Buck, of Rawle & Henderson in Philadelphia, represented Norristown Ford during the trial, while Walker represented Johnson during the trial, Mayers said.

Walker could not be reached immediately on Wednesday afternoon. Buck declined to comment on the case.

The plaintiffs argued that Norristown Ford was negligent in hiring and supervising Johnson because he was driving at the time of the accident with a suspended driver's license. "Norristown Ford failed to obtain Mr. Johnson's past driving history at the time of his hire and failed to validate his status as a licensed driver throughout the course of his employment," the plaintiffs' pretrial memorandum said.

Unbeknown to Norristown Ford, Johnson's

license was suspended in October 2005 because he did not respond to a traffic ticket in August 2005, and Johnson did not receive notification of the suspension because he had moved, the defense pretrial statement said.

Drivers for the car dealership were checked on an annual basis, and there had been no problems with Johnson's license during the two years preceding the accident, the defense papers said.

"The claim against defendant, Irvin Johnson, is based solely on negligence and there is an admission that Johnson was acting within the course and scope of his employment with Norristown Ford," defense papers said. "There is no evidence to support any willful or wanton misconduct on the part of Norristown Ford in entrusting its vehicle to Irvin Johnson."

As a result of the accident, Tarca has Complex Regional Pain Syndrome, or Reflex Sympathetic Dystrophy, which causes her "constant burning and aching" in her arms and legs, and hypersensitivity so that "anything or anyone that touches her results in unbearable pain and agitation," the plaintiffs' papers said.

The defense disputed the nature of Tarca's injuries, according to their papers.

Mayers said the case was fought over damages, including whether Tarca had RSD at all and if it was caused by the accident.

Tarca also has had surgeries on her neck vertebrae in January 2008, the plaintiffs' papers said.

"I think that the jury was impressed by the fact that Cristina Tarca was someone who tried to persevere. Despite her severe injuries ... even though she missed four months of work initially she returned to work for about three years" before she had to stop working entirely, Mayers said.

Prior to the accident, Tarca, an immigrant from Romania, had signed an agreement in June 2005 to sell houses as an independent contractor for Long & Foster Broker-Associated Independent Contractors, and she "had just shared the good news of her first home sale with her son, Paul, moments before being rear-ended," the plaintiffs' papers said.

Mayers also said the jury could have been impacted by the "defense strategy of calling into question her character and her motivation for bringing the lawsuit."

Norristown Ford closed its business in 2007, and the franchise was sold to other dealerships that later resold the franchise to Ford, the defense pretrial memorandum said.