

## Man involved in three-vehicle wreck receives \$825K in arbitration

By: Bill Cresenzo April 14, 2020

A man who was thrown 20 feet from his truck after he was hit by another truck that had run a stop sign has received an \$825,000 award from an arbitration panel, his attorney reports.

Carlos Mahoney of Glenn, Mills, Fisher & Mahoney in Durham said that Anthony Dew was driving a rock quarry company-owned truck in Person County in 2016 when another motorist drove through the stop sign, causing a three-vehicle wreck.

Dew was ejected from the truck and suffered multiple injuries, including a skull fracture, right frontal subdural hematoma, right orbital fractures, multiple facial fractures, a right shoulder comminuted fracture, a deep laceration to his right arm, lacerations to his earlobes, and deep road rash on his chest, arm, and back, Mahoney said. He was hospitalized for seven days.

Once home, Dew experienced ongoing right shoulder problems, blurriness and decreased vision in his right eye, cognitive difficulties, and personality changes. He had two surgeries on his right shoulder and was diagnosed with a traumatic brain injury, mild neurocognitive disorder, and mild anxiety and depression. His neuro-ophthalmologist was unable to find an explanation for his decreased vision, due to which he received various driving restrictions, and diagnosed him with non-organic visual loss. By August 2019 Dew had not resumed any type of work and continued receiving vision therapy, Mahoney said.

After receiving \$200,000 from the at fault driver's liability insurers, Dew brought an arbitration claim against his underinsured motorist insurer, Utica Mutual Insurance Co., in August 2018. Utica denied liability, asserted contributory negligence, and disputed the extent of Dew's injuries and damages.

At the seven-hour arbitration hearing, Dew presented testimony from eight witnesses and offered more than 40 supporting exhibits, Mahoney said. Utica disputed his vision loss and contended that he should have returned to work.

After closing arguments, the arbitrators were given four issues: negligence, contributory negligence, damages, and pre-award interest. The panel unanimously found in Dew's favor on the negligence and contributory negligence issues. In separate 2-1 rulings, the panel awarded him \$825,000 but denied pre-award interest. (Dew subsequently settled his workers' compensation claims for \$75,000.)

"Anthony is doing better now, although he still has blurriness in his right eye," Mahoney said. "He is able to drive a little bit more, and he was getting ready to start a new position when the stay-at-home order was issued."

David Lewis of Bryant & Lewis in Durham represented Utica Mutual Insurance Co. He could not be reached for comment.

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**Amount:** \$825,000

**Injuries alleged:** Right shoulder fracture, traumatic brain injury, right eye visual impairment, depression and anxiety

**Arbitrators:** Michael McDaniel of Raleigh, Donald Beskind of Durham, and Robert Levin of Durham

**Special damages:** \$93,914.85 in paid medical expenses, \$191,208.85 in billed medical expenses, and \$133,392 in lost wages

**Date of award:** Aug. 24, 2019

**Highest offer:** \$200,000

**Most helpful experts:** David Dellaero, M.D. of Durham (orthopedic surgery), Mitchell Freedman, M.D., of Raleigh (neurology), Muhammad Bhatti, M.D., of Durham (neuro-ophthalmology), Kris Herfkens, Ph.D., of Durham (neuropsychology), Brett Miller, O.D., of Chapel Hill (neuro-optometry), Gary Albrecht, Ph.D., of Winston-Salem (forensic economist), Linda Killian, LCSW, of Hillsborough (counselor), and Laura Juel of Durham (certified driver rehabilitation specialist)

**Insurance carrier:** Utica Mutual Insurance Company

**Attorney for plaintiff:** Carlos Mahoney of Glenn, Mills, Fisher & Mahoney in Durham

**Attorney for defendant:** David Lewis of Bryant & Lewis in Durham

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