

## [ Verdicts & Settlements ]

# Brothers severely injured in sideswipe wreck

Defendants claim wrong surgery took place after accident, but case settles **\$3.45 million**

On Jan. 13, 2011, defendant driver, who was working for defendant company, was speeding on southbound Interstate 75 near the Sashabaw Road exit in Independence Township, when he lost control of his vehicle. He sideswiped the rear of plaintiff Steven Finley's vehicle, for which his brother, co-plaintiff Christopher Finley, was a passenger, causing it to flip multiple times down the freeway before coming to rest on its roof.

Stephen Finley suffered multiple cervical, thoracic, sternum and rib fractures, in addition to traumatic subarachnoid hemorrhaging resulting in a traumatic brain injury. He continues to undergo medical treatment and is permanently disabled and disfigured.

Christopher Finley incurred a tear from the middle of his forehead through the top of his head resulting in a subgaleal hematoma with a traumatic brain injury. He also suffered a collapsed disc at L5-S1 with hypertrophic spurs indenting into the dural sac and a "hard disc" at C5-C6 with neck/shoulder pain.

**Type of action:** Motor vehicle accident

**Type of injuries:** Cervical, thoracic, sternum and rib fractures, traumatic brain injury, permanent disability and disfigurement, disc herniations

**Name of case:** *Finley, et al. v. Defendant Nonprofit Corporation, et al.*

**Court/Case no./Date:** Oakland County Circuit Court; confidential, Sept. 10, 2012

**Tried before:** Mediation

**Name of judge:** Colleen O'Brien

**Name of mediator:** Marty Waldman

**Mediation settlement:** \$3.45 million

**Case evaluation:** \$4.6 million

**Insurance carrier:** Philadelphia

**Attorney for plaintiff:** Paul Whiting III

**Attorneys for defendant:** John Eads, Mark Zausmer

**Key to winning:** Video of plaintiff Stephen Finley and his wife

The defendant driver's license was suspended for multiple speeding violations and failure to show proof of insurance, and he was cited for careless driving.

After case evaluation, defense counsel filed a motion for permission to add a nonparty at fault, naming the emergency room hospital, spinal surgeon and his practice, alleging he committed medical malpractice in treating Stephen Finley immediately following the accident.

Defendants' experts in neurosurgery and orthopedic surgery opined that procedure was wrong and done incorrectly, and



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that a due to the instability of sternal fracture suffered at the accident, the procedure was doomed to fail in the absence of stabilizing the sternum. Defendants concluded that this a separate and distinct act for which defendants had no liability.

Plaintiff countered that malpractice is foreseeable, and that defendants are responsible for any damages caused by the al-

leged malpractice.

The motion was denied in the lower court, and after the Michigan Court of Appeals denied defendants' leave of appeal, the matter settled at mediation for \$3.45 million.