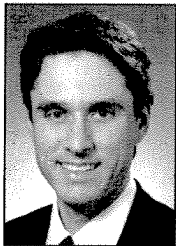


## Verdicts & Settlements

# Car strikes protruding frame of container vehicle

Truck driver had history of mishaps

**\$1.75 million settlement**



CATALANO

On the afternoon of Dec. 5, 2006, the defendant was driving a container roll-off truck for his employer. As he was traveling east on a four-lane highway, he mistakenly passed his intended destination on the left. He pulled into a private driveway with the intent of backing out to re-

verse direction and return to his missed destination.

The plaintiff was driving west and did not see the narrow steel frame of the truck sticking into her lane of travel. She drove at approximately 50 mph directly into the frame, which struck her windshield and her head. The car became wedged under the frame and entangled in the truck.

The blow rendered her unconscious, and she suffered a mild traumatic brain injury as well as fractures to her sternum, ribs, orbital eye socket and right wrist. She spent a month in a hos-

pital followed by months of rehabilitation and subsequent hospitalizations for wound infections.

The plaintiff alleged that the defendant was negligent in failing to realize that the rear frame of his vehicle was obstructing traffic. He also failed to understand that pulling into a private driveway and then attempting to back out into a major highway was a violation of roadway regulations, established safety practices and his employer's own driving policies.

In addition to vicarious liability, the plaintiff alleged negligent hiring and entrustment against the defendant's employer. Discovery revealed that the defendant driver had a history of poor driving, including excessive speeding and prior accidents, which was known to his employer when it hired him five months prior to the accident.

The plaintiff also alleged negligent supervision and training on the basis that the company did not train the defendant on the truck he was driving. The defendant admitted that he was unfamiliar with that vehicle.

As a result of the accident, the plaintiff has limited ability to bend her right wrist or close her fingers all the way and continues to suffer from right wrist, shoulder and neck pain.

The plaintiff retained a neurologist and

neuropsychologist to substantiate her brain injuries and the extent to which her cognitive functioning and memory were affected by the accident. These experts also established that the plaintiff's history and presence of pre-accident stressors made her especially vulnerable to the effects of a traumatic brain injury. The plaintiff also retained a life care planner and an economist to quantify the economic damages.

The defendant alleged that the plaintiff's own inactions in failing to brake and/or swerve around the truck were comparatively negligent. The case settled at mediation after discovery.

**Type of action:** Motor vehicle negligence  
**Injuries alleged:** Mild traumatic brain injury, numerous fractures

**Name of case:** Withheld

**Court/case no.:** Withheld

**Tried before judge or jury:** N/A (settled)

**Amount of settlement:** \$1.75 million

**Date:** Jan. 5, 2009

**Attorney:** Jeffrey N. Catalano, Todd & Weld, Boston (for the plaintiff)

## TODD & WELD LLP

28 State Street

Boston, Massachusetts 02109

Telephone: (617) 720-2626

Facsimile: (617) 227-5777

www.toddweld.com