

# Verdicts & Settlements

## Corporate VP experiences cognitive decline after crash

Defense: he continued work as well-paid exec

### \$525,000 verdict

The plaintiff, 72, was driving a car with his wife as a passenger. He was stopped at a red light and struck from behind by the defendant.

The plaintiff, who was wearing his seatbelt, did not strike his head but briefly lost consciousness. He was taken by ambulance to the hospital, where a CT scan revealed a small subdural hematoma. He was discharged that day and returned to work as a corporate vice president two weeks later.

Although he worked for several more years after the accident, he had difficulty with memory and concentration and had to retire two years early.

A co-worker testified that he saw major changes in the plaintiff after the accident, including a significant decrease in the hours he worked, an inability to run the departments he previously oversaw, and a difficulty remembering people's names.

Neurology and neuropsychology experts testified that the plaintiff suffered a mild traumatic brain injury from the accident, which

impacted his memory and executive functioning skills.

The defendant contended that it was a minor accident and that he was driving no more than 5 to 10 mph at the time of impact. He also argued that medical records noted that the plaintiff did not lose consciousness and that the plaintiff's subdural hematoma resolved within a short period of time.

The defendant claimed that the plaintiff's cognitive issues were the result of an age-related degenerative process and emphasized that he continued working as an executive at a very high salary for three and a half years after the accident. He also pointed out that the plaintiff's medical expenses were less than \$17,000.

The defense admitted a report of a neuropsychologist who conducted an exam. The court excluded much of that expert's opinion. According to plaintiff's counsel, the expert misrepresented in his original report that he interviewed the wife about her husband's condition. The expert also claimed that the plaintiff did not suffer from an MTBI, but instead had a longstanding per-



Jeffrey N. Catalano

sonality disorder and malinger tendencies.

In rebuttal, the plaintiff's primary care physician provided testimony regarding the plaintiff's character and intact personality and the change in his demeanor since the accident, which was consistent with an MTBI.

The plaintiff settled alleged 93A/176D violations with the defendant's liability carrier for \$120,000.

**Action:** Motor vehicle negligence

**Injuries alleged:** Mild traumatic brain injury

**Case name:** Davis v. Honig, et al.

**Court/case no.:** Woburn Superior Court, No. MICV2010-02327

**Jury and/or judge:** Jury/Judge Maynard M. Kirpalani

**Amount:** \$525,000

**Date:** March 2012

**Attorneys:** Jeffrey N. Catalano of Todd & Weld, Boston; Kimberly A. Dougherty of Janet, Jenner & Suggs, Boston (for the plaintiff)

**TODD & WELD LLP**  
[www.toddweld.com](http://www.toddweld.com)