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City of Detroit on Hook for \$1.4M

Backing Garbage Truck Totaled Car; Seriously Injured Driver

BY MARGI BANNER

A Wayne County Circuit Court jury awarded \$1,400,000 to a motorist injured when a City of Detroit garbage truck backed into her vehicle.

Plaintiff Teresa Casillas was driving her vehicle in May 2008. She was traveling behind a Defendant City of Detroit garbage truck driven by Defendant Charlie Wright, who was in the course and scope of his employment with the City. Plaintiff drove behind defendants' vehicle for several blocks on Colonial Street. The garbage truck came



to a stop. Plaintiff also stopped. Defendant Wright then backed the garbage truck and struck plaintiff's vehicle with significant force. The impact crushed the hood of plaintiff's vehicle, which was declared a total loss. Plaintiff had passengers in her vehicle who were not seriously injured.

Plaintiff was granted a default judgment on the issue of liability and a directed verdict on the issue of serious impairment. She argued that she left sufficient distance between her vehicle and the garbage truck and Defendant Wright was solely responsible for this accident and her injuries. She sought past and

future non-economic damages for her serious impairments, as well as economic damages. Plaintiff alleged that she held off treatment for several weeks because of her inability to afford medical care, but finally sought chiropractic care several weeks post-accident for neck and back pain. She was referred for medical treatment and was diagnosed with multiple levels of spinal disc herniations. Plaintiff underwent cervical fusion seven months post-accident and lumbar fusion nine months later.

Defendants contended that plaintiff stopped too close behind the garbage truck and was comparatively negligent and that she exaggerated her damages.

INJURIES: Herniated cervical and lumbar discs.

VERDICT: \$1,400,000. Breakdown: \$200,000 past non-economic; \$650,000 future non-economic; and \$550,000 future economic.

For full details, see page 29.

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Editor's Notes: Per plaintiff's attorney, there was no comparative negligence argument made, nor were there jury instructions regarding same.

Wayne County

Circuit Court — Detroit

City of Detroit on the Hook to Motorist Struck by Backing Garbage Truck

Case Caption:

Teresa Casillas v. City of Detroit and Charlie M. Wright

Verdict: \$1,400,000 plus interest. Breakdown:
 \$200,000 past non-economic damages;
 \$650,000 future non-economic damages;
 and \$550,000 future economic damages.

Judge: Gershwin A. Drain

Date of Verdict: 2/24/2010

Attorneys:

Plaintiff: Daniel G. Romano, Southfield

Defendant: Calvert A. Bailey, Detroit

Facts: A City of Detroit garbage truck backed into plaintiff's vehicle, leading to claims of significant neck and back injuries. Defendants maintained that plaintiff was comparatively negligent and disputed her damages. A Wayne County jury returned a \$1,400,000 verdict for plaintiff.

Plaintiff Teresa Casillas was driving her vehicle in May 2008. She was traveling behind a Defendant City of Detroit garbage truck driven by Defendant Charlie Wright, who was in the course and scope of his employment with the City. Plaintiff drove behind defendants' vehicle for several blocks on Colonial Street. The garbage truck came to a stop. Plaintiff also stopped. Defendant Wright then backed the garbage truck and struck plaintiff's vehicle with significant force. The impact crushed the hood of plaintiff's vehicle, which was declared a total loss. Plaintiff had passengers in her vehicle who were not seriously injured.

Plaintiff was granted a default judgment on the issue of liability and a directed verdict on the issue of serious impairment. She argued that she left sufficient distance between her vehicle and the

garbage truck and Defendant Wright was solely responsible for this accident and her injuries. She sought past and future non-economic damages for her serious impairments, as well as economic damages. Plaintiff alleged that she held off treatment for several weeks because of her inability to afford medical care, but finally sought chiropractic care several weeks post accident for neck and back pain. She was referred for medical treatment and was diagnosed with multiple levels of spinal disc herniations. Plaintiff underwent cervical fusion seven months post-accident and lumbar fusion nine months later.

Defendants contended that plaintiff stopped too close behind the garbage truck and was comparatively negligent for the accident. Defendants also argued that plaintiff exaggerated her damages.

Plaintiff Profile: Plaintiff was a 39 year old single female who worked as an office cleaner.

Alleged Injury: Herniated cervical and lumbar discs at C3-C4, C4-C5, C5-C6, L4-L5, L5-L6, and S1. Plaintiff also claimed a mild closed head injury which resolved after a period of time. Plaintiff underwent cervical fusion in March 2009 and lumbar fusion in December 2009. Plaintiff initially sought emergency treatment for neck pain, but did not stay because she was afraid of the bill. Two weeks later, she presented to a chiropractor who, because he suspected extensive injuries, referred plaintiff for further medical evaluation. Plaintiff also sought emotional distress damages as a result of her inability to work and support her family. Plaintiff earned \$27,000/year.

Jury Deliberations: 4.5 hours

Settlement Efforts: Last Demand: \$850,000
 Last Offer: N/A

Insurance Carrier: Self-insured

Evaluation: \$175,000

Case Number: 08-118180-NO

Editor's Notes: Per plaintiff's attorney, the jury found that plaintiff was negligent, but that her negligence was not a cause of the accident. Therefore, there was not a finding of comparative negligence. Counsel further reported that plaintiff, an Hispanic, required a translator at trial. The parties agreed to a high/low agreement of \$1,500,000/\$250,000 in exchange for plaintiff's waiver of case evaluation sanctions and defendant's waiver of an appeal. Plaintiff did not waive costs and interest.