



Woman Hit By Truck Driver Nets Nearly \$5M

Fatigue, cell phone distraction alleged factors in accident

By CHRISTIAN NOLAN

Renay Emmanuele *et al. v. Lawford Howell et al.*: A woman who was seriously injured after her car collided with a tractor-trailer driven by a man who had been on the road for 19 of the previous 36 hours was awarded nearly \$5 million by a Hartford jury.

Renay Emmanuele, 38, of Bloomfield, was driving through a Bloomfield intersection around 8:20 p.m. on Jan. 8, 2008, when the truck driven by Lawford Howell crashed into the front and driver's side of Emmanuele's car as the truck attempted to turn left. Lawford was driving an 18-wheeler owned by ATS Inc. that was transporting windows and doors.

According to Emmanuele's lawyer, Michael D'Amico, of D'Amico, Griffin & Pettinicchi, LLC in Watertown, Lawford's journey had begun a day earlier at around 8 a.m. when he left his Bloomfield home and headed to Monroe, then Baltimore, and then four towns in central and eastern Pennsylvania.

D'Amico said Howell's trip required 19 driving hours and covered 1,000 miles.

The plaintiff's lawyer explained that under federal law, a truck driver cannot drive for more than 11 hours in one day nor be on duty more than 14 hours. If a driver exceeds either threshold in a 24-hour period, he must take 10 consecutive hours off "and you're supposed to be getting rest during that period of time," D'Amico said.

D'Amico claims that Howell lied on his driver logs and lied to police after the crash and during his deposition about the number of hours he had been on the road and slept.

"You're required every day to notate on that log what you're doing so that anytime you're

pulled over by law enforcement, you can demonstrate that you've complied with the hours of service," said D'Amico. "The truck driver here lied on his logs. When he claimed he was sleeping, he wasn't sleeping, he was actually driving."

To prove Howell was not being truthful, D'Amico fought to acquire the global positioning system unit in the truck as well as an engine control module that keeps track of when the truck is being driven, is idling and is off.

After obtaining that information, D'Amico was able to prove that Howell's logs were inaccurate.

However, the defense, led by attorney Gary N. Stewart, who specializes in commercial motor vehicle defense, sought to show that the data obtained from the truck was actually inaccurate. So, for the trial, D'Amico brought in expert witnesses to speak to the veracity of the information. He also called an expert to



Watertown attorney Michael D'Amico, shown with colleague Brendan Faulkner and paralegal Pam Perugini, used global positioning system records to show how long the truck in the accident had been in operation in the previous 36 hours.

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speak to the fatigue factor that comes with driving so many hours.

"There was a whole slew of experts we needed to call in order to prove some of the issues we felt we needed to prove," said D'Amico.

Another point of contention was who actually was at fault in the crash. Stewart presented a witness who claimed that truck driver Howell had a green arrow to make his left turn. The witness said his own light turned red and then Howell turned left, so

Howell must have had an arrow.

However, another witness who was driving behind Emmanuele said she had a green light when she drove through the intersection.

A state Department of Transportation official testified that either scenario was possible. A sensor could have triggered the light box granting the truck driver an arrow; or that light may not have been triggered and the Bloomfield woman's light was green.

Not helping Howell's cause was that the plaintiffs were able to prove through cell phone records that the truck driver was talking to his wife at the time of the crash. Howell testified to using a hands-free device to operate the phone.

After the accident, Emmanuele was trapped in her vehicle for over an hour before rescue personnel extracted her. Initially, the impact of the crash knocked her unconscious. D'Amico claims that when Emmanuele did regain consciousness, she began speaking to emergency responders in Spanish. What was noteworthy about that was she did not speak fluent Spanish. She had taken some Spanish courses in high school and one in college.

A neuropsychologist who testified at trial for the plaintiffs said it's not uncom-

mon for something like that to happen with a brain injury.

In addition to the head trauma, Emmanuele suffered injuries to her left side and hip and her shoulder. The woman, who had just given birth to her first child five months before the crash, underwent three extensive orthopedic surgeries, including a partial hip replacement. Two future hip replacements are likely, said D'Amico.

Following the surgeries, she developed blood clots in her lungs and needed to take blood thinners for six months. Additionally, D'Amico said his client suffers from post-traumatic stress disorder and also must take painkillers.

Emmanuele, who earned two master's degrees and worked as a counselor at Village for Families and Children, has been unable to work since the accident.

"As a result of her injuries, she wasn't able to bond or care for her young son for a good amount of time after the crash occurred," said D'Amico, noting her lengthy stays in the hospital. "She struggled with that and continues to struggle with the fact that she lost that bonding time with her son."

Stewart, the defense lawyer, challenged whether Emmanuele had suffered any head trauma, noting she did not see a doctor for

those alleged injuries as she had with her orthopedic injuries.

Stewart practices with **Rawle & Henderson** LLP in Harrisburg, Pa., but is admitted to the Connecticut bar. He declined to comment for this story.

Jury selection began in March and took two weeks, followed by a month of testimony before Superior Court Judge **Julia Aurigemma**. The jury deliberated for about a day-and-a-half before returning a verdict April 20 finding the truck driver 73 percent negligent for the crash.

The jury's verdict totaled \$6,721,534 – about \$2.7 million for past and future economic damages, \$3 million for past and future non-economic damages, and \$1 million for the accident victim's husband's loss of consortium claim. With comparative negligence factored into the verdict, the total amount recovered by Emmanuele is \$4.9 million.

"In the end, it would appear that the jury, regardless of who had the green light, believed that the truck driver could have been much more careful than he was and that his testimony was not credible," said D'Amico. He was assisted in the case by attorney **Brendan Faulkner**, of the same firm, as well as paralegal Pam Perugini. ■