

MASSACHUSETTS Lawyers Weekly

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VERDICTS & SETTLEMENTS

Boy on bicycle rides into side of oncoming truck

Rear wheels ran over him; \$3.5 million settlement



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On May 5, 2020, the minor plaintiff, then 8 years old, was out for a bicycle ride with his grandmother in the early days of the COVID-19 pandemic. The boy was traveling ahead of his grandmother down a driveway in a commercial area containing restaurants and other business establishments.

At the time of the accident, a box truck had been parked on the right side of the road at the end of the driveway. The driver of the truck was seated inside the vehicle, which blocked the view of traffic, including pedestrians or bicyclists exiting the driveway. At the same time, a second commercial truck was

driving past the driveway. That driver did not slow down or look to his right to see if anyone was exiting the driveway.

The minor plaintiff rode his bicycle into the side of the oncoming commercial truck, and then the rear wheels of the truck ran over the boy. Video footage of the accident was obtained from two surveillance cameras positioned on nearby establishments.

During discovery, discrepancies were revealed in the driver's account of his speed and driving record as well as in the representations he made on his employment application and training.

A remaining issue was a Massachusetts health lien of \$236,685.01. Plaintiff's counsel vigorously sought a reduction in arguing that the lien was governed by the formula in *Arkansas Department of HHS v. Ahlborn*, 547 U.S. 268 (2006),

whereby the portion of the settlement that represented payment for pain and suffering was exempt from the lien.

Ultimately, the state agreed to a reduction to \$175,000.

Action: Motor vehicle negligence

Injuries alleged: Fractures of femur, ribs, clavicle, pelvis, humerus and left sacral ala; complete disruption of posterior urethra requiring SPT placement; dental fractures

Case name: Withheld

Court/case no.: Withheld

Jury and/or judge: N/A (mediated)

Amount: \$3.5 million

Special damages: \$1,091,115.19, medical bills

Date: Aug. 24, 2022

Attorneys: Robert I. Feinberg, Colleen Santora and Rhonda Maloney, of Feinberg & Alban, Boston (for the plaintiff)