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## \$3.75 Million Settlement Over Low-Impact Crash

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**O**n the fourth day of a Philadelphia Common Pleas Court trial, a truck driver agreed to a \$3.75 million settlement for a low-impact accident that the driver said permanently disabled him.

The attorneys for Willie Mathis argued in *Mathis v. Exel Inc.* that, despite the slow speed of the vehicles involved in the accident, Mathis' body was jolted severely in the cab of the tractor he was driving and made his asymptomatic ankylosing spondylitis, a form of genetically predisposed arthritis, symptomatic and debilitating.

Attorneys for the defendant Exel Inc. challenged how severe Mathis' injuries could be from a low-impact, low-speed accident, especially considering he was not presenting signs of back injury, like herniated discs or a need for surgery, according to a defense pretrial memorandum.

Judge Eugene Maier heard the case, which started Aug. 27. The settlement was reached Aug. 30 prior to closing arguments.

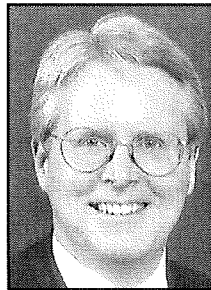
"You don't need big impact to get big hurt," said Tom Duffy of Duffy & Keenan, Mathis' attorney.

Duffy believed the jury began to think Mathis definitely had something wrong with his back because of the high number of Lydocaine injections into his spine he required. Defense witnesses on cross-examination did admit something had happened in the accident to prompt Mathis' complaints and that ankylosing spondylitis did not improve with time, Duffy said.

"I guess the sense in the courtroom was it was going our way," Mathis said.

Mathis demanded \$5 million the week prior to jury selection, and Exel offered \$250,000, according to Kenneth Fulginiti, another of Mathis' attorneys.

Mathis was a truck driver for J.B. Hunt, which transported trailers for Home Depot from a cargo



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facility yard at 3820 N. Second St., Philadelphia, at the time of the April 19, 2004, accident, according to the plaintiff's pretrial memorandum. Mathis was driving a tractor, without a trailer, slowly through the yard. Mathis passed a jockey truck, a vehicle used to move trailers around the cargo facility, which was parked along a side fence.

Mervin Saunders, an employee with Transforce Inc., which contracted with Exel Inc. to provide trucking services within the yard for Home Depot, was operating the jockey truck, the plaintiff's pre-trial memorandum said. Saunders pulled into the passenger side of Mathis' vehicle. Mathis' tractor was pushed to the left; his left side struck the driver's door. The tractor has damage to its gas tank, its driver's mirror, passenger-side door and steps to the cab. Only \$750 in property damage was sustained to the tractor, Fulginiti said.

Mathis went from participating in scuba diving, karate and truck driving to walking with a cane and receiving over 150 Lydocaine injections in his spine to address myofascial pain syndrome in his spine, which shoots pain into Mathis' buttocks and legs, the plaintiff's memorandum said.

Mathis' attorneys, Duffy and Fulginiti, estimated that Mathis, who earned \$75,000 a year, had lost \$150,000 in past wages and could lose \$2.5 million in future wages. They also estimated he had \$23 million of future medical expenses

and \$650,000 in past medical expenses.

Duffy said they dropped the future medical claim and focused on the claim covering Mathis' need for ongoing pain management because of the concern it could undermine credibility with the jury.

Exel's attorneys argued Mathis ignored the rule that Exel jockey trucks always had the right of way in the yard and that Mathis negligently drove very close to the Exel jockey truck despite having room to avoid the jockey truck, according to the defense pre-trial memorandum.

"Plaintiff is claiming that he is disabled from all employment for the rest of his life and is also claiming an extraordinary amount for future medical bills. ... Plaintiff did not go to an emergency room or otherwise seek medical attention until a few days later. The basis of plaintiff's claim for total disability and medical costs is an alleged back condition that has never been clearly diagnosed," the defense pre-trial memorandum said.

Defense experts said they could find no "objective basis" for Mathis' claims of inability to work, the defense memorandum said.

According to the plaintiff's memorandum, Mathis was asked by his employer to see if he could heal up from a couple of days at home before going to a workers' compensation physician.

Exel had an indemnity agreement with Transforce Inc., so Exel is solely on the line for Mathis' injuries, according to Transforce's pre-trial memorandum.

Mathis, a 44-year-old father of five, is "humiliated, distraught and a fraction of his former self," the plaintiff's pretrial memorandum said.

"Something occurred in the accident that turned his life upside down," Duffy said.

William Resch Jr., an attorney for Exel Inc., referred comment to David White, Exel's trial attorney. White did not respond yesterday in time for publication. •