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Ex-Truck Driver Receives \$3.4 Mil. Settlement for Highway Accident

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Of the Legal Staff

After truck driver James Schramm dove under his tractor-trailer to avoid being hit by another trucker's rig, his leg was dragged over asphalt and over sheet metal that flew off the other trucker's rig.

After the accident, the skin on Schramm's leg fell down to his ankle like it was a sock without elastic, a plaintiff's attorney involved in the case said.

Schramm received a \$3.4 million settlement last month in *Schramm v. Lippert Components Inc.*, according to a settlement release. Defendant Lippert Components Inc., and other related defendants settled for \$3.3 million and defendant Joseph Kimble settled for \$100,000.

Schramm's tractor-trailer was rear-ended around 6:50 a.m. Dec. 20, 2007, by a sport utility vehicle driven by Kimble, of Keyser, W.V., according to the plaintiff's pretrial conference memorandum. Kimble's vehicle came to rest in the middle of the two westbound lanes of Interstate 76 in Lancaster County, according to plaintiff's attorney Ken Fulginiti of Duffy + Partners.

Schramm parked his rig about 100 yards ahead of the SUV on the shoulder of the turnpike and Schramm got off of his rig to check on Kimble, the plaintiff's memorandum said. As Schramm, of Levittown, Bucks County, walked toward the SUV, he saw another truck driver, Stephen Petticoffer, swerve around the SUV and head straight toward Schramm's rig, the plaintiff's memorandum said. Schramm dove under his own truck to avoid being run over during a collision between his truck and Petticoffer's rig; Schramm hoped that if his truck was pushed by an impact from Petticoffer's truck that he would be pushed along, too, the plaintiff's memorandum said.

The plaintiffs argued that Petticoffer was reckless in trying to maneuver around Kimble's SUV without making an effort to stop for the accident, and that Petticoffer had been cited by his employer for his tardiness. Petticoffer was driving a flat-bed trailer carrying steel parts for Lippert Components Inc., according to court papers.

In the pretrial conference memorandum for defendants Lippert Components, Petticoffer and Penske Truck Leasing Co., the defendants



Tom Duffy



Ken Fulginiti

argued that Schramm caused the accident with the SUV because he had just re-entered the turnpike at the speed of 25 to 30 mph from a rest stop, and had caught Kimble off guard by merging into the lane ahead of Kimble.

If Schramm had been going less than 50 mph, he would have been negligent per se, Fulginiti said, but he was in 10th gear and going about 55 mph when he was struck by Kimble's SUV.

The defendants argued that there were visibility issues because the accident occurred just after sunrise.

Those defendants also argued that there were visibility issues because the accident occurred just after sunrise, and that Petticoffer was not able to see that the SUV was not moving until he was very close to it. Petticoffer was able to avoid a collision with the SUV, but he was not able to avoid the plaintiff's rig because it was 214 to 226 feet ahead of him when Petticoffer first saw it, the defendants said in papers.

The defendant also said Schramm was not paying enough attention to oncoming traffic when he exited his truck. "Plaintiff's intentions were honorable, but he did not take reasonable measures to protect himself from injury," the defense pretrial memorandum said.

Kimble's pretrial memorandum set out a statement of the case similar to the plaintiff's, but Kimble highlighted in his memorandum that Schramm said his injuries were not caused by the accident with

Kimble's SUV but from the accident with Petticoffer's truck.

Joseph Crotta, a third truck driver who witnessed the accident, said in his May deposition that he found it "unbelievable" that Petticoffer did not slow down despite seeing all the car parts strewn across the highway.

Crotta said in his deposition that shortly before the accident Petticoffer passed him and was pulling away from him, while Crotta was slowing down after seeing car parts strewn on the highway.

After the accident, Crotta said in his deposition that Schramm "had to pull up a big flab of the meat right into his leg."

Lippert Components' defense counsel, John "Jack" J. Snyder of Rawle & Henderson, and Kimble's defense counsel, David P. Czaj of Marshall Dennehey Warner Coleman & Goggin, could not be reached for comment.

Schramm's leg was infected with gangrene, his ankle was broken and he required massive reconstructive surgeries on his leg, the plaintiff's pretrial memorandum said.

Schramm is able to walk independently, but he can't walk well and without pain, Fulginiti said.

Schramm, now 46, made about \$60,000 per year from trucking, and his past and future special damages for medical expenses and wages were estimated at \$4.45 million, according to the plaintiff's memorandum.

Schramm's portion of the settlement will leave him with more money than he made while working, Fulginiti said.

There is a \$500,000 workers' compensation lien on the settlement, but with the reduction of attorney fees only about two-thirds of the lien should be taken out of the settlement, Fulginiti said.

Lippert has a \$25 million insurance policy limit with insurer AIG, and Kimble has a \$100,000 policy with his personal automotive insurer, USAA, according to court papers.

Fulginiti's co-counsel was Thomas Duffy of Duffy + Partners. •