

Injured Cardiologist Settles for \$5.25 Million

The Legal Intelligencer

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A cardiologist who suffered a brain injury when the car he was driving was hit by an 18-wheel tractor trailer that ran a red light, agreed to settle his case yesterday, on the eighth day of trial, for \$5.25 million. Attorney Thomas R. Kline of Kline & Specter said that Dr. Jack LeBeau will never practice medicine again.



KLINE

His brain injury was unusual, Kline said, because it was undetected for several months. LeBeau was treated and released from an emergency room, but later found that he was suffering from memory losses. Although CAT Scans detected no brain injury, Kline said a more modern, sophisticated PET Scan, which measures brain function and blood flow, gave final proof.

Before the trial, Kline was demanding more than \$10 million to settle the case, but defense attorney Richard W. Yost of Yost & Tretta, representing Werner Enterprises Inc., was offering only \$3 million. Kline said U.S. District Judge Stewart Dalzell "was instrumental and brought the parties together." The case, he said, was "one of these cases that had to be demonstrated in the courtroom before it could be settled." Yost, however, said that Kline was "forced to take the settlement," and noted that Kline had come down much farther from his demand that Yost had come up from his original offer. "Before the trial, Tom Kline wanted \$12 million and said he would accept nothing less than \$10 million," Yost said.

Yost's defense was based on a theory that LeBeau had suffered no brain injury and that his disabling psychological condition was not caused by the accident. He argued to the jury that LeBeau had personal and financial problems that pre-dated the accident which caused him to seek psychological help.

Kline declined to discuss the specifics of the settlement negotiations, but said "it was clear to everyone that the plaintiff's case was a strong one." The brain injury, he said, "was organic, demonstrable and objectively documented," LeBeau's experience, Kline said, "is every commuter's nightmare."

At about 8:30 p.m. on Dec. 8, 1994, LeBeau was driving home in his 1991 Acura Legend after making final rounds at Montgomery Hospital. He was wearing his seatbelt as he drove east on Fornance Street in Norristown. The accident occurred when Wayne C. Harvey, who was driving

north on DeKalb Street in a Werner Enterprises truck weighing more than 30 tons, ran a red light.

While Werner conceded liability for Harvey's poor driving, sharp disputes arose over key details of the accident. Kline argued that LeBeau's car was "clobbered" when the truck, traveling at more than 40 miles per hour, smashed in to the Acura's passenger side. LeBeau's car flew through the air and smashed into a parked car.

But Yost insisted the evidence showed that it was LeBeau's car that the truck in the rear corner. He also said the truck driver credibly testified that he was not speeding, but going just 20 miles per hour. The eye-witness who claimed the truck was going faster was a convicted felon with no credibility, he said.

Kline showed the jury a computer animation of the accident that was prepared by accident experts. Yost had fought to keep the video from the jury, but Dalzell ruled that it would be helpful in assisting the jurors to understand the expert's testimony. Kline also called a "biomechanic" to the stand who said the accident was so violent that LeBeau could have suffered a brain injury even if his head did not make any impact.

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