



VERDICTSEARCH

TEXAS

HARRIS COUNTY

MOTOR VEHICLE

Rear-ender

Patients in clinic van injured in collision with disabled vehicle

SETTLEMENT **\$1,745,000**

CASE Mary Jefferson and Charlene Green vs. Clinic Resources Management, Inc., Frank Cross, Aspen Manufacturing, Inc. and Charles Ray Owens, 1998-00397

COURT Harris County District Court - 190th
JUDGE John P. Devine
DATE 03/08/99

PLAINTIFF
ATTORNEY(S) **Rob Ammons, Stevenson & Ammons,** Houston, TX (Jefferson)
James B. Lewis, Miller, Lewis & Davenport, Houston, TX (Green)
Hon. David West, West & West, Houston, TX (Green)

DEFENSE
ATTORNEY **James W. Karel, Magenheim, Bateman,** Robinson, Wrotenbery & Helfand, Houston, TX (Clinic Resources Mgmt & Frank Cross)
Michael R. Ross & Lori S. VandeBunt, Michael R. Ross & Associates, Houston, TX (Aspen Mfg. & Owens)

FACTS & ALLEGATIONS Plaintiffs Mary Jefferson, a 66-year-old blind person, and Charlene Green, who is moderately retarded, were being transported to Clinic Resources Management, a psychological facility, in a Clinic Resources van driven by Frank Cross. Mr. Cross ran into the back of a disabled truck owned by Aspen Manufacturing. The Aspen truck was a commercial vehicle being driven by Charles Ray Owens who did not have a commercial driver's license. Additionally, the Aspen truck had not been properly inspected and did not have the appropriate inspection sticker.

Plaintiffs contended that the flashers were not operating on the disabled vehicle and that Owens was negligent for not pulling over to the shoulder. Aspen and Owens argued they could not have anticipated the failure of the fuel pump, which rendered the vehicle disabled. They further asserted that the negligence of Frank Cross in running into the Aspen truck was the sole cause of the accident. Moreover, Aspen claimed that Owens did not have an opportunity to pull the disabled vehicle over to the shoulder of the road because of heavy traffic. Owens insisted his emergency flashers were on at the time of the accident.

INJURIES/DAMAGES *fracture; wrist, fibula; soft-tissue injuries*

Mary Jefferson fractured her right (dominant) wrist and the distal end of her fibula. She retained glass in her ear, and general soft-tissue injuries with continuing pain. She had approximately \$80,000 in medical, primarily hospitalization and no claim for lost wages.

Charlene Green sustained a closed head injury. While she was retarded before the accident, it was alleged that because of the head injury and the fact that she was already retarded, she couldn't call on reserves most people have and thus could no longer live independently.

Green claimed, through Dr. Lilly, that she had an aggravation of her pre-existing psychological condition. That is, she had a closed head injury resulting in a traumatic brain injury which caused her considerable life problems. Because of her previous mental retardation and psychiatric condition, she allegedly was unable to compensate for this traumatic brain injury and it would have a significant impact on her life.

Aspen and Owens contended Green did not receive a traumatic brain injury as a result of the accident; claimed her mental retardation was the same after the accident as before, as was her standard of living and quality of life. There was a \$50,174.28 lien for past medical; claimed \$12,000 in future medicals.

RESULT Jefferson had previously settled for \$ 225,000 from Clinic Resource Management \$495,000 from Aspen Manufacturing, for a total of \$720,000. Green settled for \$150,000 from Clinic Resources Management, \$25,000 from Frank Cross, \$850, 000 from Aspen Manufacturing and Charles Owens, totaling \$1,025,000 including settlement plus taxable court costs.

PLAINTIFF
EXPERT(S) **William F. Donovan, M.D.,** orthopedic surgery, Houston, TX
Ralph B. Lilly, M.D., board certified in neurology, Houston, TX

DEFENSE
EXPERT(S) **Randall Dodd,** accident reconstruction, Houston, TX
Richard Friedrich, mechanical expert, Austin, TX
Francisco Perez, Ph.D., neuropsychology, Houston, TX
Charles R. Poor, M.S., rehabilitation, Houston, TX

INSURER(S) **Empire Fire & Marine Insurance Co** for Clinic Resource's & Frank Cross
Kemper Insurance Co. for Aspen Manufacturing, Inc.

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Attorney's Fees \$440,000, Expenses \$29,000 The remaining \$1,276,000 was paid to the client and medical providers, if any.

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