

# Minor Accident Yields \$70,000 Jury Verdict

Plaintiff had six-month lag time between crash and pain

By CHRISTIAN NOLAN

**E**dward J. Banas v. Lorraine A. Armbruster: A man whose vehicle was rear-ended but sustained no noticeable damage, developed back pain six months after the crash and was recently awarded \$70,000 by a jury.

Edward Banas, 63, was sitting at a stop light on Route 5 in South Windsor on March 4, 2008 when a vehicle driven by Lorraine Armbruster failed to stop and ran into the rear of Banas's car.

**The defense lawyer's doctor was unable, through a review of medical records, to find any other traumas that could have caused the low back disc herniation.**

According to Banas's lawyer, Frank J. McCoy Jr., of McCoy & McCoy in Hartford, the accident seemed pretty minor as there was no noticeable damage to the bumper of Banas's car or to Armbruster's vehicle.

Police did not ticket Armbruster, who claimed that she had initially come to a stop but that her foot slipped off of the brake, causing her to gently bump into Banas's car. Banas, however, didn't believe the other driver had ever come to a stop.

A few months passed by and Banas began noticing some leg pain, McCoy said.

"He was thinking maybe it was his hamstring," said McCoy. "In the medical records, he

indicated it might be his old college injuries. It really was just him sort of speculating."

By the time six months had passed, Banas began experiencing significant low back and leg pain. McCoy said Banas's doctor discovered a herniated disc, which was pressing against a nerve and causing pain in his leg, known as sciatica. Banas hired McCoy and filed a negligence lawsuit against Armbruster.

Attorney Todd Whitford, of Howard, Kohn, Sprague & FitzGerald, who represented Armbruster, argued that Banas's back injury could not have been caused by the rear-end crash and was most likely caused by some other trauma. Whitford did not return repeated calls for comment last week.

At trial, the two sides presented back experts with differing opinions as to the cause of Banas's back problems. The defense's expert, Dr. William Shea, of Worcester, Mass, opined that since so much time had passed before the back pain developed, the rear-end collision could not have caused Banas's disc injury.

Meanwhile, Banas's doctor, Kevin Sadowsky, of Enfield, opined that it is not uncommon for a herniation injury to remain asymptomatic for a period of time until something triggers the pain. Dr. Sadowsky linked Banas's back problems to the rear-end collision.

"The jury had to believe that this [accident] caused this herniation," said McCoy. "The way we did that was we tried to show that he did not have any other traumas either before or after that time."



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Plaintiffs attorney Frank J. McCoy Jr. presented an expert witness who testified that it's not unusual for a disc injury to be asymptomatic for months, until something triggers the pain.

McCoy said the defense lawyer's doctor was unable, through a review of medical records, to find any other traumas that could have caused the low back disc herniation. "Six months is pretty far from the impact but the fact is he didn't have any other traumas," said McCoy.

The case went to trial earlier this summer in Hartford before Superior Court Judge Carl J. Schuman. The trial lasted two days and the jury took roughly three hours before ruling in favor of the plaintiff. The jury

awarded \$70,000 in damages.

McCoy said Banas, a self-employed appraiser and insurance adjuster, is getting by with his back injury and is not a candidate for surgery.

The attorney said that cases like this one, which involve minimal damage to the plaintiff's car, are especially difficult to prove. Here, he said there was a barely noticeable puncture mark on Banas's rear fender.

"Defense lawyers get a lot of defense verdicts on cases like these," said McCoy. "Juries don't believe that if you don't have any damage [to the vehicle] that you can be injured." ■

**verdicts & settlements**