

Arbitration award goes against MHTC over crash

Amount reduced to sovereign immunity cap

A 6-year-old boy whose sister and cousins were killed in a tractor-trailer wreck three years ago — which also injured his mother — received a \$750,000 arbitration award against the Missouri Highway Transportation Commission.

The total arbitration award for all claims was \$2.8 million. But upon confirming the arbitration award, the amount is reduced by state statute to a sovereign immunity cap of \$376,378.

On June 27, 2007, then-2-year-old Payton Yardley was in an infant car seat in a van driven by his mother, Valerie Yardley, 35. His 9-month-old sister Savannah and his cousins, ages 5 and 9, also were in the van.

Valerie Yardley tried to drive into a crossover of divided Highway 61, and her van was struck by a northbound tractor-trailer. Payton's car seat was ejected from the van, and he suffered several fractures, internal injuries and a brain injury resulting in attention deficit hyperactivity disorder. Savannah Yardley and the two cousins were killed.

Payton Yardley's medical bills reached \$90,000, and doctors said treatment for his ADHD will cost \$150 to \$200 a month, said his attorney, Donald L. Schlappizzi. Doctors also said his condition will make

post-secondary education unlikely, meaning a lifetime decrease in earnings.

The argument against the highway commission centered on the crossover at Highway 61 and Mette Road in Moscow Mills, which MoDOT had marked for improvements for several years. Schlappizzi said. The intersection had insufficient lane markers, signs and traffic implementations, he said.

"We were able to show that for five or six years, from previous wrecks, town meetings, what have you, that the highway commission was well aware of this. They even had some plans to relocate that particular intersection," he said.

After the crash, MoDOT lowered the speed limit to 60 mph from 65 mph from Wentzville to north of Troy. This past fall, MoDOT completed construction on a new interchange at Highway 61 and Route U; several other interchange improvements have been completed in the past several years.

Before the wreck, the tractor-trailer driver had crossed from the right lane to the left lane because he saw a MoDOT sign warning of construction ahead; but Yardley's van was in the left lane, Schlappizzi said.

\$2.85 million arbitration award

MOTOR VEHICLE COLLISION

- **Court:** Lincoln County Circuit Court
- **Case Number/Date:** 08LG-CC00176/June 14, 2010
- **Arbitrators:** James Holloran, Stanley Grimm, Brendan Ryan
- **Plaintiff's Experts:** G. Parker Bell, Los Cruces, Minn. (highway safety engineer); Dr. Garrett Burris, St. Louis (pediatric neurology)
- **Defendant's Experts:** John Lock, St. Louis (accident reconstruction); David Brammeler St. Louis (accident reconstruction)
- **Caption:** Herbert v. Missouri Highway and Transportation Commission



James Hulliverson

- **Plaintiff's Attorneys:** James Hulliverson and Robert Ehrig, Clayton
- **Defendant's Attorneys:** Paul Sterrett, St. Louis, for defendant MHTC; Joan Marie Lockwood, St. Louis, for defendant Valerie Yardley; Donald L. Schlappizzi, St. Louis, for third-party defendant Payton Yardley and next friend Ann Robinson; John F. Medler, St. Louis, for intervenor Barry Yardley; Russell Waiters, St. Louis, for third-party defendants D&R Leasing, David Hoeschelmann and Ryan Wren

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The sign should have been past the intersection, so traffic would merge into the left lane after the intersection with Mette Road, he said.

After a week of arbitration, MoDOT awarded sums of money to everyone in the car, totaling \$2.8 million. Motions to affirm the arbitration would reduce the award to the statutory cap.

Beyond those arguments, the case is progressing against Valerie Yardley, who some of the parties argue was at fault; and

against the operators of a rock quarry truck, which attorneys say failed to yield to Yardley, forcing her to stop in the path of the tractor-trailer. Those matters are still pending.

"It is a rather confusing situation, both from the facts standpoint and the interrelationships of the parties," Schlappizzi said.

MHTC attorney Paul Sterrett could not be reached for comment.

— Rebecca Boyle