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Seizure disorder caused by injuries from collision

Plaintiff was the driver of a light pickup truck. The defendant turned left in front of the plaintiff, resulting in a nearly head-on collision. There was severe damage to the front end of both vehicles.

Police and EMS personnel responded to the scene. According to the EMS report, the plaintiff did not lose consciousness and was alert and oriented after the wreck. However, a witness who stopped at the scene testified that the plaintiff collapsed out of her vehicle and was unconscious and disoriented immediately after the wreck. The plaintiff also had bruising over her left eye and on the right side of her jaw.

Within a few days after the crash, the plaintiff began reporting to her physicians difficulties with her short-term memory and severe headaches. She also described episodes where she would “black out” while lying in bed and occa-



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sionally when performing daily activities. These “black out” spells would typically be preceded by a dizzy feeling and a musty urine smell.

During the course of her treatment, the plaintiff underwent several EEGs, none of which detected any abnormal brain wave activity. However, several of these spells were witnessed by her health care providers. The plaintiff’s treating neurologist and an epileptologist diagnosed the plaintiff as suffering from post-traumatic complex partial seizures as a result of the brain injury from the wreck.

The defendant argued that the plaintiff’s cognitive symptoms pre-existed the collision. Specifically, the plaintiff had been admitted to a local psychiatric hospital about a year and a half prior to the wreck due to depression, anxiety and panic attacks. She also underwent detoxification from Xanax. Significantly, the discharge note from the psychiatric hospital noted that the plaintiff had a “history of seizures” and that she was not on any medication.

The plaintiff’s son and her long-time family physician, however, would have testified that they had never known the plaintiff to suffer from “black outs” or seizures prior to the wreck.

There was also a significant credibility issue relating to the plaintiff’s efforts to avoid a discovery request from the defendant related to a forensic examination of her home computer. [09-T-166]

Type of action: Personal injury - automobile accident

Injuries alleged: Mild traumatic brain injury with seizure disorder and short term memory impairment; ACL tear to right knee

Name of case: Confidential

Court: Chesapeake Circuit Court

Tried before: Mediation

Name of mediator: Robert Harris

Special damages: \$122,130 - past medicals

Verdict or Settlement: Settlement

Amount: \$800,000

Date: Oct. 13, 2009

Experts: Gregory O’Shanick MD - neuropsychiatrist;

Daniel Luciano MD - epilepsy; Gilbert Snider MD -

neurologist; Glenn Nichols MD - orthopedic surgeon;

Robert Voogt PhD - life care planner

Plaintiff’s attorneys: Carlton F. Bennett, John E.

Zydron and C. Stewart Gill, Virginia Beach