



VERDICTSEARCH

NEW JERSEY

MORRIS COUNTY

MOTOR VEHICLE

Head-On — Negligent Entrustment — Center Line

Pregnant woman claimed crash forced premature C-section

VERDICT **\$1,170,000**

ACTUAL **\$1,450,000**

CASE Karen Silverthorne-Kaldy and Russell Kaldy v. Salvatore Menella and Superior Oldsmobile, Inc., No. MRS-L-1314-01

COURT Morris County Superior Court, NJ

JUDGE Hon. Robert J. Brennan, J.S.C.

DATE 7/6/2005

PLAINTIFF

ATTORNEY(S) **Paul G. Hunczak** (co-lead), Morris, Downing & Sherred, LLP, Newton, NJ
David L. Johnson (co-lead), Morris, Downing & Sherred, LLP, Newton, NJ

DEFENSE

ATTORNEY(S) **Alan Baratz** (lead), Weiner Lesniak, Parsippany, NJ

FACTS & ALLEGATIONS On May 11, 2000, plaintiff Karen Silverthorne-Kaldy, 34, a research analyst who was eight months pregnant, was driving westbound on Route 46 in Montville, when Salvatore Menella, who was driving in the opposite direction in a dealership vehicle owned by Superior Oldsmobile Inc., crossed over the grass median and collided head-on with the plaintiff at 65 mph.

Claiming severe injuries, Silverthorne-Kaldy sued Menella and Superior Oldsmobile, for negligence.

The defense stipulated liability, and the case proceeded on damages only.

INJURIES/DAMAGES *cognitive defects; comminuted fracture; compound fracture; fracture, clavicle; fracture, distal; fracture, rib; fracture, ulna; fracture, wrist; loss of consortium; pneumothorax; post-traumatic stress disorder*

Silverthorne-Kaldy was taken via ambulance to the hospital where she stayed for several weeks and was treated for pneumothorax and fractures in her left clavicle, left first rib ulna, left wrist with reduction of the left distal radius. She also received pinning of the distal radius and suffered a comminuted fracture of the mid shaft of the right femur, which required intramedullary rodding.

In addition, after Silverthorne-Kaldy started losing water, doctors ordered an emergency cesarean section delivery of her baby, who was one-month premature. She was not able to see or hold her newborn for five days.

Silverthorne-Kaldy was transferred home after leaving the hospital. She was scheduled for a rehabilitation center because she could not take her newborn home with her. She received rehab for almost a year and attending nurses for over a year. As her rehab progressed, she went from being bedridden, to using a wheelchair, to needing a walker, to using a cane. She also suffered from post-traumatic stress disorder and cognitive deficits, for which she received and continues to receive psychological counseling.

Silverthorne-Kaldy missed work for four months, and left again soon after returning, claiming that she was no longer capable of functioning at her previous level. At the time she was making about \$75,000 annually and she

sought an award for past lost earnings and present value of prospective future earnings of \$1.45 million, according to the defense counsel. Her medical bills were covered by insurance and she sought an unspecified amount for past and future pain and suffering, and the emotional distress associated with an emergency c-section and her inability to immediately see and hold her newborn.

Her husband, Russell, had a per quod claim.

The defense acknowledged her various injuries but argued that she enjoyed exceptional recovery and challenged the severity and permanency of the injuries. The defense also claimed that she voluntarily left work after returning because she was again pregnant, and decided to leave the work force, and not because she was suffering from the injuries associated with the accident.

RESULT The jury awarded the plaintiffs a total of \$1,170,000. Silverthorne-Kaldy received \$1,095,000, which breaks down as \$750,000 for past pain and suffering, \$275,000 for future pain and suffering and \$70,000 for past and future economic losses. Her husband was awarded \$75,000 for his per quod claim.

After pre-judgment interest with prejudice, the total value of the verdict reached \$1,450,000.

KAREN**SILVERTHORNE-**

KALDY \$750,000 past pain and suffering
\$275,000 future pain and suffering
\$70,000 past and future economic losses
\$1,095,000

DEMAND \$800,000

OFFER \$500,000

INSURER(S) **Frontier Insurance Co. (primary)** for Oldsmobile
Chubb Insurance Co. (excess) for Oldsmobile

TRIAL DETAILS Trial Length: 10 days
Trial Deliberations: 2 hours
Jury Vote: 8-0 as to Karen Silverthorne-Kaldy; 7-1 as to Russell Kaldy
Jury Composition: 2 male, 6 female

PLAINTIFF**EXPERT(S)**

Paul Lombardi, orthopedic surgery, Morristown, NJ
Michael J. McBride, orthopedic surgery, Morristown, NJ
Roger D. Colonna, psychology/counseling, Verona, NJ
Peter M. Crain, neuropsychiatry, Paramus, NJ
Edmund Provder, vocational rehabilitation/counseling, Hackensack, NJ
Frank D. Tinari, Ph.D., economics, Livingston, NJ

DEFENSE**EXPERT(S)**

Chester Trent, neuropsychological assessment, Long Branch, NJ
James M. Pascuiti, M.A., vocational rehabilitation, Springfield, NJ
Jerome M. Staller, economic analysis,

POST-TRIAL Defendant's motion for a new trial was denied.

—Gregg Kaysen