

NEWS

## Family of Man Killed in Motorcycle Crash Settles for \$13.6M

Dash cam video from within the garbage truck was used to show its driver was not paying attention when he crossed the center line into oncoming traffic, hitting a motorcycle.

By Robert Storage

Attorneys for a Wallingford woman severely injured in a motorcycle crash that killed her fiancé have settled the case for \$13.6 million after dash cam footage showed the other driver was not paying attention.

Allison Vandermaelen was a passenger on a motorcycle with Raymond Smith when it collided in July 2016 with a garbage truck operated by a man who crossed into oncoming traffic, according to an **amended lawsuit** filed March 13 in New Haven Superior Court. Vandermaelen, 42, suffered a traumatic brain injury and underwent 22 surgeries on her left leg.

Smith died almost instantly, according to Jerry McEnery, one of four attorneys with **McEnery Price Messey & Sullivan** in Milford who handled the case. The case was settled April 9.

Robert Choinski, the driver of the truck owned by **Plainville-based CWPM**, was unfamiliar with the garbage route and was listening to directions on his GPS device when the crash occurred, McEnery said Wednesday,



(l-r) Charles Price Jr., Gayle Sullivan, Jerry McEnery and Robert Messey, with McEnery Price Messey & Sullivan in Milford.

“The defendant lost his focus and drove into the path of the motorcycle, blocking the entire roadway,” McEnery said. “There was nowhere for Mr. Smith to go.”

The garbage truck’s dash cam video recorded Choinski’s actions and the oncoming motorcycle in the seconds before impact, McEnery said. That video played an intricate role in securing the settlement.

“There are two views from the dash cam,” he said. “There is an internal view of the cabin itself and the outside view of the traffic, in this case the motorcycle coming in the opposite direction. We are able to see the driver turn to his left and never look back, showing his inattentiveness.”

In addition, McEnery said, his firm also worked with an outside company to film a day in the life of



CWPM has settled a lawsuit after one of its garbage trucks was involved in a fatal accident with a motorcycle. Courtesy photo

Vandermaelen and her 17-year-old daughter, Jenna.

“Geomatrix did an exceptional job in helping us prepare a ‘day in the life’ video of my client as well as a short interview of both my client and her daughter,” McEnery said. “It was very powerful. All of the insurance companies and the mediator were impressed with both women.”

Today, Vandermaelen needs the help of her daughter and others to get around, McEnery said.

“She is not independent,” McEnery said. “She is reliant on a wheelchair and walker. She can move around her house, but her ability to get from her home to the car or to travel anywhere is all dependent on others around her. Her leg is the main issue. It is fused and it does not function properly. She can’t put her foot on the ground.”

McEnery said his firm also hired an orthopedic surgeon to independently look at Vandermaelen’s medical records and examined her. A life care planner, whose job it is to take someone’s current physical condition and project ahead

what their future medical costs will be, was also hired. The planner estimated Vandermaelen’s care to be about \$4.5 million over the course of her life.

McEnery said he believed the insurance companies settled rather than going to trial for several reasons.

“They paid what they did based on the injuries to my client, the quality of the plaintiffs themselves as individuals, and because of the leg work we did, specifically related to showing the recklessness of the defendant,” McEnery said.

The hardest part of the case, McEnery said, “was keeping it all on track. We needed to either get a resolution in court or through mediation without the delay of the insurance companies that always delay before paying money on cases.”

The case was mediated in front of Pullman & Comley attorney Michael Riley.

The settlement was broken down into two payments. Vandermaelen will receive nearly \$12.1 million and her

daughter will receive \$1.5 million from the suit’s parental consortium claim. The money will be divvied up within 30 days, McEnery said.

Choinski, 33, pleaded guilty to negligent homicide with a commercial vehicle. He received a six-month suspended prison sentence followed by 18 months’ probation, and had his license suspended for 30 days.

Emasco Insurance Co. paid the primary policy, which was \$1 million. In addition, Endurance American Specialty Insurance Co. paid \$10 million and Fireman’s Fund Insurance Co. paid \$2.6 million. All of the companies were insurance carriers for CWPM.

The defense was represented by associates Kevin Kratzer and Tom Houlihan Jr., of Boyle Shaughnessy & Campo in Hartford. Neither attorney responded to a request for comment Wednesday.

Assisting McEnery were colleagues Gayle Sullivan, Charles Price Jr. and Robert Messey. Also assisting the firm was Tracey Russo, a solo practitioner from Orange.

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