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\$3 Mil. Settlement Over Brain Injury

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Of the Legal Staff

A Philadelphia man who said he suffered a debilitating brain injury following a minor rear-end accident received a \$3 million settlement in Philadelphia Common Pleas Court on Sept. 7.

Plaintiff Charles Palumbo, of Philadelphia, was stopped at a red light at Mascher Street and Olney Avenue in Philadelphia in a 2004 Chevrolet Silverado owned by his employer, Greenscape Landscape, at 5 p.m. on May 28, 2004, according to the complaint and the plaintiff's settlement conference memorandum in *Palumbo v. Mongeluzi*.

When the light at the intersection changed, Palumbo's vehicle was rear-ended by a 2003 Chevrolet Express cargo van traveling behind him and pushed into a 1993 Nissan Maxima. All vehicles were southbound.

The accident caused a coup and contrecoup injury to Palumbo's brain, "like boxers experience when they get punched in the head," said Marc Rosenberg, Palumbo's attorney, of the Mammuth & Rosenberg firm in Bala Cynwyd.

After the accident, Palumbo suffered permanent facial nerve damage, also known as a hemifacial spasm, which caused uncontrollable facial twitching, severe vertigo and loss of sleep, according to court papers. Surgery in October 2005 to repair the facial spasm was unsuccessful, and the vertigo started after the surgery. Palumbo also suf-

fered spinal disc herniations and was unable to work following the accident.

"Really the intrigue in the case was that if you look at the physical damage of the vehicles, it was very negligible,"

Rosenberg said. "Despite this, we were able to prove this guy had a brain injury."

The responding police officer found moderate damage to the front bumper and grill and a dent on the rear bumper of Palumbo's vehicle; the officer found a dent on the front bumper of the Express cargo van, the plaintiff's memorandum said.

According to plaintiff's court papers, Anthony Mongeluzi, at the time an employee for UGI Corp. in King of Prussia, was driving behind Palumbo in a company vehicle and rear-ended Palumbo's vehicle, pushing Palumbo into the front-of-the-line car, driven by Naomi Crespo. Crespo, of Philadelphia, was driving south on Mascher Street and waiting to make a left-hand turn onto Olney Avenue, according to the plaintiff.

The defense for UGI argued in its case management conference memorandum that the accident was caused by a sudden emergency stop by Crespo's Maxima, that Palumbo's Silverado hit Crespo first, and that Mongeluzi then hit Palumbo's Silverado after being unable to stop in time. UGI, according to its Web site, distributes propane



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and butane, and is both a distributor and marketer of energy products.

UGI argued in court papers that Palumbo was comparatively negligent, failed to use due care for his safety, and his medical conditions were not related to the alleged accident.

Susan Wiener, of Donna Adelsberger & Associates and the attorney for UGI Corp. and Mongeluzi, was not available for comment.

Crespo was dismissed from the lawsuit after arbitration and because of her limited role in causing Palumbo's injuries, Rosenberg said. UGI did not make any offers, he said.

Palumbo, now 44 and unable to work after the accident, lost \$194,318 in past earnings and between \$1,433,874 and \$1,790,662 in future earnings, according to the plaintiff's papers.

With the settlement, Palumbo is "leading a life where he'll be able to take care of his family and himself for the rest of his life," Rosenberg said.

Ed Edelstein was the mediator on the case. Attorney Alan Starker assisted Rosenberg in the mediation.

Plaintiff's experts included liability expert Steven Schorr with DJS Associates, a forensic engineering and scientific consulting firm in Abington, and Donald Jennings, a vocational expert.

Defense experts included Dennis Andrews, a liability expert from the Accident and Safety Consultants in Cherry Hill, N.J., and Irene Mendelsohn, a vocational expert. •