

# VIRGINIA LAWYERS WEEKLY

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## VERDICTS & SETTLEMENTS

# Structured settlement for child's brain injury totals \$21M

### \$5,500,000 Settlement

Plaintiff was a 3-year-old child seated in the back of her family's automobile at a stoplight on a four-lane highway in Virginia Beach. The family was stopped waiting for the light to turn green. The defendant was operating a tractor-trailer that failed to stop at the intersection and rear-ended the plaintiff's vehicle traveling approximately 40 mph. The impact was severe enough to collapse both front seats into the back seat and to push the trunk of the car into the area where the

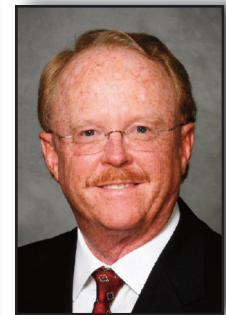
plaintiff was seated.

Plaintiff was transported to a local hospital where imaging studies revealed several skull fractures with subdural hematoma. Plaintiff remained in an induced coma for approximately five days. Plaintiff did not require surgical intervention.

Sequential imaging studies demonstrated bilateral permanent frontal lobe damage to the infant plaintiff's brain. Plaintiff was evaluated by numerous specialists who opined that she would suffer significantly im-



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paired executive function as she matured into adolescence and adulthood. This contention was hotly contested by experts retained by the defense.

Plaintiff's life care plan had a present value of between \$3,000,000 and \$7,000,000, depending upon which of the supportive assets the jury believed the child would need as she went through her adult life. The defense life care plan had a present value of approximately \$215,700.

The case was settled at mediation for \$5,500,000. A structured annuity was designed and put in place that will pay the child approximately \$21,000,000 over the course of her life.

[12-T-047]

**Type of action:** Personal injury – tractor-trailer accident

**Injuries alleged:** Skull fractures; subdural hematoma; traumatic brain injury

**Court:** Norfolk Circuit Court

**Date:** Feb. 1, 2012

**Special damages:** Past - \$142,000; plaintiffs life care plan (present value) - \$3,000,000 to \$7,000,000; defense life care plan (present value) - \$215,000

**Verdict or settlement:** Settlement

**Amount:** \$5,500,000 (total payout including structured settlement - \$21,000,000)

**Attorneys for plaintiff:** Randall E. Appleton and James C. Lewis, Virginia Beach

**Plaintiff's experts:** Gregory O'Shanick, MD; Ronald Savage, EdD; Pamela Waaland, PhD and Sharon Reavis, RN, MS

**Defendant's experts:** Eileen Ryan, DO; Michael Duchowny, MD; Scott Sautter, PhD; Mona Yudkoff, RN