

JOHNSON & WARD

VAN/AUTOMOBILE COLLISION: INADEQUATE TRAFFIC CONTROL, STOP SIGN
OBSCURED BY VEGETATION, OBSTRUCTION TO VIEW; FRACTURED SHOULDER,
RIBS AND ANKLE; SETTLEMENT /

Frank Lawrence Turner vs. Department of Transportation, State of
Georgia, et. al.

Paulding County, Georgia Superior Court Civil Action File
No. 92-CV-0339, Settled September 21, 1993

Settlement on behalf of 42-year old plaintiff who was riding
as a front seat passenger in a van, struck at an intersection by
a driver who had run a partially obscured stop sign and who was
later found to be driving under the influence of intoxicating
beverages.

On the 7th day of September, 1990, at about 11:15 p.m.,
plaintiff was a front seat passenger in a van being driven in an
easterly direction on Georgia Highway 360 within Paulding County,
Georgia. There is a point where Paulding County Road 3 crosses
Georgia Highway 360, and at this intersection, there are stop
signs for the control of traffic proceeding north and south on
County Road 3. Although there was a painted "stop ahead"
notation on the roadway for motorists proceeding in a northerly
direction on County Road 3, there was no similar notation on the
opposite side for motorists proceeding in a southerly direction.
As the van in which plaintiff was a passenger was proceeding
through this intersection, it was violently struck by a vehicle
which had been travelling in a southerly direction on County Road
3 and which had driven through the stop sign across the
intersection at a high rate of speed. As a result of this
collision, the van overturned and was thrown more than 180 feet
off the roadway, and plaintiff suffered a broken left shoulder,

broken ribs, and a crushed right ankle, all of which ultimately necessitated almost \$90,000.00 in medical and related expenses, and resulted in his being unable to continue his employment for over a year as a salesman where he had been earning approximately \$18,000.00 annually.

Due to her obvious inebriated condition at the scene, and to numerous alcoholic beverages found in a cooler which she and her male passenger tried to hide from investigating police, the 18-year old driver of the automobile was charged with driving under the influence of intoxicating beverages. She was subsequently found to have a blood alcohol level of .15, substantially more than that required for a legal presumption of intoxication in Georgia. Her insurance company paid its limits of \$100,000.00 in return for a release in accordance with the decision in Posey vs. Medical Center-West, 257 Ga. 55, 354 SE2d 417 (1987), authorizing a settlement as to one tortfeasor without discharging others for the same injury.

Suit was thereafter instituted against the Department of Transportation, State of Georgia (DOT), and its responsible employees, alleging that the stop sign for motorists proceeding in a southerly direction on County Road 3 had been negligently permitted to become obscured by vegetation and plant growth to the point that it was not readily visible to approaching motorists.

Although the stop sign was on a county road, it was conceded to be located 18 feet within the DOT right-of-way, and was the DOT's responsibility insofar as maintenance was concerned.

Photographs on behalf of the plaintiff were taken within two weeks of the incident, revealing the stop sign to be at least partially obscured, and the plaintiff's expert, a Professor of Engineering, deposed that the DOT had a duty to maintain intersections for which it was responsible in a safe condition for the motoring public, such duty extending to providing for regular, effective maintenance procedures so as to insure that stop signs not become obscured by growing vegetation.

The DOT responded that the photographs were misleading in that they were taken from a perspective which tended to enhance the obscurity of the stop sign, rather than from the center of the lane at the visual level of a motorist, and presented proof that neither the investigating police, onlookers at the scene, nor others who lived in the general vicinity and transversed the intersection on a regular basis, had ever complained or noted problems with visibility of the stop sign. Moreover, it was admitted that the 18-year old driver had gone through the intersection on at least one or more prior occasions, and the DOT vigorously contended that the collision was simply occasioned by the actions of a drunken driver who, admittedly having knowledge that she was approaching an intersection, neither slowed down nor took precautions for possible approaching traffic.

Plaintiff received \$5,000.00 in no fault benefits, and the case against the DOT and its employees was settled for \$600,000.00 shortly prior to its scheduled trial.

[Plaintiff was represented by ATLA and GTLA members William C. Lanham and Clark H. McGehee, LANHAM & McGEHEE, P.C., of Atlanta, Georgia]