

**TORTS: VAN/AUTOMOBILE COLLISION; AGGRAVATED NEGLIGENCE;
WRONGFUL DEATH; EMOTIONAL ANGUISH WITNESSING DEATH OF MOTHER;
SETTLEMENT**

Michael A. Fuller, Individually, and as Administrator of the Estate of Tracy C. Fuller vs. Country Charm Egg Distributors, Inc., et. al.

Laura A. Turner, b/n/f Mary T. Robinson, Guardian vs. Country Charm Egg Distributors, Inc., et. al.

Date of Settlement: March 30, 2001

Settlement of \$2,483,000.00 for the wrongful death of Tracy C. Fuller, and \$200,000.00 for personal injuries and mental anguish suffered by her minor daughter in witnessing her death, resulting from the negligent operation of a commercial van.

On September 16, 2000, Tracy C. Fuller, age 35, was driving a Saturn automobile in which her 16-year old daughter, Laura A. Turner, was a front seat passenger, which was stopped in the lefthand turn lane for traffic on Georgia Highway 369, preparatory to turning south onto Georgia 400. When the traffic light showed a green arrow for traffic wishing to turn left onto Georgia 400, she proceeded into the intersection where her automobile was violently struck on the driver's side by a commercial van owned by Country Charm Egg Distributors, Inc., and being driven by its 17-year old employee. Tracy Fuller was killed instantly, and her daughter suffered bruising and soft tissue injuries, including neck strain.

The subject intersection was the first one on Georgia 400 north of the Atlanta beltway, Interstate 285, that was not controlled access; i.e., all intersections prior to this one proceeding north from I-285 were either overpasses or underpasses, and this was the first "at grade" intersection which had traffic that was controlled by traffic signals. Accordingly, the Georgia Department of Transportation had placed three large signs in advance of the intersection advising that traffic was

approaching a traffic signal, and a strobe light activated 24-hours a day to insure that drivers were aware of the approaching intersection. An aggravating factor to the tragedy was that the 17-year old driver had an unauthorized 16-year old passenger with him and, apparently, never even slowed for the intersection. Witnesses estimated that the van was travelling at a speed of in excess of 60 miles per hour at the time of the collision. The 16-year old admitted that they were listening to the radio at the time, and neither he nor the 17-year old driver could explain why they admittedly had run the red light.

Tracy Fuller was a high school graduate, employed as a sales representative of a "dot.com" company, at the time of her death. She had earned approximately \$21,000.00 in 1998 and about \$44,000.00 in 1999, and her earnings were estimated to be approximately \$50,000.00 in 2000, based on the results through her date of death. However, she had recently been advised that her company was cutting back, and that a new position would have to be found for her. Laura, her only daughter, had lived with Tracy since her divorce from Laura's natural father, and had continued living with her mother when she remarried in 1991. Her natural father was a convicted felon who had never provided child support. Laura incurred medical and related expenses for her soft tissue injuries, but had also been seeing "grief counselors" on a weekly basis, commencing shortly after her mother's death, in an effort to assist her in coping with this tragedy.

The Plaintiffs utilized the services of an economist, who opined that the present value of Tracy Fuller's lost wages was approximately \$2,000,000.00, with the present value of her lost fringe benefits adding another approximate \$700,000.00. Plaintiffs also obtained written reports from two of Laura's grief counselors, and a written report from her school counselor, reflecting the mental anguish she had experienced and the difficulties she had suffered in coping with her mother's loss.

Defendants countered by suggesting that Tracy Fuller was, herself, contributorily negligent

as concerns the collision, as she apparently had never observed the oncoming speeding commercial van when she drove directly out into its path. They pointed out that there had been no obstructions to her vision and that the day was bright and sunny at the time, alleging that she clearly had had the last clear chance to avoid the impending collision had she, herself, been paying greater attention. They also asserted that her earnings would have never approached the substantial figures sought, particularly as her employment status with her "dot.com" employer was uncertain. Finally, they pointed out emphatically that there had never been a jury decision in Hall County, Georgia, the venue in which the claims would be litigated, in excess of seven figures.

All claims were settled for \$2,683,000.00 after two full days of mediation.

[Plaintiffs were represented by ATLA and GTLA members William C. Lanham and Clark H. McGehee, Johnson & Ward, of Atlanta, Georgia.]