

ORIGINAL

IN THE COURT OF CLAIMS OF OHIO

DARLENE LANE FERRARO)	CASE NO. 2011-10371
)	
Plaintiff)	JUDGE PATRICK M. McGRATH
)	
v.)	
)	
THE OHIO STATE UNIVERSITY)	
MEDICAL CENTER)	
)	
Defendant)	

FILED
 COURT OF CLAIMS
 OF OHIO
 2013 NOV 12 AM 11:23

PLAINTIFF'S PRETRIAL STATEMENT

I. Counsel of Record:

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II. Summary of case:

The within action arises out of a fatal traffic accident that occurred on September 10, 2009 on Interstate 71 in the City of Brook Park, Ohio. Decedent, Junior Lee Lane was traveling as a passenger in a 1997 Dodge Ram pick-up truck towing a trailer that had been driven by Gary Fury. Several minutes prior to the accident, the pick-up which had a trailer attached, had begun to swing free. As a result, Mr. Fury brought his vehicle to a stop immediately on the interstate to avoid danger to other drivers. Mr. Lane and another passenger exited the vehicle to attempt to repair the trailer so it could be moved from the freeway. While Mr. Lane was tending to the trailer, passenger Jesse Fury began waving a white t-shirt on the freeway standing approximately 20-30 feet from the stopped vehicle and trailer to warn motorists. Mr. Fury's action alerted other motorists traveling on the freeway to slow down and move to the other lanes. No other vehicles made contact with Mr. Fury's vehicle.

Dr. Rolf Barth, M.D. was operating a 2004 Mercedes C240, also in a northbound direction on 271. Dr. Barth has admitted that he was speeding at the time of the

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accident and did not see either the warnings of the pedestrian or the stopped vehicle prior to the collision. As a result, Dr. Barth's Mercedes rear-ended the trailer at a high speed causing fatal injuries to Junior Lee Lane. The area of the collision was a well-lighted area including large lights attached to a pole located every 233 feet along the freeway. There was a light pole in close proximity to the accident scene. At the time of the incident, the roadway was dry and the weather would not have affected the visibility for Dr. Barth.

III. Legal issues:

1. Whether Rolf Barth was negligent as a matter of law in the operation of his automobile on September 10, 2009, given his admitted speeding.
2. Whether Rolf Barth, as a matter of law, failed to maintain assured clear distance ahead when he rear-ended and struck a stationary and stopped vehicle on the freeway.
3. Whether Rolf Barth was negligent in the operation of his motor vehicle on September 10, 2009, including failing to maintain a proper look-out for vehicles around him, traveling in excess of the posted speed limit, and failing to maintain an assured clear distance.
4. Whether Rolf Barth's negligence was the direct and proximate cause of the death of Junior Lane.

IV. Possible Fact witnesses:

Plaintiff anticipates calling the following lay witnesses:

1. Anthony Angey, Jr.;
2. Patrolman Joseph Klemenc;
3. Sergeant Myron Sulminski;
4. Peter Jung;
5. Rolf Barth, M.D. (on cross-examination);
6. Gary Fury;
7. Jesse Fury.

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V. Expert witnesses:

1. James Kroft;
2. Dan Galita, M.D. and/or Frank Miller, M.D.

VI. Exhibits

1. Curriculum vitae of James Crawford;
2. Copies of admissible documents prepared by the Brook Park Police Department during the investigation of the collision;
3. Coroner's report and verdict;
4. Death Certificate.

RESPECTFULLY SUBMITTED,



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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was sent via email this 11th day of November, 2013,
upon the following:

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November 11, 2013

VIA FEDERAL EXPRESS DELIVERY

Court of Claims
Ohio Judicial Center
65 South Front Street, 3rd Floor
Columbus, Ohio 43215

Attention: Civil Filing Clerk

*RE: Darlene Lane Ferraro, etc., v. The Ohio State University Medical Center
Date of Incident: September 10, 2009*

Dear Sir/Madam:

I am enclosing Plaintiff's Pretrial Statement for filing. Please file the original and return a time-stamped copy in the self-addressed stamped envelope provided.

Thank you for your kind cooperation.

Very truly yours,



W. CRAIG BASHEIN

WCB/cd
Enclosure

cc: Christopher Conomy, Esq. (via email; with enclosure)

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