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Woman Injured In Accident With Rental Car – \$1 Million Judgment

By: MO Lawyers Media Staff August 16, 1999

The plaintiff was a 72-year-old woman who was injured in a hit-and-run auto accident by a driver in a rented car. She sued Enterprise Rent-A-Car.

The accident happened on Dec. 25, 1994. The rental car hit the plaintiff's car on the driver's side and pushed it into a brick wall. She suffered a broken sternum and ribs and knee injuries and underwent two knee operations. She claimed she suffered permanent damage to her lower extremities.

The person who had leased the car claimed that an unknown person was driving the car without permission at the time of the accident. As a result, Enterprise denied the claim. After the plaintiff filed suit against the lessee, Enterprise also refused to provide the lessee with a defense. The plaintiff asked Enterprise to explain why it was denying the claim, but the claims representative refused to provide any information regarding the denial. The plaintiff then entered into a Sect. 537.065 agreement with the lessee. After an evidentiary hearing, the court found that the lessee was operating the car at the time of the accident and awarded the plaintiff damages of \$1 million.

The plaintiff then brought a garnishment action against Enterprise. Enterprise argued it was not liable because a non-permissive driver was driving the car, and also claimed the lessee did not cooperate. But the court refused to allow Enterprise to re-litigate issues that had been settled in the underlying action, where Enterprise had an opportunity to raise these defense but "unreasonably" refused to do so. The court also denied the lack of cooperation defense, finding instead that Enterprise was not justified in initially denying the claim and in failing to provide a defense.

The court also awarded prejudgment interest in the amount of \$280,000.

Type of Action: Equitable garnishment action

Type of Injuries: Fractured sternum and ribs, permanent injury to lower legs, knee operations

Court/Case Number/Date: Jackson County Circuit Court/CV97-19008/June 8, 1999

Caption: Smith v. Enterprise Leasing Co.

Judge, Jury, or ADR: Judge

Name of Judge: Charles Atwell

Special Damages Claimed: \$1 million judgment in underlying case

Verdict or Settlement: \$1 million judgment

Allocation of Fault: N/A

Last Offer: None

Last Demand: None

Attorneys for Plaintiff: Daniel T. Defeo and David M. Mayer, Kansas City

Insurance Carrier: Self-insured

Plaintiff's Experts: None

Defendant's Experts: None



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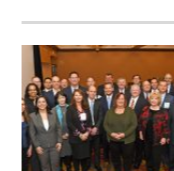
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