

## **\$355,000 GROSS AWARD REDUCED BY 25% COMPARATIVE NEGLIGENCE**

Plaintiff automobile driver struck when passing slow moving tractor in passing zone on 55 mph county road when defendant turns left into driveway - Compression fractures at T-11 and L1- Epidural injection - Inability of plaintiff to continue to be active in hobby of raising cattle on family farm - Plaintiff laid off from work several months before accident  
Streuben County, NY

In this case, the plaintiff, then a 59-year old driver, contended that as he was proceeding at about the 55 mph speed limit on the county road, the defendant driver of a farm tractor-trailer was traveling in front of him at approximately 15 mph. The roadway contained one lane in each direction and the plaintiff maintained that as he passed the defendant in an area passing was allowed, the defendant suddenly turned left, resulting in the plaintiff swerving losing control and striking a tree. The plaintiff also denied that the defendant had activated his turn signal. The plaintiff indicated that he was wearing his seatbelt.

The defendant contended that he made observations and the plaintiff countered that since he was clearly present, the it was evident that the defendant's observations were not made properly. The plaintiff contended that he suffered compression fractures at T11 and L1. The plaintiff maintained that the fractures were very painful, that medication did not provide significant benefit and that he underwent an epidural steroid injection.

The plaintiff maintained that despite the treatment, the pain and limitations are permanent in nature. The plaintiff owned a family farm on which cattle was raised. The plaintiff maintained that he derived extensive enjoyment from working the farm and has been forced to essentially give up this activity. The plaintiff did not make economic claims relating to such endeavors. The plaintiff was laid off from his job several months before the collision. The parties agreed to submit the case to binding arbitration.

The arbitrators found the defendant 75% negligent and the plaintiff 25% comparatively negligent. They then rendered gross awards of \$320,000 to the plaintiff and \$35,000 to his wife. The case then settled for the net arbitration award of \$266,000.

### **REFERENCE**

Carbone vs. Bennett & Ribble. Docket no. 2011-0245, 03-00-14.

Attorney for plaintiff : Glenn E. Pezzulo of Culley Marks Tanenbaum & Pezzulo,LLP in Rochester, NY.