

NORTH CAROLINA Lawyers Weekly

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JULY 17, 2023

VERDICTS & SETTLEMENTS

Jury sides with plaintiff in car accident case: \$370,000 VERDICT

■ Staff

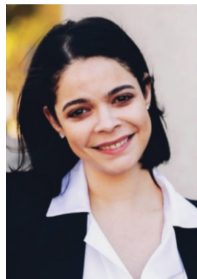
ACTION: Motor vehicle negligence
INJURIES ALLEGED: Compression fracture of second lumbar vertebrae
CASE NAME: German DeJoya v. Shanielle Ashley Roberts
COURT/CASE NO.: Wake County Superior Court; No. 20-CVS-500163
JURY AND/OR JUDGE: Judge John Smith (jury verdict)
AMOUNT: \$370,000
SPECIAL DAMAGES: \$11,500 medical expenses, \$12,500 lost income
DATE: June 7, 2023
ATTORNEYS: Isaac Thorp and Claudia Barceló of Thorp Law, Raleigh, (for the plaintiff); William Kesler of Simpson Law Firm, Raleigh, (for the defense)

Plaintiff, an intensive-care unit doctor, was driving to work the overnight shift on July 13, 2019. The defendant was driving erratically as she raced up behind him. She swerved into the right lane attempting to pass plaintiff, struck a car in that lane and then swerved back and struck plaintiff's car.

Plaintiff's car rolled over before landing on its wheels. Plaintiff felt immediate pain in his back and could not get out of his car. The defendant pulled over for about 30 seconds, then fled the scene.



Isaac Thorp



Claudia Barceló

Plaintiff was treated at the emergency room and released with a back brace. He was unable to perform basic tasks such as bathing or dressing independently but had family members who assisted him at home.

He returned to work two weeks later on very limited duty. Despite his return to work, his back was painful. Plaintiff traveled overseas for his father's funeral about two months after the crash. He reported being 90% better a year after the crash.

Four years later, he still has daily back pain, which flares up after long periods of sitting or standing.

Plaintiff's treating physician testified that plaintiff's vertebrae would always be deformed; that his symptoms were consistent with other patients with similar injuries; that he actively participated in his

own recovery; that he was at increased risk for arthritis and other problems; and that he would always have to be careful not to overexert himself. The physician could not say whether plaintiff's pain was likely to be permanent.

The liability carrier paid its policy limits of \$30,000. Plaintiff's uninsured motorist policy limits with Erie Insurance was \$250,000. Erie's exposure was \$220,000 because it got credit for the liability coverage that was paid.

Erie elected to defend the claim in its own name. Although the defendant was properly served with the complaint, she did not appear at the trial.

Plaintiff offered to settle the claim for \$150,000. Erie's highest offer was \$70,000, which combined with the liability coverage, equaled an offer of \$100,000.

Plaintiff declined to arbitrate the UIM claim and instead chose to have the matter heard by a jury.

At trial, Erie's attorney suggested the jury return a verdict between \$50,000 and \$100,000; plaintiff's counsel suggested the jury return a verdict of \$370,000.