

Vacationer settles claim over golf cart with faulty reverse buzzer

Plaintiff struck by cart, suffered debilitating brain injuries

By Fred Horlbeck, Senior Staff Writer

A North Carolina woman who suffered brain damage when a golf cart knocked her down at a Lowcountry rental cottage has settled for \$500,000 in a premises liability suit against its owners.

The recent settlement in the Charleston County Court of Common Pleas extends to the limit of the defendants' insurance coverage but won't cover the \$1 million-plus that experts said would be necessary to fund long-term care for the plaintiff.

One doctor described her brain injury as the same type that famed NASCAR driver Dale Earnhardt suffered in a fatal crash while racing in 2001.

The accident occurred in May 2007 when the Asheboro, N.C., resident was standing behind the electric golf cart at the Isle of Palms home she and family members had rented for a vacation stay, said her lawyer, Nathan Hughey of Mount Pleasant.

The case, *Hopkins v. Parker*, C.A. No. 2007-CP-4659, centered on the plaintiff's claim that she could have avoided injury if the cart's reverse warning buzzer had not been disconnected.

A 3-year-old child hopped onto the cart as it was idling in the driveway and engaged it, Hughey said. The cart lurched backwards, striking down the plaintiff. Her head hit the pavement, and she suffered two skull fractures, brain bleeding and a permanent brain injury.

The Earnhardt-type injury was "her brain sloshing in her skull when it hit the pavement, and that caused a frontal bleed," Hughey told South Carolina Lawyers Weekly.

The result: She experiences severe headaches and has difficulty concentrating, problems that eventually cost her job, Hughey said.

In her lawsuit, the plaintiff asserted four causes of action: negligence, negligence per se, breach of contract and violation of the state Unfair Trade Practices Act.

The defendants denied the allegations. Their lawyer did not return phone calls seeking comment prior to deadline.

All four claims hinged on the assertion that the golf cart was unsafe because the buzzer was disconnected, but the negligence claim was a dominant theme in reaching the settlement, according to Hughey.

"This was, realistically, a premises liability case," he said. "Our client was an invitee. They were renting the house."

The negligence claim emphasized the owners' marketing of both the house and the golf cart, portrayed the plaintiff as an invitee and asserted the defendants breached their duty of care to ensure that the cart was safe.

The complaint said the owners' marketing included a description of the home as a "cozy beach cottage with pool and golf cart for easy beach access" and that the plaintiff and her family chose the house in part because of the golf cart.

But the cart was dangerous because the buzzer wasn't functioning and the defendants knew it or should have known it, the complaint said.

"I don't know if you've ever been around an electric golf cart, but, you know, they don't make any noise obviously, the engine doesn't. But, if they're left in reverse, then it beeps the entire time so it drives you crazy," Hughey said.

"There's no way the kid would have hopped on it with it in reverse like that if the buzzer had been going. Or, even if he had hopped on it, our client wouldn't have been standing right behind it."

The child wasn't related to the plaintiff, the lawyer said.

Hughey said a factor that benefited his client's case was her doctors' unanimous agreement that she was doing everything possible to recover from her injuries.

"The real value in the case came from the fact that her three doctors were superstar witnesses," he said.

In videotaped depositions, they agreed that she was not malingering and that she wanted to return to being the outgoing person she had been before the accident, he said.

"One of them repeatedly said she had a permanent brain injury and even went so far as to say that this was the exact same whiplash-type injury that killed Dale Earnhardt," Hughey said.

"He was vividly describing that and using a model of the skull in the videotape, shaking it, showing what happened to her brain."

Questions or comments may be directed to the writer at fred.horlbeck@sc.lawyersweekly.com