

# The Legal Intelligencer

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## \$1 Mil. Settlement for Back Injury in Lehigh Accident

BY ASHER HAWKINS

*Of the Legal Staff*

A settlement for over \$1 million has been reached in a Lehigh County-filed personal injury action stemming from a May 2003 accident in which an off-duty Upper Darby Township police officer sustained a back injury.

In *Britt v. David J. Schneck Logging Inc.*, Ray Britt claimed that the reckless driving of Schneck Logging employee Byron Apgar led to a permanent injury that will require future surgeries and could keep him off the force for at least another four years.

His attorney, Kenneth Fulginiti of Duffy & Keenan, said the settlement amount — \$1.025 million — reflected the combined total of the limits of two policies held by the defendants.

Britt claimed in court papers that while driving through Zionsville, Pa., on the morning of the accident, he began to pass through an intersection on Kings Highway. Before he could fully cross, Apgar, who Britt alleged had not stopped for a stop sign, drove into the middle of the intersection, causing the accident.

The defense responded in court

papers by admitting that the accident had occurred, but denying the allegations of negligence.

The accident caused at least two herniated discs and resulting nerve damage, Britt said in court papers.

Fulginiti said a neurostimulator has been implanted in his back, and the process to change the battery in that device will require future surgeries.

Britt said in court papers the injury has forced him to go on disability from his \$70,000-a-year job. Fulginiti said it will likely be another four or five years before his client can return to work.

Fulginiti described Britt, 35, as an active man who regularly represented Upper Darby Township in inter-police department "strong man" competitions and fought former heavyweight boxing champ Larry Holmes in a charity match several years ago.

A trial date in *Britt* had been set for



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Jan. 9, 2006, before Lehigh Common Pleas Judge J. Brian Johnson, according to Fulginiti.

He said Britt had demanded the defendants' policies' limits last month, giving them until Dec. 9 to respond, and that the defense informed Britt on Dec. 8 that they were willing to offer the policies' limits.

In anticipation of trial, Britt commissioned a medical report from John Park of Graduate Hospital's pain center. Park concluded that Britt's prognosis is "extremely poor" and that the former cop should be considered "permanently disabled."

Hagop Der Krikorian, a neurological surgeon from Riddle Memorial Hospital in Media, Pa., wrote in a report that he believes Britt's injuries were caused by the accident.

"I really think the case had a much greater potential than just the policy limits," Fulginiti said.

The defense counsel in *Britt* was Frank Baker III of Marshall Dennehey Warner Coleman & Goggin in Bethlehem, Pa. He did not immediately respond to a call seeking comment. •