

The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES

An incisivemedia publication

\$6 Mil. Settlement Reached in N.J. Trucking Accident

BY ASHER HAWKINS

Of the Legal Staff

A 57-year-old former minister represented by a Philadelphia firm has reached a \$6 million settlement over a February 2005 accident in New Jersey that caused his left arm to be amputated, and, allegedly, permanent brain damage.

In *Kelly v. CTX-Lambie Inc.*, Crawford Kelly Jr., formerly of Hartford, Conn., filed suit against the employer of the trucker who allegedly rammed Kelly's rental truck from behind during a middle-of-the-night collision as Kelly was helping his son move to North Carolina.

According to court papers, after being struck from behind by the tractor-trailer driven by CTX employee Pettegrew Robertson Jr., the Kellys' rental truck struck a guardrail and rolled over.

The plaintiffs contended in court papers that Robertson's travel logs contained numerous inaccuracies, leading to claims that CTX had not properly trained him, supervised him or investigated his background prior to hiring him.

The defense responded in court papers that on the night in question, Kelly — who did not have a valid driver's license at the time of the accident — had not been driving with his rear lights illuminated and did not have a seatbelt on when the accident occurred.

According to plaintiffs' attorney Kenneth Fulginiti of Duffy & Keenan, the defense further contended that a stroke



TOM DUFFY



KEN FULGINITI

Kelly suffered several years before the accident could have been the cause of his alleged brain damage.

Defense attorney Thomas Wagner of the Law Offices of Thomas J. Wagner in Philadelphia did not immediately respond to a call seeking comment.

According to Fulginiti, who represented the Kellys with Thomas Duffy, as a result of the brain damage claimed by the Kellys, Crawford Kelly has had to move into a long-term care facility in North Carolina.

Fulginiti said that from the outset of the case, which was originally filed in April 2005, the Kellys demanded \$6 million, which was the amount of primary and excess coverage available under the insurance policy CTX had taken out on Robertson and his tractor-trailer.

The defense, in turn, had replied with an offer of \$1 million, the extent of the primary coverage under the policy, according to Fulginiti.

Part of the reason for the gap, he said, was that the defense calculated Kelly's future expenses as including the amount it

would cost to keep Kelly in a facility for the remainder of his life; the Kellys, meanwhile, had added up what it would cost to have Crawford Kelly moved into his own home with a live-in nurse.

The settlement was reached Jan. 23 following a roughly three-hour conference before U.S. Magistrate Judge Susan D. Wigenton of the District of New Jersey. (Fulginiti noted that on Thursday, Wigenton was made a regular judge of the district court's bench.)

If the parties had not reached a settlement at that meeting, Wigenton was set to pick out a trial date, according to Fulginiti.

According to the terms of the settlement, Kelly will be responsible for paying off two sets of expenses stemming from the accident: The New Jersey Turnpike Authority will be compensated for damages to the guardrail struck by the Kellys' rental truck, and the rental truck company will be compensated for the damage incurred by the rental truck during the accident.

The total cost of those bills will be less than \$20,000, Fulginiti said.

He said the Kellys are pleased with the settlement.

"Our hope is that now, with this money, [Crawford] can live in a house — as opposed to a 12-foot-by-12-foot cinderblock room — and have a live-in nurse," he said.