

Dump Truck Negligence - Plaintiff claimed to have suffered an annular tear at L4-5 in his back after he was rear-ended by a dump truck at an intersection; the dump truck driver and his employer claimed plaintiff was driving erratically and had stopped suddenly at a green light for no apparent reason, thus leaving the dump truck driver no time to avoid the crash

Hornbuckle v. Watson, et al., 17-900953

Plaintiff: Jeffrey C. Kirby, *Kirby*

Johnson, P.C., Birmingham; and

Daniel B. King, *King & King*

Attorneys, P.C., Gadsden

Defense: Amanda Graham, *Gaines*

Gault Hendrix, P.C., Birmingham

Verdict: Defense verdict

Circuit: **Etowah**, 9-21-22

Judge: George C. Day, Jr.

In the morning of 10-19-16, Joseph Watson was driving a triaxle dump truck for his employer, Richards Trucking, LLC. Watson had picked up a load of asphalt and was on his way to deliver it to a job site in Gadsden.

Watson's route took him onto Hwy 431, and he found himself behind a vehicle being driven by Bobby Hornbuckle, a "trader" who made his living traveling the state and trading coins, watches, etc. The parties offer differing accounts of what happened next.

According to Hornbuckle, he stopped for a red light at the intersection with East Air Depot Road in Glencoe. An instant later he was rear-ended by Watson who "came out of nowhere" and crashed into him at some 30 to 40 mph.

Hornbuckle claimed to have suffered an annular tear in his back at L4-5 that he attributed to the crash. He also claimed mental anguish, sleep problems, and an inability to continue with his work. His medical expenses are not known.

Hornbuckle filed suit against Watson and blamed him for causing the crash. Hornbuckle also targeted Richards Trucking, LLC. on a theory of vicarious liability. He alleged counts for negligence, wantonness, and negligent entrustment.

Hornbuckle ultimately stipulated to the dismissal of the counts for wantonness and negligent entrustment. The litigation continued thereafter on the claims for negligence against Watson and his employer.

Watson and Richards Trucking defended the case and offered their own account of how the crash happened. According to them, Watson had been traveling behind Hornbuckle for approximately a mile, during which time Watson observed Hornbuckle driving erratically.

More specifically, Watson observed Hornbuckle swerving, starting and stopping suddenly, and waiving a flip phone in his hand. Disturbed by this behavior, Watson attempted to stay back from Hornbuckle.

Suddenly, Hornbuckle stopped at a green light for no apparent reason. Watson applied his brakes and sounded his horn. However, he was unable to avoid colliding with Hornbuckle. Based on this account, defendants denied any wrongdoing and blamed the crash on Hornbuckle's erratic driving.

Additionally, defendants argued that Hornbuckle's annular tear was pre-existing and not related to the crash.

The case was tried for three days in Gadsden. Interestingly, Hornbuckle did not introduce any of his medical expenses into evidence. He did, however, ask the jury to award him damages of \$250,000. Instead, the jury deliberated for approximately two hours before returning in favor of Watson and Richards Trucking. The court

entered a defense judgment.

Case Documents:

[Jury Verdict](#)

[Final Judgment](#)

Underinsured Motorist - A driver attempting to merge onto the interstate set off a chain-reaction collision that caused a truck to collide with plaintiff's vehicle; after settling with the tortfeasor plaintiff pursued a UIM claim against her own insurer

Malone v. Progressive Insurance, 19-900324

Plaintiff: Brian Traywick, *Shunnarah Injury Lawyers, P.C.*, Birmingham

Defense: Paul A. Miller and Robert Meadows, *Miller Christie & Kinney, P.C.*, Birmingham

Verdict: \$150,000 for plaintiff

Circuit: **Jefferson**, 6-15-22

Judge: Donald E. Blankenship

On 9-28-17, Deegan Malone was driving north on I-59 near the intersection with the I-65 on-ramp in Jefferson County. At the same time, Kayla Warren was driving on the I-65 on-ramp and attempting to enter I-59.

While attempting to merge into traffic, Warren collided with a truck carrying freight. That impact caused the truck, in turn, to collide with Malone's vehicle. Malone would later claim to have suffered injuries to her neck, shoulder, back, hips, legs, and chest due to the crash.

Malone settled with Warren for her \$100,000 policy limits. Malone then pursued an underinsured motorist claim against her own insurer, Progressive Insurance. Malone's UIM limits under her policy with Progressive were \$25,000. Progressive defended the case and minimized Malone's claimed damages.

The case was tried in Birmingham. The jury returned a verdict for Malone and awarded her damages of