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Case Style \_\_\_\_\_

Jurisdiction \_\_\_\_\_ Case Number \_\_\_\_\_

Trial Judge \_\_\_\_\_ Date Verdict \_\_\_\_\_

Verdict \_\_\_\_\_

For plaintiff \_\_\_\_\_ (Name, City, Firm)

For defense \_\_\_\_\_ (Name, City, Firm)

Fact Summary \_\_\_\_\_

Injury/Damages \_\_\_\_\_

Submitted by: \_\_\_\_\_

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**Auto Negligence - Plaintiff claimed defendant ran a stop sign on a rural road, entered an intersection in her path, and caused her to crash into him; defendant raised fact disputes and implicated plaintiff's fault for the crash**

*Wortman v. McDowell*, 20-900009

Plaintiff: Patrick L. Pantazias, *Wiggins Childs Pantazias Fisher Goldfarb, LLC.*, Birmingham; and Matthew Griffin, *Matthew Allen Griffin, Attorney at Law*, Hoover

Defense: Amanda L. Graham, *Gaines Gault Hendrix, P.C.*, Birmingham

Verdict: Defense verdict

Circuit: **Pickens**, 9-28-22

Judge: Samuel W. Junkin

In the early evening of 2-23-18, Tracy Wortman was traveling east on U.S. 82 in Pickens County. Wortman was driving a Toyota 4-Runner owned by her now husband, Drake Wortman. At the same time, Bruce McDowell was driving south on C.R. 75.

At the intersection of the two

roads, McDowell was facing a stop sign, while Wortman had the right-of-way. The parties would offer differing accounts of what happened next. According to Wortman, McDowell ran the stop sign, entered the intersection in her path, and caused her to crash into him.

Wortman claimed that the crash caused her to suffer widely ranging soft-tissue injuries, PTSD, depression, and a carpal tunnel injury that required surgery. The record does not reveal the amount of

Wortman's claimed medical expenses.

Wortman filed suit against McDowell and blamed him for failing to yield the right-of-way, entering the intersection in her path, and thereby causing the crash. McDowell was insured by State Farm under a policy that provided liability limits of 100/300.

In addition to her claim against McDowell, Wortman presented an uninsured/underinsured motorist claim against her own insurer, State Auto. Her policy with State Auto provided UM/UIM coverage of 50/100. Finally, Wortman presented a UM/UIM claim against Drake's insurer, State Farm, under his policy that provided limits of 25/50.

State Farm filed a motion for summary judgment and argued that Wortman was not entitled to coverage under Drake's policy given that the two were not married at the time of the crash. The court denied the motion.

State Farm and State Auto opted out of the case. The litigation proceeded thereafter on Wortman's claim against McDowell. He defended the case and offered his own account of how the crash happened. According to McDowell, the crash took place at approximately 5:45 pm under conditions that he described as "dusky dark."

McDowell explained that he stopped at the stop sign and looked both ways before proceeding into the intersection. In the darkness he was unable to see Wortman approach because she did not have her headlights on.

McDowell also pointed to records that indicated Wortman was traveling at 70 mph and to her own testimony that she saw him in the intersection in ample time to stop. Instead of stopping, or even slowing, she proceeded into the intersection and did not take any evasive action

to avoid the crash.

Based on the above account, McDowell implicated Wortman's fault. He additionally argued that most of Wortman's claimed injuries were pre-existing and that she had sought treatment for identical complaints before the crash.

Wortman retorted that the crash happened closer to 5:00 pm, and there was still enough visibility that her headlights were not required. She also claimed her speed was 65 rather than 70, and she denied that McDowell had stopped at the stop sign.

The case was tried for three days in Carrollton. The jury deliberated for approximately two hours before returning a defense verdict for McDowell. At the time the AJVR reviewed the record, the court had not yet entered a judgment.

#### Case Documents:

[Defense Summary Judgment Motion](#)  
[Plaintiff Summary Judgment Reply](#)  
[Jury Verdict](#)

#### A Notable Out of State Verdict (Tried by an Alabama Attorney)

#### Products Liability - The plaintiff fell from an articulating ladder as he was hanging Christmas decorations and suffered facial fractures and a brain injury

*Davis v. Little Giant Ladder Systems*, 2:19-780

Plaintiff: D. Brett Turnbull and Drew E. Haskins, IV, *Turnbull Holcomb & Lemoine*, Birmingham, AL and Thomas F. Freidberg, *Freidberg & Bunge*, San Diego, CA

Defense: L. Robert Bourgeois and Petra L. Justice, *Banker Lopez Gassler*, Tampa, FL and Paul B. Junious, *Risk Retention Services*, Mequon, WI

Verdict: Defense verdict on liability

Federal: **Ft. Myers, Florida**

Judge: Sheri Polster Chappell

Date: 9-16-22

Craig Davis of Port Charlotte, FL bought an articulating ladder online from Little Giant Ladder Systems. It was described as a Velocity Model 22. The ladder was made in China and upon arrival in the U.S., Little Giant observed that the ladders were not within its specifications. Little Giant modified the ladders with a hammer and chisel. Davis bought one of these modified ladders.

Davis was hanging Christmas decorations outside his home on 12-11-18. He utilized the Little Giant. It suddenly collapsed under Davis and he fell to the ground. Davis suffered facial fractures and a brain injury. There was no dispute he was seriously hurt.

Davis sued Little Giant and alleged the modified ladders were defective. Particularly they had a locking mechanism that produced a so-called "false lock." That is the ladder appeared locked in when in fact it wasn't. Thus Davis believed the ladder was "locked" before the collapse. His liability experts were