



\$500K Verdict in Essex UIM Case

Morrison-Newkirk v. Liberty Mutual:

A woman claiming she was injured in a rear-end accident was awarded \$500,000 by an Essex County jury on Dec. 6 in an action against her auto insurer, though her recovery is to be roughly half that sum.

On Nov. 3, 2014, Jade Morrison-Newkirk was stopped at a red light at the intersection of Hoover Avenue and John F. Kennedy Drive in Bloomfield when another motorist, Rayshawn Brown, failed to stop and struck her vehicle from behind at full speed, causing her in turn to strike the vehicle in front of her, said her lawyer, **Timothy Fonseca** of **Corradino & Papa** in Clifton.

Brown claimed his brakes failed and he could not stop. Morrison-Newkirk alleged that Brown negligently failed to maintain his vehicle. Brown settled for his policy limit of \$15,000, Fonseca said.

Morrison-Newkirk claimed she sustained injuries to her cervical and lumbar spine, leading to ongoing neck pain, numbness and tingling in her left



Timothy Fonseca

COURTESY OF TIMOTHY FONSECA

arm, and intermittent spasms in her lower back.

She lodged an under-insured motorist claim against her auto carrier, Liberty Mutual, which defended Brown's position at trial, Fonseca said, noting that she had to overcome the verbal threshold. At trial, he said, Liberty Mutual contended that Morrison-Newkirk was not injured in the accident and had pre-existing conditions, while Morrison-Newkirk sought to prove she was permanently injured in the accident.

According to Fonseca, Liberty Mutual stipulated to Brown's liability during jury selection, and offered \$7,000 to settle the UIM claim, which was declined. After an eight-day trial before Essex County Superior Court Judge **Garry Furnari**, the six-member jury unanimously found that Morrison-Newkirk had an objective permanent injury caused by the November 2014 accident, and awarded \$500,000 in total: \$485,000 for pain and suffering to Morrison-Newkirk, and \$15,000 on her husband's per quod claim.

Liberty Mutual was directed to pay \$235,000, which was the policy limit less a \$15,000 credit for the settlement already paid by Brown. The amount of the verdict also triggered the offer of judgment rule, and Liberty Mutual was ordered to pay about \$136,000 in attorney fees and \$20,000 in costs, plus \$13,000 in interest, making the total judgment \$404,802, Fonseca said.

Liberty Mutual's counsel, **Mary Chen** of **Viscomi & Lyons** in Morristown, declined to comment on the case.

— **David Gialanella**