

VERDICTS & SETTLEMENTS

Miami Driver Avoids Liability in Crash With Drunken Driver

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A driver whose passengers were severely injured in a 3 a.m. crash won a defense verdict while laying \$12 million in damages at the feet of the drunken driver who hit his car.

Case: Kedlen Joachim v. Michelett Auguste and Clairmeda Simeon v. Michelett Auguste and Lanea Everett (consolidated)

Case no.: 2012-015878-CA-01

Description: Auto negligence

Filing date: April 23, 2012

Verdict date: April 27, 2016

Judge: Miami-Dade Circuit Judge Antonio Arzola

Plaintiffs attorneys: Mark Mullen, Mark P. Mullen & Associates, Aventura; Robert Coulombe and James Clark, Clark, Robb, Mason, Coulombe & Buschman, Miami

Defense attorneys: Daniel Santaniello and Luis Menendez-Aponte, Luks & Santaniello, Boca Raton

Verdict amount: Defense verdict for Auguste; \$12 million against Everett



The defense accident reconstruction “expert opined that my client was stopped at the red light before the accident,” said Daniel Santaniello of Luks & Santaniello.

Michelett Auguste picked up his wife from her job as a dishwasher at the Miami Beach restaurant Prime 112 early May 16, 2010. He agreed to give rides to her

coworkers, Kedlen Joachim, 24, and Vilbrun Simeon, 38.

Auguste had just exited Interstate 95 and was headed north on Northwest Sixth Avenue in Miami

when his car was T-boned by a car heading east on Northwest 79th Street. The two cars traveled more than 40 feet after the collision before coming to a stop.

The driver of the other car, Lanea Everett, pleaded guilty to driving under the influence.

Auguste and his three passengers needed medical attention. The two men in the backseat were taken to Jackson Health System's Ryder Trauma Center in Miami with severe head injuries.

Backseat passenger Simeon has been in a vegetative state since the accident, said one of the plaintiffs lawyers, Mark Mullen of Mark P. Mullen & Associates in Aventura. Mullen tried the case with Robert Coulombe and James Clark of Clark, Robb, Mason, Coulombe & Buschman in Miami.

"He has around-the-clock care," Mullen said. "He's really not responsive to anything except deep, painful stimulus, and the nurses need to do everything for him: feed him, bathe him, turn him."

Joachim, who was sitting to Simeon's right, was released from the hospital after nine days and recovered at home for two months. But his brain injuries left him with a permanent seizure disorder, Mullen said.

The two sides disagreed over who had the green light. The plaintiffs maintained Auguste ran a red light. The defense argued he stopped and was moving forward on the green light when his car was hit.

Joachim and a guardian for Simeon sued Auguste and Everett for negligence, alleging both drivers failed to stop at the red light,

drove too fast into the intersection and didn't keep a proper lookout. The 2012 and 2013 cases were consolidated before Miami-Dade Circuit Judge Antonio Arzola.

Everett was uninsured and driving with a suspended license, said Auguste's lawyer, Daniel Santaniello of Luks & Santaniello in Boca Raton, who tried the case with colleague Luis Menendez-Aponte. Everett was not represented and defaulted early in the case. She was sentenced to 18 months, released in 2013 and did not appear at the trial in April.

With liability established against Everett, the jury was asked to determine how much fault to assign to Auguste and any damages.

Auguste did not fully stop at the red light, plaintiffs counsel argued. The final resting point of the vehicles showed both were traveling at high speed before impact, and if Auguste had been driving more cautiously he would have seen Everett barreling toward him.

"Our theory was that he failed to pay attention before entering the intersection," Mullen said.

Auguste's lawyers argued he stopped, although he likely wasn't traveling at the leisurely 10 mph he said he was.

The defense accident reconstruction "expert opined that my client was stopped at the red light before the accident," Santaniello said. "He admitted that my client's speed at impact was at the higher end of the acceleration rate for a vehicle starting off at a stop, but he still felt that my client had been at 18 mph at impact, which would be consistent with him stopping."

The defense also argued columns beneath I-95 likely obstructed Auguste's view, and the blame should rest entirely with Everett.

"We contended that she approached at a high rate of speed, that she ran the red light and that she was the sole cause, and there was nothing that we could do to avoid it," Santaniello said.

The plaintiffs requested about \$31 million from the jury, almost entirely for Simeon, Mullen said.

Jurors awarded nearly \$12 million in damages April 29, assigning full liability to Everett. Simeon's damages were assessed at \$11.1 million and Joachim's at about \$762,000.

Mullen said he is not optimistic the plaintiffs will get any money from Everett.

"But that doesn't mean we're not going to try," he said. "We are certainly going to pursue every opportunity and chance to collect from Ms. Everett."

The verdict was a relief for Auguste, who would have been liable for a significant amount of money if he had been assigned just 5 percent or 10 percent fault, Santaniello said.

"I think the difficulty in the case was the sympathy," he said. "It's a very difficult case because one plaintiff was in a persistent vegetative state and the other plaintiff had a significant seizure disorder. They were very young men, and they had no fault whatsoever. They were just passengers in the backseat. I was very pleased that the jury was able to put aside their sympathy and decide the case on the greater weight of the evidence and the law."