

Missouri Lawyers

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WEEKLY

■ \$15.5 MILLION SETTLEMENT

Family of brain-injured child settles for \$15.5M

TRACTOR-TRAILER COLLISION

■ **Venue:** Cole County Circuit Court

■ **Case Number/Date:** Confidential

■ **Judge:** Jon Beetem

■ **Plaintiff's Experts:** Brooks Rugemer, Lancaster, Pennsylvania (trucking safety); Dr. Marc Green, Toronto (human factors); Dr. Michael Dogali, Newport Beach, California (pediatric neurologist); Tracy Wingate, Olathe, Kansas (life care planner); John Ward, Leawood, Kansas (economist); Kurt Krueger, Leawood, Kansas (economist); and James England, St. Louis (vocational rehabilitation)

■ **Defendant's Experts:** Michael Fagel, North Aurora, Illinois (FMCSA and OSHA compliance); Ronald Ashby, Westminster, Maryland (trucking safety); David Krauss, Los Angeles, California (human factors); Lawrence Vogel, Chicago (neurologist); Jan Klosterman, St. Louis (life care planner); Thomas Ireland, St. Louis (economist); Robert Steele, Amarillo, Texas (annuitant)

■ **Caption:** Confidential

■ **Plaintiff's Attorneys:** Charles A. "Chip" Gentry, Jason L. Call and Blake I. Markus, Call & Gentry Law Group, Jefferson City

■ **Defendant's Attorneys:** Confidential

BY JESSICA SHUMAKER

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A confidential \$15.5 million settlement has been reached in a suit stemming from a rear-end collision between a vehicle and a semi parked on a rural highway that severely injured a 3-year-old boy.

Charles A. "Chip" Gentry, of Call & Gentry Law Group in Jefferson City, represented the child. He said a judge approved the minor settlement on July 20 in Cole County Circuit Court.

The suit, filed in 2013, included claims of negligence, strict liability, negligent hiring, negligent supervision and negligent retention against the semi company and its driver, Gentry said.

The plaintiffs alleged the semi's hazard lights were defective and the vehicle was out of service under the Federal Motor Carrier Safety rules. They also alleged the driver parked the semi over the crest of a hill facing the sunrise during morning commute hours, with warning triangles improperly placed.

Gentry said the semi company intended to unload the trailer on the highway at the parked location.

The defense alleged the driver of the vehicle of which the boy



Charles A. Gentry



Jason L. Call



Blake I. Markus

was a passenger was at fault for the crash because he should have seen the semi parked on the highway, and the semi was parked in the safest place.

The driver died from his injuries and the child sustained an open brain injury, loss of brain matter and now suffers from a seizure disorder. The child's mother has also been unable to work as she cares for her son.

Gentry said plaintiffs' experts showed the semi could have been parked off the highway and the driver's perception and reaction time were significantly shorter than what the defense had claimed.

Their human factors expert determined it was impossible to determine perception reaction time in the case because there were many unknown variables.

The defendants' corporate representatives, employees and experts also admitted that the semi should not have been moved onto the highway because it was deemed out of service, because it was a violation of federal safety rules to park the vehicle on the road until the hazard lights were fixed, Gentry said.

Gentry said the parties had three separate mediations at the request of the defense and insurers over a four-year process.

"We had to be confident in our themes and positions and have a solid understanding and handle on what it would take to take care of this little boy for the rest of his life," he said. "We accomplished that level of confidence through levels of focus groups, had a mock trial and had structured settlement experts to help us evaluate the options in front of us."

The settlement is designed to grow to nearly \$40 million. **MO**