

'Reckless' chase by local police at core of \$2.5M case



DINO M. COLUCCI
Lawyer for plaintiff

On the night of Feb. 19, 2004, the driver of a gold Ford Taurus was identified by a Providence police officer as a member of a local gang. A chase ensued but was quickly terminat-

ed by the police when it became apparent that the driver was determined not to stop.

The motorist crossed into Cranston where a police officer in that community began pursuing the Taurus. The chase escalated to the point that four police cruisers were traveling behind the suspect, who was observed driving south on Route 95 at a high rate of speed and with his headlights off. At one point, he was seen making a quick U-turn and then driving the wrong way into oncoming traffic; three of the pursuing police officers reportedly did likewise.

The suspect proceeded onto Route 10, again traveling the wrong way and still trailed by several police cruisers, and drove his car headlong into a vehicle being driven by Natasha Valley, a Cranston resident and mother of three who was returning home from training to become an emergency medical technician.

Last month, a settlement was reached in which Valley, 29, now a paraplegic, is to receive \$2.5 million. Lawyers Weekly

reporter Barbara Rabinovitz spoke last week with Milton, Mass., attorney Dino M. Colucci about how he achieved that result for his client.

Q. *You say that the central question in the case was whether your client could prove that the defendants — the city of Cranston and the individual police officers involved — were reckless, not merely negligent. Given the dramatic testimony that was taken in deposition, was this a challenge for you or a slam dunk?*

A. It wasn't by any stretch a slam dunk. In fact, before we took the case, several law firms had turned her away because they didn't believe such a suit could be successfully maintained. In honesty, we took the case on faith in the hope that we could make something good come out of such a tragic set of circumstances. ... Fourteen depositions were taken; we obtained broadcasts of the police communications that night as well as their [police-chase] training policy. The suspect that they were chasing was eventually apprehended, and we went to jail to try to interview him. We were actually able to meet with him for 15 minutes in a holding cell to get whatever information he was willing to impart to us.

Q. *Rhode Island has a \$100,000 cap on recoveries for police negligence. Would that have applied in this case? What*

would have been your strategy for getting around it?

A. It was an open question as to whether or not the cap would apply once all the evidence was presented at trial. The burden would have been entirely ours to prove — that the conduct of the Cranston Police Department rose to a sufficient level of recklessness — in order to avoid the cap. ... The city [of Cranston] continues to maintain that they did nothing wrong; they're not accepting liability in any sense.

Q. *You say that this may be the first case to apply the law established in the May 2005 case of Seide v. The State of Rhode Island, which permits citizens to bring actions against a police department for violations of a police-chase policy. Could you have achieved the same result without the Seide decision?*

A. It was fortuitous for us that that case was decided by the Supreme Court of Rhode Island about six months after we took Natasha Valley's case [in December 2004]. We took it in hopes that we could set a precedent given the facts in our case. This may be the first application of that decision ... that the lower court's decision to dismiss the case was incorrect.

Q. *You've said that several law firms had declined to represent your client, in the belief that such a claim could not be suc-*

cessfully maintained. Why did you take the case in the end?

A. First and foremost, we felt great empathy for this woman. She was a young woman with three kids and, through no fault of her own, she found herself a paraplegic. Secondly, she's a very inspiring woman. While most people would sit around and feel self-pity about their situation, she was so optimistic about her future and the life that she wanted for her kids that it was inspiring for us. So, we couldn't walk away.

Q. *What has this case accomplished with regard to police chases?*

A. It won't set a precedent because we mediated the case and reached a settlement, so nothing's been adjudicated. ... In my experience, every case really needs to be examined on its own merits. The police have a very difficult job, and we're sensitive to that. Very often they find themselves in the midst of

chaos, and they have to make immediate judgments on what to do. But Cranston had a [vehicle-chase] policy that was formulated years before this accident, and it was our position that this policy served as a foundation, or a guideline, so that officers can apply the logic contained in the policy when they're out amidst the chaos. And we don't believe that was done here.

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Q. *You gathered quite a bit of evidence for the mediation — an interactive audio-visual program, which synthesized an animated map of the chase route, broadcasts from the police, photos of the collision and so forth. Do you think that was instrumental in getting the defendants to settle?*

A. I do. In my opinion, it synthesized many of the critical points that served as the foundation of our case. It brought together, in dramatic fashion, the conduct of the police, the route that they took in pursuing the suspect. ... We were able to hear their actual broadcasts, and we were able to see the relevant portions of the Cranston chase policy. And in my opinion, the juxtaposition of these various elements really bolstered our case. ... These were experienced [defense] lawyers we were dealing with; they did a good job for their clients. But I thought that the audio-visual portion of the case had very real impact.

Q. *Where is your client now, and what is her condition?*

A. She's still in Cranston. She's confined to a wheelchair. She's the mother of three and a very nice woman, and I'm just very pleased that her future will be at least a little less uncertain.

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 **COLUCCI ♦ COLUCCI**
MARCUS & FLAVIN, P.C.
COUNSELORS AT LAW

424 Adams Street
Milton, MA 02186
Telephone: (617) 698-6000
Facsimile: (617) 698-3001
www.coluccilaw.com