

S95-11-04

**Auto vs. Auto: Rearend****Settlement: \$1,200,000**

**Plaintiff Attorneys:** Lawrence R. Booth  
(Law Offices of Booth & Koskoff), Torrance (310) 515-1361  
Douglas Easton  
(Law Offices of W. Douglas Easton), Costa Mesa (714) 850-4590

**Defendant Attorneys:**  
**for USPCI:** Robert Dean  
(Spray, Gould & Bowers), Tustin (714) 544-7200  
**for Marvin Sternberg:** Steven R. Lounsbury  
(Bollington, Lounsbury & Chase), Brea (714) 255-5900  
**for Volvo Cars  
of N.America:** Timothy Lane  
(Cassidy, Warner, Brown & Combs), Santa Ana (714) 835-9431

**Court:** JAMS Judge: Jack Trotter Date: 8/15/95  
**Case:** Nina Payne & Jeff Payne and Tom Ostenson vs. USPCI,  
Marvin Sternberg and Volvo Cars of N.America 73 66 64

**Facts:**

Decedent was a 13 year-old child who was a passenger in the right rear of his mother's Volvo. Defendant was Marvin Sternberg who was driving in the course and scope of his employment, his employer USPCI and Volvo. Sternberg rear ended the Volvo causing injury to the Decedent's mother and the right front passenger Ostenson. The Decedent in the right rear struck his head first on the rear head rest and then on the front head rest. The seat immediately in front of him was adjusted as far back as it would go and the back was adjusted backward at the greatest angle possible so that his head was in close proximity to the right front head rest which he struck after he bounced off the right rear head rest during collision sequence.

**Injuries:** Decedent: Frontal head injury which ultimately resulted in his death two days later. Nina: Back and other injuries and severe emotional distress. Tom Ostenson: Back and knee injuries.

**Medical Costs:** Nina: \$75,000; Tom: \$18,000

**Loss of Earnings:** Tom: \$100,000 past and future

**Contentions:**

**Plaintiff claimed** the Volvo was defective because the right front seat further collapsed on impact, but Volvo was dismissed voluntarily from the action at the second VSC.

**Defendants argued** whether the ultimate death of the Decedent was due to medical malpractice in his treatment and whether the Decedent was wearing a seat belt.

**Settlement:**

1st Offer: \$600,000 1st Demand: \$2,400,000

Settled for \$1,200,000; \$750,000 for the wrongful death of Decedent, \$350,000 for the mother's injuries and \$99,000 for Tom Ostenson' injuries. Sternberg has a \$100/300 policy. USPCI was essentially self-insured.

<b>Plaintiff Experts:</b>	Rosenthal, N. Paul	Neurologist	Sherman Oaks
	Broadhead, Bill	Seat Belts	Santa Barbara
	Gaynor, Chris	Automotive Engineering and Accident Reconstruction	Santa Barbara
<b>Defense Experts:</b>	Burton, Joseph	Biomechanics	Georgia
	Selby, Richard	Neurologist	Tustin
	Cromack, J. Robert	Biomechanics	Tempe, AZ

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