‘A ticking time bomb’

Tire failed, man hurt in wreck awarded $37.8M

By Peter Veith

A Richmond federal jury awarded $37.8 million to a former truck driver injured in a devastating crash of a concrete mixer truck, one of the highest personal injury jury verdicts ever in Virginia. There was no punitive damages component in the award.

The driver – Robert Benedict – claimed the accident was caused by a defective front tire manufactured by Hankook Tire Company Ltd. and an affiliate company.

The case was a pitched battle according to Benedict’s lawyers, led by Jonathan E. Halperin of Richmond and Florida attorney Jay Halperin, a veteran of tire failure cases. The litigation produced five memorandum opinions from U.S. District Judge Robert E. Payne as he ruled on various pretrial motions.

Payne decided the company’s contributory negligence defense was made for lack of an expert witness. His Feb. 16 opinion in Benedict v. Hankook Tire Co. (VLW 018-0-3040).

Concrete truck

Benedict, the plaintiff, held a commercial driver’s license and drove for Essex Concrete, according to the judge’s summary. On Nov. 14, 2014, he was traveling northbound on Route 288 in Chesterfield County with a full load of 8 yards of concrete when he heard a loud “boom.”

The tread on his truck’s right front tire had separated, causing a loss of all air pressure in the tire. It was an “explosive, concussive force,” Halperin said. The comp lien was $2.1 million. The outcome was significantly different for Benedict. After a five-day trial, the jury handed down a verdict of $37,835,259.23.

“Sudden, it was in vogue to have some experience as a tire lawyer,” Halpern quipped.

Halperin – the Richmond lawyer – said he handled most of the damages evidence. Halpern – the Florida attorney – was in charge of the liability case. A key expert was David Southwell, an Australian with credentials in forensic examination of tire failure.

Halperin said Benedict’s workers’ comp attorney approached him because of his experience with products cases. Halperin, in turn, looked for a lawyer who handled tire failure cases. He located Halpern.

The name similarity is a mere coincidence, the lawyers said. “I didn’t choose to be a tire expert,” Halperin said in an interview March 14. He said he had success with a tire failure case in 1992 and then found himself handling similar claims involving tires used on Ford Explorers and similar light trucks about 10 years later.

“You can tell that things weren’t put together right in the first place by the way they came apart,” the lawyer said.

The highest offer was $6 million, Halperin said. The lowest demand was agreement to a mediator’s suggestion for a settlement of more than $7 million coupled with a waiver of the comp lien. That proposal was rejected by both the comp carrier and Hankook, Halperin said.

Halperin was represented by Martin A. Conn and Matthew J. Hundley of Richmond and lawyers from DLA Piper. Hundley did not respond to a request for comment.

Benedict’s injuries were catastrophic. He was left paralyzed from the chest down with spinal fractures in the neck and thoracic region, a ruptured spleen, collapsed lung and fractures of the collarbone, ribs and forearm. He suffered a stroke from the neck fracture, Halperin said.

Benedict, 53, a veteran of Desert Shield and Desert Storm, has a 28-year marriage and two children, Halperin said. He now has difficulty holding food in his hand. He uses a special device to drink, Halperin said. Despite all his injuries, Benedict remains upbeat and happy to be alive, according to Halperin. “His attitude is just breathtaking,” the lawyer said.

The medical bills totaled $2.049 million and future care would cost $6.1 million in 2018 dollars, according to Halperin. There also was a wage loss of $561,000. Workers’ compensation paid for medical care and some of the lost wages, Halperin said. The comp lien was $2.1 million.

An expert testified Benedict’s life expectancy was shortened by 11½ years.

Halperin said Benedict’s workers’ comp attorney approached him because of his experience with products cases. Halperin, in turn, looked for a lawyer who handled tire failure cases. He located Halperin.

The name similarity is a mere coincidence, the lawyers said. “I didn’t choose to be a tire expert,” Halperin said in an interview March 14. He said he had success with a tire failure case in 1992 and then found himself handling similar claims involving tires used on Ford Explorers and similar light trucks about 10 years later.

“You can tell that things weren’t put together right in the first place by the way they came apart,” the lawyer said.

The highest offer was $6 million, Halperin said. The lowest demand was agreement to a mediator’s suggestion for a settlement of more than $7 million coupled with a waiver of the comp lien. That proposal was rejected by both the comp carrier and Hankook, Halperin said.

Halperin was represented by Martin A. Conn and Matthew J. Hundley of Richmond and lawyers from DLA Piper. Hundley did not respond to a request for comment.