

# **Jury Awards \$555,000 for Permanent Neck Injury**

**July 22, 2010, Golden, Colorado**

A Jefferson County jury awarded \$555,000 to a Lakewood, Colorado man injured in a roll over collision that occurred on September 13, 2008, near Steamboat Springs, Colorado. Ryan Flaherty was a passenger in a vehicle operated by Mr. Steven Bigwood of Lakewood, Colorado. Mr. Bigwood was driving his vehicle too fast for a curve on Highway 40, and lost control of his car causing it to roll four to six times. Two other passengers were ejected from the vehicle and one sustained a brain injury.

Mr. Bigwood denied negligence for the collision until two weeks before trial but still testified that he was not operating his vehicle too fast for the roadway, that he did not think his driving was careless, and argued that the collision was not the cause of Mr. Flaherty's injuries.

Mr. Flaherty did not immediately complain of neck pain at the scene of the collision or at the emergency room. However, a few days after the collision he did start to develop symptoms such as blurred vision, numbness in his right hand fingers, headaches, and shoulder pain. After visiting his primary care physician 10 days after the collision, Mr. Flaherty was told that his symptoms should resolve over time.

Five months later, Ryan's symptoms did not resolve and when he began medical treatment, it was discovered that he had permanent injuries to his cervical facet joints. The articular cartilage between the facet joints in his neck were damaged and his doctors testified that it took five months for it to wear away causing permanent bone on bone friction--an irreversible condition that is very painful. 23 year-old Flaherty was honorably discharged from the Army for an ankle injury and rather than seek medical care, he had tried to just work through his pain and hoped it would get better on its own.

Mr. Flaherty will require medical care for the rest of his life which includes radiofrequency rhizotomies which is essentially burning the nerves in his neck that relay pain signals to his brain.

The family has set up a medical trust where the jury's award will be deposited to make sure Ryan has the money he needs for his medical care.

The issues decided by the jury were whether the collision was the cause of Mr. Flaherty's injuries, and if so, what amount of compensation was required to pay for his lifetime of medical care.

Defendant did not present any expert medical evidence disputing Mr. Flaherty's treating doctors. Instead, the defense focused on Mr. Flaherty and made attacks against him personally suggesting that he was lying, a faker because he did not receive medical care for five months, and implied he was not very intelligent.

American Family Insurance, the insurance company for Mr. Bigwood, offered \$12,500 to settle the case.

With pre-judgment interest, American Family Insurance will now be required to pay \$651,000 plus the costs of trial for Mr. Flaherty.

Flaherty's attorneys, Mark Gould of Denver, and Richard Eddington of Steamboat Springs, Colorado, were grateful for the jury's verdict. "The entire defense was that because Ryan tried to work through the pain for five months and see if he would get better without medical care, they said he wasn't hurt," said attorney Mark Gould.

This was Mr. Gould's first trial as lead attorney. "The insurance company hoped that the jury would be poisoned by the false notion that if you don't have continuous medical care you cannot be hurt," said Gould. "This jury was smart and was able to see that this young man has permanent injuries, and focused on the undisputed medical evidence rather than the personal attacks against Mr. Flaherty."

"This has been a very difficult experience for Ryan and his family and they now have hope for the future," Mr. Eddington said.

"It is my hope that future juries realize that it is the insurance companies that force cases to trial by refusing to pay for medical expenses," said Gould.

Below is a picture of the car at the scene of the collision. Off to the right are paramedics tending to one of two passengers ejected from the vehicle who sustained a brain injury.

