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911 tape key to settlement of pedestrian's allegations

\$135,000 Settlement

Plaintiff was from Bosnia and had relocated to Virginia three years prior to her accident. On Nov. 17, 2008, the plaintiff was a pedestrian crossing the three northbound lanes of Dumbarton Road near the intersection with Staples Mill Road in Henrico County.

The plaintiff was several hundred feet north of the intersection when the collision occurred. The investigating police officer did not issue any tickets because the defendant denied striking the plaintiff and the officer was unable to communicate with the plaintiff because of the language barrier.

The officer refused to provide the plaintiff with information regarding the defendant. Plaintiff's counsel filed a Freedom of Information request to obtain the identity of the defendant and a copy of the 911 communications. The county, however, refused to provide a copy of the 911 communications regarding the incident.

The defendant's insurance carrier denied the claim, disputing that the defendant had struck the plaintiff and alleging that the plaintiff merely tripped over the



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curb on her own accord. Plaintiff's counsel filed suit and issued a subpoena duces tecum to Henrico County Emergency Communications. The 911 tape revealed that the defendant had called 911 from her cellular phone and reported the accident admitting that she had struck a pedestrian.

During the defendant's deposition, the defendant denied that she had struck the plaintiff and alleged that the plaintiff had tripped over the curb when stepping onto the sidewalk from the street. When confronted with the 911 tape, the defendant admitted that she had reported striking the plaintiff, but testified that her initial call was incorrect and that she did not actually strike the plaintiff. The defendant argued contributory negligence and was planning to use contributory negligence as a defense at trial.

The plaintiff underwent surgery for fractures of her lower arm but did not sustain permanent injury. The case settled two weeks prior to trial. [10-T-096]

Case name: Confidential

Court: Richmond Circuit Court

Special damages: \$79,744

Verdict or Settlement: Settlement

Amount: \$135,000

Plaintiff's attorneys: David E. Durrett, Richmond

Type of action: Personal injury – automobile accident

Injuries alleged: Bilateral distal radius fractures, neck sprain and lumbar sprain