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WEST'S JURY VERDICTS - WISCONSIN REPORTS

Improper Passing Leads to MVA, \$170K Settlement

Circuit Court of Wisconsin, Third Judicial District, Waukesha County.

**Schley v. Hibl**

**Type of Case:**

Vehicle Negligence • Motor Vehicle v. Motor Vehicle  
Vehicle Negligence • Centerline Violation  
Vehicle Negligence • Head-On  
Vehicle Negligence • Lane Change  
Vehicle Negligence • Passing  
Vehicle Negligence • Excessive Speed  
Vehicle Negligence • Passenger

**Specific Liability:** Two drivers failed to exercise reasonable care in the operation of their vehicles, resulting in head-on collision with third vehicle

**General Injury:** Broken ankles, left arm fracture, medical expenses, lost income (Adult #1); fractured ankle, medical expenses (Minor #1); medical expenses (Minor #2)

**Jurisdiction:**

State: Wisconsin  
County: Waukesha

**Related Court Documents:**

Plaintiff's complaint: [2005 WL 6051586](#)  
Defendant Hibl's answer: [2005 WL 6051585](#)  
[Defendants Anderson Floor Co., Inc. and West Bend Mut. Ins. Co.: 2005 WL 6051584](#)  
[Defendant Gen. Cas. Co. of Wis.'s answer: 2005 WL 6051583](#)  
Petition for approval of settlement: [2007 WL 4900717](#)  
Order: [2007 WL 4919457](#)

**Case Name:** John D. Schley, Maryann Schley, A.J.S. and E.A.S., Plaintiffs, and Golden Rule **Insurance** Company and American Family Mutual **Insurance** Company, Subrogated Plaintiffs v. Brian S. Hibl, Anderson Floor Company Inc., General Casualty Company of Wisconsin, West Bend Mutual **Insurance** Company, ABC **Insurance** Company, and DEF **Insurance** Company

**Docket/File Number:** 05-CV-1556

**Settlement:** Plaintiffs, \$170,000.00

**Settlement Range:** \$100,000 - 199,999

**Settlement Date:** Dec. 19, 2007

**Judge:** [Michael O. Bohren](#)

**Attorneys:**

Plaintiffs: [Michael J. Cohen](#) and Stephanie M. Erickson, Meissner Tierney Fisher & Nichols, Milwaukee, Wis.  
Defendant (Hibl): [Janet E. Cain](#) and [James T. Murray, Jr.](#), Peterson, Johnson & Murray, Milwaukee, Wis.  
Defendant (Gen. Cas. Co. of Wis.): [Stuart B. Eiche](#), Eiche & Frakes, Milwaukee, Wis.

Defendant (American Fam. Mut. Ins. Co.): Brian R. Kessler, American Fam. Mut. Ins. Co., Milwaukee, Wis. Defendants (Anderson Floor & West Bend Mut. Ins. Co.): [Eric S. Darling](#), Schmidt Darling & Erwin, Milwaukee, Wis.; [Eric S. Darling](#), Darling, Schmidt & Erwin, Milwaukee, Wis. Defendant (Golden Rule Ins. Co.): [Jon D. Monson](#), Piper & Schmidt, Milwaukee, Wis.

**Trial Type:** Settlement

**Breakdown of Settlement:**

\$50,000.00 to plaintiffs from Gen. Cas. Co. of Wis.

\$120,000.00 to plaintiffs from defendants Hibl, Anderson Floor Co. and West Bend Mut. Ins. Co.

**Summary of Facts:**

John Schley was reportedly driving a Chevrolet GEO Tracker south on Racine Avenue in Muskego, Wis. when he was involved in a head-on collision with a 1999 Chevrolet S-10 truck driven by Steven Crisp. Crisp was driving north on Racine Avenue and allegedly crossed the center line. A.J.S. and E.A.S., Schley's minor children, were passengers in his vehicle at the time of the collision. Schley, A.J.S. and E.A.S. reportedly sustained physical injuries as a result of the collision.

Schley filed a lawsuit in Waukesha County Circuit Court alleging that Brian Hibl and Crisp were driving separate vehicles north on Racine Avenue at a point at which Racine Avenue changed from a four-lane road to a two-lane road. Schley alleged that Hibl and Crisp were "vying for position and racing" when Crisp attempted to pass Hibl and pulled into oncoming traffic, striking the Schley vehicle. Crisp later died of his injuries.

Schley alleged that Crisp and Hibl were driving negligently at the time of the collision, exceeded the posted speed limit and failed to exercise reasonable care in the operation of their vehicles. Schley sustained two broken ankles, a left arm fracture and numerous bruises and lacerations. He spent nearly two weeks in the hospital, was confined to a wheelchair after his release and did not return to his crane operation business for approximately eight months. Schley sought compensation for medical expenses, pain and suffering and loss of income.

E.A.S. sustained a fractured ankle and A.J.S. and remained under observation at the hospital for two days. Maryann Schley stated she sustained back and neck problems as a result of the added duties she had to assume due to her husband's injuries and suffered from post-traumatic stress syndrome as a result of the accident. She also made a claim for loss of consortium.

The Schleys claimed Hibl was within the scope of his employment with Anderson Floor Co. and driving a van owned and **insured** by Anderson Floor Co. at the time of the accident. The plaintiffs claimed Anderson Floor Co. was vicariously liable for their injuries and damages.

Hibl denied that he failed to exercise reasonable care in the operation of his vehicle, exceeded the posted speed limit or that he was vying for position or racing with Crisp. He filed a cross-claim seeking contribution or indemnification from General Casualty if he were to sustain any liability.

Anderson Floor Co. and its liability insurer, West Bend Mut. Ins. Co., stated affirmatively that the plaintiffs' injuries and damages were caused by the negligence of Schley or others. They filed a cross-claim against General Casualty seeking contribution if they are found jointly liable to the plaintiffs.

Crisp's insurer, Gen. Cas. Co. of Wis., alleged the accident may have been caused by Schley's contributory negligence.

The Schleys settled with Gen. Cas. Co. of Wis. for Crisp's policy limits of \$50,000 (\$25,000 per person/\$50,000 per accident). John Schley received \$24,500, Maryann Schley received \$500 and \$12,500 was allocated to each of the two minors. The Schleys reached a settlement with Hibl, Anderson Floor Co., Inc. and West Bend Mut. Ins. Co. in the amount of \$120,000.

Judge Michael Bohren dismissed the case on Dec. 19, 2007.

Court: Circuit Court of Wisconsin, Third Judicial District, Waukesha County.

2007 WL 4973774 (Wis.Cir.)

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