

Case Name: Richard Brown v Kevin Dale Fitch  
Case Number: 329001 (Court of Appeals); 14-103774-NI (Genesee Circuit)  
Court: Court of Appeals/Genesee Circuit Court  
Judge: Henry William Saad; Patrick M. Meter; Christopher M. Murray (Court of Appeals); Joseph J. Farah (Genesee Circuit)

Published or Unpublished Decision: Unpublished

Date: December 20, 2016

Attorneys: Grant O. Jaskulski and Geoffrey L. Blake

Type of Action: Bodily Injury

Demand: >\$25,000.00

Issue:

Whether our client, Kevin Dale Fitch, could be legally liable for any negligence damages sought by Richard Brown after Mr. Brown had crossed a five-lane road at approximately 11:00 p.m. and was struck by Mr. Fitch who was driving home from work.

Summary of Trial:

In this case, we successfully defended an appeal made by the plaintiff, Richard Brown, who had brought a negligence action against our client, Kevin Dale Fitch. Prior to that appeal, we had prevailed on a Motion for Summary Disposition, arguing that, due to Mr. Brown's clear intoxication at the time of the accident, he could not recover any tort-based damages from Mr. Fitch. The lower court found that we were entitled to summary disposition and entered an order dismissing the claim in its entirety, but Mr. Brown sought review through the Court of Appeals. At the appellate level, the panel unanimously affirmed the trial court's decision, finding that the evidence we presented before the trial court and at appeal would lead to "only one reasonable conclusion," which was that Mr. Brown was intoxicated, had an impaired ability to function, and, as a result, he was more than 50 percent at fault for the accident. The policy in place had a limit of \$20,000 for liability damages, but the amount of damages potentially claimed by Mr. Brown against Mr. Fitch could likely vastly exceed that amount. Geoffrey Blake argued the MSD hearing and handled the trial court matters, while the Motion for Summary Disposition and the ensuing appeal were covered by Grant O. Jaskulski.

Verdict: Summary disposition granted; decision affirmed by the Court of Appeals