

FACTS

Assignment: Determine the Bottom Line Message for the Defendant

On July 15, 2019, Mary Smith woke up, reported at 7 o'clock to her job with UPS, which by then she had worked at for more than ten years, and started her delivery route in Florence, Colorado, where she has lived for the past 20 years.

Ms. Smith is a community fixture in Florence. She and her husband raised their two kids there. Before working at UPS, she drove a school bus for 10 years, shuttling the children of the town back and forth every day. She got to know so many children and families that she is often recognized and greeted by community members. And now she is well-known for delivering packages.

Everything was going normally on July 15, 2019, until she came to County Road 1052 later in the morning. Ms. Smith had a package to deliver to Number 4317, and she was in the process of stopping her truck in front of the driveway there.

The driveway was on the left side of the road. An 18-wheeler truck was on the road ahead of Ms. Smith traveling in the same direction that she was. Consequently, before turning, she waited until the 18-wheeler had gotten well ahead of her so that she could see the other side of the road and ensure she had clearance to make the turn. But the next thing she knew, a Ford Taurus on the opposite side of the street crashed into her truck. Ms. Smith was not hurt. Her truck was damaged.

The driver of the Ford Taurus was Jane White, the plaintiff in this case. Ms. White had been feeling so much stress that earlier in the morning she had taken Xanax, an anti-anxiety medication. Xanax is a controlled substance that cannot be taken without a prescription. She had also taken Xanax the day before, which was the first time she had ever taken Xanax. And, the pills had not been prescribed to her by a doctor, but had been given to her by a friend. Xanax is a sedative. The warning that comes with the prescription states, "causes drowsiness. Do not operate heavy machinery or drive."

In addition, Ms. White had used marijuana that week. With both the Xanax and the marijuana in her system, Ms. White set out in her car on July 15 with her husband, Bill White, in the passenger seat. At some point before the accident, Ms. White passed out, according to her own husband's testimony. Ms. White then crashed into Ms. Smith's vehicle.

State trooper Danny Glover issued a citation to Ms. Smith, however, for allegedly making an unsafe left turn. He did not witness the accident. He arrived on the scene, interviewed Mr. White (Ms. White was semi-conscious and unable to talk) and Ms. Smith. He then wrote a four sentence narrative and took no pictures or measurements. Ms. Smith hired an attorney to contest her ticket. Her attorney told her how much she owed, she paid it, and then she realized her attorney had submitted paperwork and entered a plea of guilty in traffic court.

Mr. White, although he admitted in his deposition that he was not injured, initially filed a claim through his former attorney for \$15,000 (\$1000 in medical expenses, \$5,000 in future medical expenses, and \$9,000 in pain and suffering). He has since withdrawn that claim and is seeking no damages. Ms. White's initial claim from her former attorney was for a total of \$380,000 (for medical bills and pain and suffering). Her new lawyer is seeking less damages but has not put a figure on it.

Ms. White claims that she could not drive for six months after the accident, but her husband stated in his deposition that she drove their son to school every day and ran errands in her car

immediately after the accident. Ms. White has over \$40,000 in medical bills. The majority of those bills were for the Care Flight to the hospital (\$20,000) and her workup in the hospital. After multiple CT scans and other studies, the doctors found there was no trauma caused by the accident, although the hospital recommended that Ms. White see a cardiologist because of her complaints of chest pain which the hospital could not corroborate.

The medical records show that Mr. White told the Care Flight emergency personnel on the scene that his wife “lost consciousness and hit the other car.” At one point in his deposition, he was asked the following: “Q. Was your wife unconscious at the time of impact? A. Yes, sir. Q. What did she say immediately prior to the impact? A. She didn’t say anything. She couldn’t respond.” But in other parts of the deposition, he said that his wife never lost consciousness before impact. He also said that the UPS truck was making a left turn across the road without looking and hit the car his wife was driving.

Ms. Smith’s attorney has hired an accident reconstructionist expert who charged \$10,000. His computer simulation shows that Ms. White’s car crossed the center line and hit Ms. Smith’s car head on. There was no evidence that Ms. Smith was turning as plaintiff claims.