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**Estate of Timothy M. Moynihan, Jr. v. Floyd J. Crane and Western Sand & Gravel Company, L.L.C.**

2013 L 62, LaSalle County, originally 10 L 158, Cook County

Moynihan was a passenger in a pick-up truck being driven by George Sbalchiero and traveling eastbound on I-80 in LaSalle County west of Ottawa, Illinois on January 31, 2008. Defendant, Crane, a 27 year driver for Western Sand & Gravel Company, L.L.C., was operating a fully loaded 70,000 pound cement truck in the right westbound lane of I-80. Sbalchiero, pulling a trailer and traveling too fast, lost control, careened through the median and entered westbound I-80 directly in front of Crane's cement truck and the impact occurred. The cement truck came to a rest facing northeast, on its side in the ditch and on the north shoulder. Both Sbalchiero and Moynihan died in the accident. Moynihan was working for Sbalchiero at the time of the accident and was limited to a workers' compensation recovery against Sbalchiero.

The Estate sued Crane and Western Sand alleging that Crane failed to keep a proper lookout, was driving too fast for conditions and failed to reduce his speed to avoid the accident. The defense contended Floyd Crane did nothing wrong and that no alleged act or omission on his part was a proximate cause of the accident or any claimed damages. Western Sand & Gravel Company sued Sbalchiero for contribution. Sbalchiero waived its workers' compensation lien and was dismissed.

Due to the impact, Crane did not recall many facts of the accident. An independent eye witness, Brian Dovin, was traveling approximately ten car lengths behind Crane. When the pick-up was in the median, Dovin saw Crane's brake lights activate and saw Crane swerve to the right to try to avoid the accident. Dovin stopped to help the drivers, but was not on the police report. Crane could not identify Dovin as the man who stopped. Dovin was identified by us from Crane's employer's and Crane's family member's phone records because Crane asked the stranger to contact those people immediately after the accident. Dovin was our star witness.

The plaintiff's expert, Nathan Shigemura was barred from offering any accident reconstruction opinion testimony and his credibility to offer trucking safety opinions was attacked and his lack of expertise in this field was exposed.

The defendant's well qualified trucking expert testified Crane was an exemplary employee and truck driver any trucking company would want to hire and that Crane took the actions drivers are trained to take in such a situation and took that action as quickly as he possibly could.

The plaintiff asked \$3,625,000.00 of the jury. The jury returned a not guilty defense verdict after deliberating approximately forty-five minutes.