

Kentucky Trial Court Review

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School Bus Negligence - A

school bus driver was blamed for pulling from an inferior drive into the path of a pick-up truck – a passenger in the pick-up (who was not wearing a seat belt) sustained serious injuries

Slone v. Moore, 12-184

Plaintiff: Michael J. Leizerman, Toledo, OH and James P. Bowling, Hazard

Defense: Melissa T. Richardson, Vanna Rae Milligan and Carmine G. Iaccarino, *Walters Meadows*

Richardson, Lexington

Verdict: Defense verdict on liability

Court: **Perry, J. Wells**,
9-9-15

Linda Moore was operating a school bus on 2-2-12 for the Perry County Board of Education. There were eight students on board. She came from a country road (Pine Point Road) to the intersection with the superior four-lane Hwy 80 that transects Perry County.

Moore looked both ways. All she saw was a coal truck coming up a long straight hill. She believed she had plenty of time to pull out from the inferior drive. What she didn't see was a pick-up driven by Duane

Stidham. Travis Slone, age 42 and a heavy equipment operator, was a passenger with Stidham.

Stidham and Slone for their part had seen the bus at the intersection. Slone suggested that Stidham "watch it" in reference to the bus. Suddenly the bus pulled out. Stidham hit the brakes but could not stop in time. His pick-up struck the bus hard. The crash occurred near the "Club 80" hill approaching Hazard.

Stidham, who was wearing a seat belt, was not hurt. Slone by contrast suffered serious injuries. They included a broken femur and wrist as well as a head wound. He underwent a total of four surgeries. While he developed proof of a brain injury through Dr. Robert Granacher, Neuropsychiatry, Lexington, by the time of trial Slone did not seek damages for that injury.

There was proof that because of Slone's injuries he has been unable to return to work. His claimed future medicals were \$654,046 – Slone did not seek his past medicals of approximately \$188,000. Permanent impairment was valued at \$1,684,760. There was no claim for lost wages. The jury could award Slone \$7,000,000 for past suffering and \$20,000,000 more for that in the future.

In this lawsuit Slone blamed Moore for pulling into his path. That she had pulled out suddenly, he cited proof from the coal truck driver that she did so just in front of him. Stidham (Slone's driver) had been in the lane next to the coal truck and thus Moore had been unable to see him.

Besides presenting an ordinary negligence claim against Moore, Slone also sought the imposition of punitive damages. It was his theory that she had a so-called "habit" of running this particular stop sign. His proof came from two students

who regularly rode her bus. The jury entered. (besides the compensatory damages noted above) could award Slone \$20,000,000 more in punitives. The plaintiff's accident expert was Joey Stidham, Hazard. Slone also addressed the issue of the seat belt with an expert, William Smock, Biomechanics. Smock explained that the seat belt would not have protected Slone. [This was impeached in part as Slone's driver (who was belted) didn't suffer an injury.]

Moore defended that it did appear clear when she pulled out. Her view of Stidham's pick-up was obscured by the coal truck (Stidham had just changed lanes) and equally so, Stidham's view of her too was obscured.

Moore also cited proof from the computer in Stidham's truck that he was going 70 mph five seconds before the crash – ultimately he slowed to just 35 mph at impact. From the perspective of Moore, but for Stidham's excessive speed, he should have been able to stop in time. Even the expert (Joey Stidham) conceded that if Stidham (the defendant) was traveling at the 55 mph speed limit he could have stopped in time.

The plaintiff developed an interesting response in trial. Stidham suggested that the speedometer (as recorded by the truck's computer) was off because new tires had been installed. Thus while the computer read 70 mph, he was actually traveling at closer to 60 mph.

This case was tried for three weeks in Hazard. The jury answered "no" to a charge that asked if Moore violated her duty of care. That ended the deliberations and the jury then didn't reach the duties of Stidham and the plaintiff or apportionment and damages. A defense judgment is expected to be