

## **Partners Wayne Tartline and Eric Connelly successfully defend a claim of permanent brain injury in Fulton County State Court in a five-day trial.**

By Wayne Tartline and Eric Connelly May 17, 2023

On May 12, 2023, Wayne Tartline and Eric Connelly concluded a trial defending a 16-year-old driver who hit a pedestrian. The driver had entered a guilty plea to the traffic citation which was issued after her vehicle collided with an 18-year-old boy who was walking his dog within a crosswalk in Alpharetta in 2016. The impact caused the plaintiff to roll onto the hood of the vehicle and the impact of his head shattered the windshield.

The plaintiff was represented by seasoned personal injury trial attorneys Michael Smith of Calvin Smith Law and Michael Watson. In closing, Mr. Smith asked the jury to award \$10.45 million at trial based upon the plaintiff's claimed permanent brain injury. Plaintiff's claimed brain injury was based upon Diffusion Tensor Imaging MRI results, testimony from a credentialed neurologist, testimony from a neuroradiologist, and plaintiff's treating psychological counselor. Plaintiff alleged daily headaches since the collision, and his mother and counselor testified that plaintiff suffered from years of post-traumatic stress disorder, depression, anxiety, fear of driving, as well as mood swings and anger problems due to the brain injury. Plaintiff's expert witness stated that the plaintiff's condition would be permanent and would never improve.

The collision also resulted in a knee injury to the plaintiff that led to arthroscopic surgery and significant rehabilitation.

Plaintiff offered cell phone records, and the police CAD report to argue that the Defendant had been distracted by using her phone at the time of the collision in violation of criminal statutes applicable to under 18-year-old drivers at the time.

Through unique and well-qualified experts, the defense was able to show that the Diffusion Tensor Imaging MRI techniques relied upon by plaintiff to show brain injury, were not proper for clinical diagnoses. The defense cross-examinations of plaintiff's neuroradiologist, neurologist, surgeon, and psychological counselor effectively called into question the reliability of their causation opinions and their credibility which provided support for the jury to find that the allegations of a brain injury were suspect.

Despite the allegations of permanent brain injury, cognitive deficit, and altered personality, as well as the knee injury and associated surgery, the allegation of distracted driving, and the demand for \$10.45 million, the defense team was able to limit the verdict to \$230,000.00 after the five-day trial. This result is less than three times the medical specials, although the Court had excluded from evidence any discussion of medical bills. Plaintiff had requested this evidentiary ruling prior to trial so that the jury would not be "anchored" to a low damages number based upon medical special damages and would be more likely to

make a greater award for pain and suffering only.