

Beggins v. Kaiser (jury verdict)

DISTRICT COURT

VERDICT: \$27,151.95 net (50/50) to motorcyclist Plaintiff for foot crush fractures, \$800 (50/50) net to Defendant for van damage.

A Lewistown jury determined that Plaintiff David Beggins and Defendant Tim Kaiser were each 50% negligent in a collision between Beggins's motorcycle and Kaiser's van 8/25/06 in Lewistown, and found that Beggins sustained \$54,303.91 damages (\$29,303.91 past medicals, \$5,000 future medicals, \$10,000 past pain & suffering, 0 future pain & suffering, \$10,000 course of life) and Kaiser sustained \$1,600 damages to his van. The net effect was \$27,151.95 for Beggins and \$800 for Kaiser.

Kaiser was driving his 1997 Ford cargo van east on Main. Beggins was following on his 1993 Harley. Kaiser attempted a right turn into the Dash-Inn restaurant when they collided. Beggins asserted that Kaiser failed to make a proper right turn including failure to signal. Kaiser denied negligence and asserted that Beggins was comparatively negligent by speeding, following too close, and improperly passing on the right. Kaiser also counterclaimed for the damage to his van.

Kaiser testified that before attempting the turn he activated his signal and made a slightly wider swing to the left with his left wheels into the center turn lane 4-6" if at all. Beggins testified he did not see a right turn signal and that the van went completely into the center lane, indicating to him Kaiser's intent to turn left, and that they collided when he attempted to move past the van. Kaiser testified that he distinctly recalled activating his right signal because he knew the motorcycle was behind him because, while he could not see it in his side mirrors, he could hear it because it was loud. Witnesses testified they did not see a right signal. The PD did not issue citations to either party but assigned improper passing to Beggins as a contributing factor to the accident.

Beggins, 61, suffered severe crush fractures to his left foot including dislocations of the Lisfranc's articulation. He claimed loss of enjoyment of life because of the physical limitations and pain from his injury. Kaiser offered evidence purportedly tending to show that Beggins was still able to enjoy major aspects of his life in retirement and that he could manage ongoing pain with over-the-counter medication. Dr. Innacone testified that he would have a permanent disability as to loss of motion of the foot and suffer ongoing pain into the future, he would require future surgery to remove 2 remaining K wires at a cost of \$2,000-\$5,000, and he could have some benefit from wearing special orthotics for life.

Judge Phillips instructed as to the effect of comparative negligence.

Plaintiff's experts: Dan Smith, Belgrade (reconstruction); orthopedic surgeon William Innacone, Lewistown (deposed).

Defendant's experts: Irvan Floth, Billings (reconstruction).

Demand, \$75,000; offer, \$54,500. Jury request, \$250,000, jury suggestion, 0. Michael Anderson, mediator.

Jury deliberated 3 ½ hours including lunch 3rd day.

Beggins v. Kaiser, Fergus DV 09-32, 5/21/10.

Torger Oaas, Lewistown, for Beggins; Jared Dahle (Nelson & Dahle), Billings, for Kaiser (Mountain West Farm Bureau Mutual Ins.).

