

PLATTE COUNTY, MISSOURI

**Smith v. Shanks and Deffenbaugh Industries Inc.**

Docket #: 08AECV02973

Judge: Owens Lee Hull, Jr. Div. 2

Plaintiff's Attorney: Bradley D. Kuhlman and Chad C. Lucas (Kuhlman Law Firm)

Defendants' Attorney (both Defendants): Richard F. Modin (Dougherty, Modin & Holloway)

Type of Claim: Auto accident. Plaintiff, male age 29, was slowing to make a right turn into a parking lot in Farley, MO when Defendant driver Shanks, an employee of Defendant Deffenbaugh, rear-ended Plaintiff's vehicle. Defendant admitted liability, but not injury causation or damages. Plaintiff, an employee of UPS, was driving a delivery truck and Defendant Shanks was driving a trash truck. The accident happened on a dry day. Plaintiff claimed Defendant was driving 50-55 m.p.h when the accident occurred; Defendant Shanks claimed he was going 30-35 m.p.h. at impact.

Damages Alleged: Herniated disc at T-12 - L1 requiring level 3 fusion with indwelling hardware; headache; soft tissue injuries to the neck; and loss of UPS job [injuries from the accident resulted in a 55 pound lifting restriction for Plaintiff, because UPS requires employees to lift 70 pounds Plaintiff was terminated] (\$147,647 medical expenses; and range of \$604,171 to \$1,384,927 loss of future earning capacity). Defendants claimed Plaintiff's back injury was pre-existing and the crash caused only soft tissue injury.

Plaintiff's Experts: Wilbur Swearingin (vocational rehabilitation) (Springfield, MO); John Ward, Ph.D. (economist); and videotape deposition of Glenn Amundson, M.D.

Defendant's Experts: Videotape deposition of Christopher Fevurly, M.D.

Demand Before Trial: \$2,100,000. (On the 4th day of trial a hi-low agreement of \$400,000 - \$1,250,000 was agreed upon).

Offer Before Trial: \$100,000 according to Plaintiff's attorney; \$250,000 according to Defendant's attorney.

Verdict: \$670,000 for Plaintiff.