

Defense Verdict for Insurance Company

Plaintiff, Quinton Sankey, a minor, and his parents Tekisha and Gary Sankey, sued Defendant Dionna Henderson for negligence and wantonness as a result of an automobile/bicycle accident. Quinton Sankey (who was 14 years old at the time of the accident) approached an intersection on a bicycle. His path of travel into the intersection was controlled by a yield sign. He claimed that he stopped at the yield sign, looked left, then right, and saw Ms. Henderson's vehicle approaching at a distance of one city block. Ms. Henderson was driving the speed limit when Mr. Sankey started out and had the right of way. There were no traffic control devices directing her egress into the intersection. Instead of waiting for Ms. Henderson to safely pass, Mr. Sankey attempted to cross the roadway before she arrived. He almost made it across before being struck on the rear tire. Mr. Sankey received a closed head injury and multiple lacerations. He was not wearing a helmet. The vision of both parties was obscured by hedges, trees, bushes and telephone poles.

Ms. Henderson defended by arguing that Mr. Sankey was contributorily negligent by attempting to cross the roadway with knowledge of her approaching vehicle, an impending danger. She also argued that Mr. Sankey assumed the risk of being injured.

Under Alabama law, a minor can be contributorily negligent if he/she was a "normal" 14 year old when the accident occurred. In an effort to avoid the affect of Mr. Sankey's negligence, Plaintiffs argued that he was "abnormal" or "mentally slow" for his age since he repeated the 4th grade. Ms. Henderson countered by offering evidence that Mr. Sankey was not abnormal since he (1) maintained a "B" grade point average at all times before and after the accident, (2) was elected to

the student counsel by his peers a year after the accident occurred, and (3) had no difficulty answering questions at trial or during deposition.

Plaintiffs attempted to justify Mr. Sankey's decision to cross the roadway by arguing that Ms. Henderson, for reasons unknown, sped up from 25 mph to 35 mph after he started to cross the roadway thereby eliminating any reasonable chance for him to cross safely. The only witness to this alleged behavior was Mr. Sankey who was riding a hard perpendicular line at the time and, of course, was alleged to be "mentally slow." Plaintiffs' accident reconstructionist testified that if Ms. Henderson had been paying attention to the roadway and traveling the speed limit she should have been able to bring her vehicle to a controlled stop approximately 80 feet before impact. Ms. Henderson's accident reconstructionist offered his opinion that Mr. Sankey failed to yield and, as such, rode out in front of Ms. Henderson quickly, eliminating any reasonable chance for her to take evasive action. The jury deliberated two days before rendering a defense verdict.