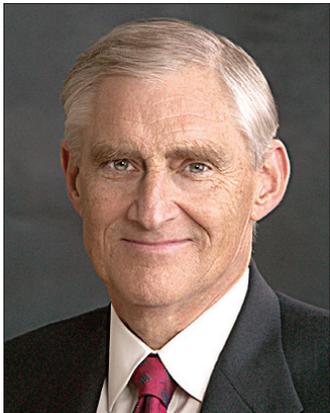


# Missouri Lawyers WEEKLY

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## Trucking company, driver settle after repeat mediation

*At first attempt, woman's injury wasn't healing*



Maurice B. Graham



M. Graham Dobbs

November 2008.

In their answers, Obritsch and the trucking company that employed him, BMC Transportation Co., of Columbus, Neb., denied the allegations against them. As part of their affirmative defenses, they said all damages or injuries allegedly sustained by the plaintiffs, if any, were directly caused by Tracy Rauls' fault or negligence.

Defense attorney Gary Bomkamp said the truck driver didn't see Tracy Rauls' car when he was making a turn into a landscaping business beside the road. He said the layout of the highway, including a dip and turn in the road, prevented the driver from seeing the oncoming car.

Bomkamp also said the defendants disputed the permanency of her injuries.

Seven months after the complaint was filed, the judge referred the case to alternative

dispute resolution.

During the first mediation, the couple asked for around \$3.2 million and the defendant offered up to \$350,000, Bomkamp said.

The parties couldn't settle at first because Tracy Rauls wasn't healing, he added.

"It became clear that in those discussions that the plaintiffs couldn't come down to a number because the plaintiffs' attorney didn't know how badly she was hurt," Bomkamp said. "She was not healing."

Graham, attorney for the Rauls couple, said the first mediation didn't work out because "it was too early."

By the next round of mediation, Tracy Rauls had recovered more, Bomkamp said.

They reached a settlement in late August. The plaintiffs rejected settlement offers up until \$2 million, Bomkamp said.

Graham said that it's possi-

ble Tracy Rauls could have an ankle fusion or replacement in the future.

"What made it successful the second time is that the defense was able to learn more about the seriousness of her injuries," he said.

It helped when U.S. District Judge Stephen Limbaugh Jr. gave more time for the parties to come to an agreement, Bomkamp said. If the parties were forced to trial at the original trial date and a jury determined the damages, it likely would have exceeded the settlement amount, he said.

He added that the defendants also fared better after Graham referred his client to another treating doctor.

Bomkamp said the \$2 million settlement was generous. Still, both he and Graham said their clients were satisfied with the settlement.

— Christine Simmons

A Perry County woman settled with a tractor-trailer driver and a trucking business for \$2 million after she suffered a severe ankle injury in a car accident.

The August 2008 collision occurred when Tracy Rauls was driving on U.S. 61 in Perry County. A tractor-trailer Travis Michael Obritsch was driving turned left from the highway and struck her car.

In a lawsuit filed in federal court, Rauls said she suffered significant, disabling and permanent injuries. In particular, she suffered a severe ankle injury that required multiple surgeries, said her attorney, Maurice Graham.

She and her husband, Troy Rauls, sued for negligence and loss of consortium in

■ **\$2 million settlement**

**MOTOR VEHICLE COLLISION**

■ **Venue:** U.S. District Court for the Eastern District of Missouri (Cape Girardeau)

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■ **Case Number/Date:** 1:08-CV-00162/ Aug. 31, 2011

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■ **Mediator:** Michael Geigerman

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■ **Plaintiffs' Experts:** Dr. Matthew Bradley, St. Louis (orthopedics, treating doctor); Wilbur Swearingin, Springfield (vocational)

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■ **Defendants' Experts:** Jim England, St. Louis (rehabilitation); Dr. Gary Schmidt, Creve Coeur (orthopedics); Dr. Jacob Sosna, St. Louis (inflection control specialist)

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■ **Insurers:** Great-West (primary), Axis Insurance

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■ **Caption:** Tracy Rauls and Troy Rauls v. BMC Transportation Company and Travis Michael Obritsch

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■ **Plaintiffs' Attorneys:** Maurice Graham and M. Graham Dobbs, Gray, Ritter & Graham, St. Louis

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■ **Defendants' Attorney:** Gary Bomkamp, Roberts Perryman, St. Louis