

Missouri Lawyers

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WEEKLY

■ \$4,825,750 SETTLEMENT

Crash during roadside car repair yields \$4.775 million settlement

MOTOR VEHICLE COLLISION

- **Breakdown of Value:** \$4,775,750 to Robert Craig Ashurst; \$50,000 to Joseph Timothy Ashurst
- **Venue:** Jackson County Circuit Court (not filed)
- **Date:** Nov. 4, 2016
- **Caption:** Robert Craig Ashurst and Joseph Timothy Ashurst v. Zachary Wolfe, Barefoot Inc. d/b/a Snake N' Rooter
- **Plaintiff's Attorneys:** Samuel M. Wendt and Jessica Agnelly; Wendt Law Firm, Kansas City
- **Defendants' Attorneys:** Brad Russell; Warren & Russell, Overland Park, Kansas; Kevin Weakley; Wallace Saunders, Overland Park, Kansas
- **Injuries Alleged:** leg, knee, ankle, foot
- **Injuries Detail:** Robert Craig Ashurst: bilateral tibia-fibula fractures; respiratory failure; staphylococcus infection; acute blood loss, anemia; Joseph Ashurst: cervical strain; blunt head trauma
- **Special Damages:** Robert Ashurst; \$92,332 in paid medical expenses; Joseph Ashurst, \$1,095 in paid medical expenses
- **Insurance:** EMC Insurance Co.

BY ALAN SCHER ZAGIER

Special to Missouri Lawyers Media

A Jackson County man struck on a highway by a plumbing business van while repairing his disabled vehicle has settled with the company's insurer for nearly \$5 million.

The Aug. 4, 2016 collision occurred after a 2003 Dodge Durango driven by Robert Craig Ashurst, 45, of Buckner broke down just after midnight along eastbound Missouri Highway 78 in Independence, west of its intersection with Missouri Highway 7.

Ashurst's SUV was "partially on the south shoulder and partially in the east-bound lane" of the highway when a 2008 Ford Econoline E350 driven by Zachary A. Wolfe approached and hit the Durango from behind, according to a police acci-



Samuel M. Wendt



Jessica Agnelly

dent report. The disabled vehicle in turn hit a 2006 Pontiac Grand Prix that belonged to an Ashurst friend who had arrived to help.

Wolfe worked for Snake 'N' Rooter, whose corporate owner Barefoot Inc. agreed in early November to pay \$4,775,750 to Ashurst through EMC Insurance Co. The money includes a pair of structured settlements that will pay him about \$8,700 monthly over 30 years, records provided by Kansas City plaintiff's attorney Samuel Wendt show.

Ashurst endured severe burns after being trapped beneath the tailpipe of one of the vehicles, Wendt said. His client's injuries also included bilateral tibia-fibula fractures, respiratory failure, a staphylococcus infection, acute blood loss and anemia.

"His leg injuries were quite significant, and he will likely have lifelong problems associated with the traumatic fractures," said Wendt, noting that Ashurst spent more than two months recuperating in several hospitals – with the first month in a medically induced coma. "Overall, Craig is very lucky to have recovered as well as he has up to this point."

Joseph Timothy Ashurst, 23, who accompanied his father as a front-seat pas-

senger but remained in the broken-down vehicle, received a \$50,000 settlement from the same insurance policy for his injuries, which consisted of blunt head trauma and a cervical strain, Wendt said.

Wendt added that both the disabled SUV and Grand Prix had their emergency signals flashing, while the Grand Prix – which was parked nose-to-nose with the SUV, facing the opposite direction – kept its headlights on.

Defense attorney Brad Russell of Warren & Russell in Overland Park, Kansas, called the settlements the culmination of a "difficult case with difficult facts."

"I was pleased that all the represented parties were able to work together and negotiate a settlement ... that was less than perfect, but at the end of the day constituted some level of justice," Russell added.

That overall settlement included payments for additional injury claims by Robert James of Oak Grove, the Grand Prix driver who was standing on the shoulder near Ashurst; a front-seat passenger who remained in James' car; and a back-seat passenger who was riding with the Ashursts. Russell declined to specify the amounts of those settlements.

Jack Bangert, a mediator in Kutak Rock's Kansas City office, assisted the parties in reaching the settlement.

Wolfe, who was returning from a late-night call for the 24-hour plumbing service, told an Independence police officer that he was texting while driving, Wendt said. Russell declined comment on that allegation, while Wendt suggested that the assertion was pivotal toward resolving his clients' claims within three months. **MO**