CIVIL RESEARCH MEMORANDA

Research Memorandum #78: Automobile Negligence

Fox v. City of Benton, 143 Maj. App. 2d 20 (20XX-27): "Modern cases involving rear-end collisions hold that the doctrine of last clear chance is not applicable where the following driver, using 'reasonable prudence,' is unable to react in time to prevent the collision.

"The City of Benton trial court correctly held that the last clear chance doctrine was found to be not applicable where the plaintiff driver unexpectedly stopped at a flashing yellow light and the defendant bus driver noticed the plaintiff, from a distance of 90 feet, and applied his brakes, but nevertheless collided into the rear-end of plaintiff's car.

"Where the defendant driver does, however, have the last clear chance to avoid the accident by swerving, honking, or braking from a great enough distance, the doctrine is applicable."

Simmons v. Lakewood, 271 Maj. App. 2d 19 (20XX-21): "This is a case involving an intersection collision between a passenger car and truck where the truck driver saw the car 45 feet from the intersection. We hold that the last clear chance doctrine is applicable where the truck driver could have, but failed to, brake or swerve in time to avoid the collision.

"Major law provides that in cases involving rear-end collisions, the rebuttable presumption of negligence is primarily on the following driver. The 'driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the highway,' Major Code sec. 46.00."

Johnson v. Nelson, 256 Maj. App. 3d 100 (20XX-6): "The presumption of negligence was rebutted by defendant in a rear-end collision where plaintiff unexpectedly stopped her vehicle to allow other vehicles access to an arterial. The following driver can rebut a presumption of negligence by claiming that an emergency or unusual condition exists. If a car in front stops suddenly and without warning at a place where a sudden stop was not to be anticipated, the jury can be instructed that defendant was not following too closely. The plaintiff must give some notice of the intention to stop if there is a reasonable opportunity to do so. Nevertheless, the following driver must reasonably anticipate an emergency situation that can result from ordinary traffic conditions. The defendant pick-up truck, which had been traveling legally at 40 M.P.H., ran into the back of the plaintiff. Defendant claimed that plaintiff failed to sufficiently signal or warn the following driver, and had defective brake lights.

"It is a case of first impression regarding whether alleged defective brake lights create a presumption of negligence in a rear-end collision. Generally, the owner or operator of a motor vehicle does not have an absolute duty to insure the safety of herself or other users of the road from the condition of her vehicle. The owner operator, however, must use reasonable care to see that the vehicle's condition is safe and in proper working order, and is chargeable with the knowledge that a reasonable inspection would disclose. The State of Major imposes statutory requirements regarding certain aspects of motor vehicles, such as brakes, which must meet certain minimum standards.

"A factor in determining potential negligence regarding defective equipment is the causal relation between the defect and the injury. The injuries incurred must be proximately caused by the defective condition of the vehicle, otherwise a plaintiff cannot claim that the defective condition causally contributed to the accident.

"But we need not decide the issue of defective brake lights since we find that defendant was not negligent. In this case, defendant, faced with an emergency situation, was unable to react in time to avoid the collision."

Wichman v. United Disposal, Inc., 284 Maj. 3d 817 (20XX-2): "We reverse judgment of the Superior Court of Callam County. This case involves a rear-end collision where defendant truck driver, United Disposal, Inc., negligently tried to pass Wichman, the plaintiff, but could not because of the traffic congestion. Consequently, defendant hit the plaintiff. Defendant United Disposal relies upon *Taylor v. Ganas*, 269 Maj. 3d 1492 (20XX-5). In that case the following driver struck plaintiff's disabled vehicle on a bridge. In *Taylor*, plaintiff's car was either stopped or slowly moving but in either case plaintiff failed to use brake lights or other warning signal. Plaintiff was

found 75% negligent and defendant 25% negligent.

"The facts here are distinguishable. Defendant United Disposal admitted that when he tried to pass plaintiff's car, that plaintiff either slowed down or was almost stopped. Plaintiff's inoperable brake lights did not causally contribute to the mishap. Judgment reversed. Case remanded to the Superior Court of Callam County for retrial."