

## TEXAS LAWYER

## \$26.5M Fort Worth Judgment in Case Where Man Became Quadriplegic

By Adolfo Pesquera

July 25, 2023

### What You Need to Know

- A mail carrier's collision left a Grand Prairie man a quadriplegic and a federal judge awarded \$26.5 million.
- The U.S. government argued the plaintiff's pre-existing spinal disease led to paralysis from another cause.
- Both sides put on expert witness in many fields to establish cause and liability.

A federal district judge awarded \$26.5 million to a Grand Prairie resident with a pre-existing condition, whose neck allegedly snapped when his car was rear-ended by a postal worker's truck.

U.S. District Judge Reed O'Connor of the Fort Worth Division of the Western District of Texas issued his opinion and order, and final judgment Monday in the case of *Michael Le v. United States*.

O'Connor's findings and conclusions were based on a four-day bench trial that occurred the week of April 24.

"We proved that this tragic accident was foreseeable and preventable. While this judgement in no way makes the Le family whole, it will assist them in providing the best care possible for Mr. Michael Le and his family," plaintiff lead counsel C. Kyle Pugh said. "I am humbled by the strength and character of the Le family."

The final judgment includes nearly \$24 million based upon Le's past and future medical expenses, loss of earnings, and intangible damages. Le's wife, Dung, was awarded more than \$2.6 million for past and future loss of consortium and loss of services.

The plaintiff was 47 years old when the accident occurred in May 2018. According to the court record, he was found to be wearing his seatbelt and backing out of his driveway onto a residential street when he came to a stop and shift his transmission to drive. At that moment, postal worker Jill Williams rear-ended Le while she was driving in reverse, at a speed estimated at 6 mph or less.

Le alleged he lost control of his foot, which was on the gas pedal, drove across a lawn and into his neighbor's house, causing a second more severe collision that cause the airbag to inflate.

Police and emergency medical technicians arrived and for a short period Le was able to



**C. Kyle Pugh,**  
**Dallas personal injury**  
**trial attorney.**

Courtesy: C. Kyle Pugh P.C.

stand and walk, although he struggled with his balance. He initially refused to be transported, but soon after collapsed and was taken to a hospital.

At trial, the government argued the spinal cord fracture occurred during the second collision, and asserted Le was to blame for not releasing his foot from the gas pedal. The government also alleged Le was not wearing his seatbelt.

The government further alleged, noting neuro-monitoring systems detected normal motor and sensory potentials when surgery began, that the orthopedic spine surgeon caused the permanent paralysis.

“So, we had to litigate a medical malpractice case within this case,” Pugh said. “The U.S. government pointed the finger at everyone except the negligent person, the postal worker.”

Pugh said the case was very challenging because of the low-impact nature of the first collision and the fact that first responder bodycam video showed Le standing and walking after the accident.

Both sides had expert witnesses in accident reconstruction, orthopedic surgery, life care planning and biomechanics, Pugh said.

Although Pugh has been practicing law for 29 years, he said this was his first time suing the federal government in a personal injury tort case, he said.

The Le family original retained the Schulman Law Firm and they did not bring Pugh in to work as lead counsel until eight months before the trial date.

In short order, Pugh assembled and deposed his expert witnesses, which also included a mechanical engineer who showed Le did wear

his seatbelt; and a homebuilder who testified on the need to remodel the Le home to accommodate a quadriplegic.

In deciding in favor of Le, O’Connor’s order noted Le’s pre-existing condition of ankylosing spondylitis, a spinal disease that fuses the vertebrae over time and makes the spine more susceptible to fractures at low levels of force.

O’Connor found credible expert testimony that Williams should not have driven the truck in reverse in the rain, since those vehicles have limited rear visibility and it is U.S. Postal Service policy not to do that unless absolutely necessary.

O’Connor also found credible expert testimony that it was more than likely the first collision caused the neck fracture, which is why Le was unable to release the gas pedal. In addition, the type of fracture was consistent, O’Connor said, with the angle of impact with the mail truck.

Referring next to the loss of neuro-monitoring signals during surgery, O’Connor noted both spinal experts agreed that did not “necessarily indicate paralysis occurred at that moment, thought it may.”

The Department of Justice has not yet indicated if it will appeal O’Connor’s final judgment, Pugh said, adding he hopes this is the end of it.

“The Le family, they’ve been through a lot. The children skipped college to stay home and help take care of dad,” he said.

Representing the government were Assistant U.S. Attorneys Dawn Whalen Theiss and Sarah Delaney. They did not respond to a request for comment.

Dallas attorneys Kellie McKee, John Schulman and Margaret Schulman served as Pugh’s co-counsel.