

## Verdicts & Settlements

# Man injured when car hits back of golf cart

Driver's carrier claims it wasn't 'occurrence' under his policy; case is settled

**\$225,000**

In a third-party negligence action, plaintiff Gregory Shotwell's golf cart was tipped over when defendant Heath Miller's car accidentally made contact with the rear of Shotwell's golf cart on the premises of defendant Pine Valley Golf Course.

Miller was defended under his personal homeowner's policy, while Pine Valley was defended under a general liability policy as owners of the golf cart at issue.

ACIA, Miller's insurance company, brought a declaratory action on the grounds that the loss at issue was not an "occurrence" under the policy. Motions were brought in the declaratory action, but were denied for questions of fact.

**Type of action:** Third-party negligence

**Type of injuries:** Full thickness tear with surgery

**Name of case:** *Shotwell v. Miller, et al.*

**Court/Case no./Date:** Macomb County Circuit Court; 2010-001129-NO; Oct. 10, 2012

**Name of judge:** Peter Maceroni

**Settlement amount:** \$225,000

**Most helpful expert:** John Sase, economist, Royal Oak

**Insurance carriers:** Frankenmuth, ACIA

**Attorney for plaintiff:** David Femminio

**Attorney(s) for defendant:** Withheld

**Key to winning:** Getting both insurance companies involved in settlement discussion

As the trial date approached, plaintiff's counsel asserted that, should ACIA win at trial on the declaratory action, the only insurance policy left would be the Pine Valley policy's under its carrier, Frankenmuth.

At facilitation, the matter was settled, with \$162,000 being paid by Pine Valley and \$63,000 by Miller.



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