

WB woman wins appeal of suit for accident on Farmington Road

By Tim Richard
staff writer

The Oakland County Road Commission must decide whether to pay off an injured West Bloomfield woman or appeal two lower court decisions to the Michigan Supreme Court.

The state Court of Appeals last week upheld an Oakland Circuit Court jury decision to award Melba R. Faulkner, 65, \$517,500 for her injuries on snow-choked Farmington Road seven years ago.

With interest, that claim could amount to \$1.2 million, said her attorney, Barry Waldman.

"Why didn't they resolve it (settle out of court) quickly and easily?" Waldman asked rhetorically. "If it had been an insurance company, there would have been no trial."

Robert Brignall, attorney for the road commission, said he was studying the 3-0 appeals court opinion to explore the governmental agency's options.

FAULKNER SUFFERED closed head injuries which Waldman said caused mild to moderate seizures and mild confusion.

"She can't drive. This led to her retirement from civic work," he said.

Faulkner was in a two-car head-on collision about 5 p.m. on Feb. 7, 1982 with David Walch of Farmington. The crash occurred on Farmington

'There was evidence that the road was narrowed by the presence of compacted snowbanks.'
— Michigan Court of Appeals

Road between 14 Mile and Maple roads "in an area bound on each side by mounds of dirt that were approximately two feet high," according to the appeals court decision.

"Because of a snowfall, the road had been narrowed to 1 1/4 lanes. Further, there was evidence that the road was narrowed by the presence of compacted snowbanks on each side of the road caused by plowing."

In a 1987 trial before Judge Francis X. O'Brien, a jury found Faulkner 10 percent at fault, reducing her \$517,500 award to \$517,500.

HERE IS HOW the appeals court panel of Judges John H. Shepherd, Walter P. Cynar and David H. Sawyer ruled on the road commission's appeal arguments:

• The road commission argued it should have been allowed to introduce evidence that Faulkner had filed a negligence complaint against

the other driver, Walch. In order to impeach Walch's testimony.

But the appeals court said O'Brien did not abuse his discretion in that decision.

• The road commission argued O'Brien erred by "refusing its request for an inquiry into the prospective jurors' educational background."

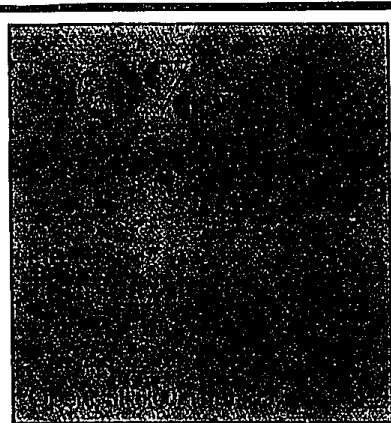
The appeals court disagreed, again saying the trial judge didn't abuse his discretion. "(The case was not so complex that the prospective jurors' educational background would be a factor for disqualification," the opinion said.

• The road commission argued

the snowbanks weren't proven to be a proximate cause of the collision.

The appeals court disagreed, saying "there was evidence that the road appeared freshly plowed with snowbanks on each side. It noted Faulkner presented evidence the road commission had used improper equipment, a bottom scraper instead of snowplow, on the road."

"There was evidence that a police officer had informed defendant (road commission) of a similar accident the day preceding. . . and that the condition could have been remedied quickly if defendant had sent a front-loaded snowplow to clear the road."



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County sets parks offerings

The Oakland County Parks and Recreation Commission is sponsoring the following summer programs in June:

• Outdoor Market: 10-11:30 a.m. Saturday, June 24, at the Independence Oaks Nature Center. A naturalist will explain the basics in collecting and preparing various wild edible plants and necessary precautions in gathering food. Cost is \$1 each.

• Forests of the Stearns Rain: 2-3 p.m. Sunday, June 25, the Cohn Amphitheater at the nature center. Live animals from the rain forest will be used to show how they adapt to their environment. Cost is \$2 each or \$8 a family.

• Things That Go: 1-3:30 p.m., Monday and Wednesday, June 26 and 28, at the nature center. Participants, who must be 9-15 years of age, will build a rocket. Cost is \$8 each session.

Upcoming programs in July include Legends, Yarns and Tales on July 8, Critter Care on July 12 and 13, and Loom Lady on July 15. All programs are scheduled at the Independence Oaks Nature Center on Sashabaw Road, north of I-75 near Clarkston.

Pre-registration is required. For more information or to register, call 625-6473.

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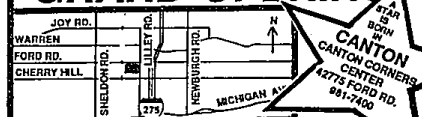
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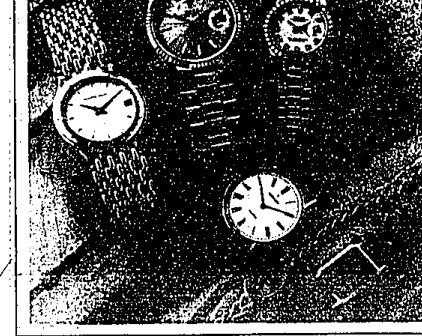
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