

DANA'S STORY

A real case demonstrating
the unfairness of damage caps.

Dana's Story

A recent college graduate, Dana was just beginning what promised to be a successful career. All that changed when the car in which she was riding was struck at high speed by a delivery truck whose driver was not paying attention. Dana was crushed between the front and back seats of the car.

Dana was just beginning to figure out what she wanted to do with her life. She had graduated from college and was debating whether to remain in the work force or attend graduate school. Her dream was to pursue a career in public relations, and much of her indecision about the future revolved around whether a graduate degree would advance her career. She was very bright, attractive and a hard worker, and she thought that she would be able to make it in her chosen field.

On this beautiful Tuesday afternoon, she was not worried about her future. She was having fun while on a drive with her two roommates. In the backseat of her friend's car, she was enjoying the sights and sounds of life—the sparkling sunshine, the music on the radio, the laughing and joking of her two best friends.

As the three friends drove along the Pennsylvania Turnpike, they could see that traffic ahead of them was at a total stop. Dana's friend eased to a stop along with the rest of the traffic. The girls continued their laughing conversation unaware of the danger behind them. A truck from an overnight delivery service, speeding down the highway, failed to stop for the traffic jam on the turnpike, instead slamming into the back of the car in which Dana was a passenger. The car didn't stand a chance against the fast moving truck, and neither did Dana, the backseat passenger.

The car was smashed like an accordion. Dana's head and face were literally crushed between the front and back seats. Most of the bones of her face were shattered by the impact, and the globe of her left eye exploded from the crushing forces. Her body absorbed much of the impact of the collision, causing other serious orthopedic injuries to her neck and back.

Dana was life-flighted to a major trauma center, where she drifted in and out of consciousness for almost a week following the accident. Her altered state of consciousness was probably a blessing in disguise. It saved Dana from seeing the horrible disfigurement to her face and head before her gifted surgeons began the multiple surgeries necessary to piece her back together. Although her doctors tried their best, they could not save Dana's left eye, and it ultimately had to be removed. Her face was unable to be restored to its former attractive appearance despite the multiple surgeries and over a month in the hospital. Even after four major reconstructive surgeries, Dana's face is visibly asymmetric, and she requires more surgery.

Dana is strong and resilient. She is determined to move forward with her life. Although she knows that her disfigurement will prevent her from pursuing a career in public relations, she knows that there are other careers in which she can excel. While she hasn't decided what her career will ultimately be, she knows that it will not involve substantial interaction with the public. She cannot stand the stares that she receives when people meet her for the first time or the obvious look of pity in their eyes. She knows that she will not be able to suffer those stares and looks every day for years and years.

Dana's life has been affected in other ways as well. Now, at age 30, she is still single. She does not remember the last time that she had a date. She thinks that it was probably before the accident. She does not go out

with her friends to clubs to enjoy music, which is now her passion, because she does not want to be seen. She worries that she will never marry, that no man will be able to love a woman with a disfigured face and a prosthetic eye, although she refuses to give up hope for marriage and a family...someday.

Despite Dana's strength, she suffers every week when she is forced to complete a grisly ritual. Once a week, she attaches a suction cup to her prosthetic eye. She then pulls the eye from its socket and cleans the prosthesis. No matter how hard that she tries to be strong during this necessary ritual, she is often overcome by emotion. Cleaning her prosthetic eye brings back memories of the accident, her hospitalization, and the many surgeries that she has suffered through. It reminds her of her disfigurement and her significant loss. It is the time that she allows herself to grieve for what she has experienced.

This young, attractive, vibrant woman has been robbed of her looks, her dreams and her bodily integrity by a careless driver. Why should this careless driver who has changed Dana's life be allowed to escape the full consequences of the harm that he has caused? Why should he be the beneficiary of a cap on non-economic damages? Isn't Dana entitled to be fully compensated for the searing pain that she has experienced or for the grief over the loss of her eye or for the embarrassment that she has every time that a stranger stares at her disfigured face? Why should Dana's ability to recover fully for her ordeal be capped, and how are medical malpractice premiums lowered by limiting Dana's recovery?



Bright, attractive Dana was looking forward to a career in public relations until she was severely disfigured in an accident caused by a careless delivery truck driver.





Dana underwent multiple surgeries in the days following the accident. She is reminded of her pain weekly, when she must remove her prosthetic eye for cleaning.