

LOAN'S STORY

A real case demonstrating
the unfairness of damage caps.

Loan's Story

Loan and her family were hit head-on by a drunk driver. Loan's children received only minor injuries, but Loan wasn't as lucky—suffering serious facial lacerations and bruises. She was also worried about the condition of her unborn child. Loan has undergone painful reconstructive surgery and has endured bleeding, scarring and scabbing, and debilitating post-concussion headaches that have turned the job of taking care of her family into a daily struggle. Why should her ability to recover for her disfigurement, embarrassment, and humiliation be capped?

At 26, Loan was living the American dream. A recent immigrant from Vietnam, she had quickly settled into American life. Her husband had found a good job on his arrival in Harrisburg, and he worked hard to support his growing family. Loan and her husband and four children (ages five and under) lived in a small home in a quiet neighborhood. Loan worked in a restaurant on the weekends to supplement her husband's income. She was saving money so that someday she and her husband could have a larger house with a bigger yard for her four young children, especially since the couple's fifth child was on his way. Loan also attended cosmetology school and English classes during the week. She dreamed of opening her own beauty shop and being her own boss. Loan truly believed that America is the land of opportunity. She and her husband were working hard so that their children could succeed in their new country.

In early June, while driving home with her children from a visit with some friends, Loan's dreams were shattered. A drunk driver, traveling in the opposite direction, lost control of his vehicle, crossed the center line and struck Loan's vehicle head-on. The drunk driver's blood alcohol content was almost twice the legal limit, and it was only 10 p.m.! The driver later pled guilty to charges of driving under the influence of alcohol, driving on the wrong side of the road, driving at an unsafe speed, careless driving and reckless driving. His only injury was a "sore wrist."

Luckily, Loan's children suffered only minor injuries, but Loan did not escape the violent collision unscathed. On impact, her head struck the driver's side window with such force that it shattered, embedding glass in her face and causing extensive facial lacerations. Loan was assisted from her totaled vehicle and rushed to a local hospital where she was immediately examined. Loan's face was a mess. In addition to "a massive amount" of bruising on her forehead and near her left eye, she also had "a large, irregular, jagged, deep and gaping avulsion laceration" over her forehead, left eye, and down her cheek. Both her upper and lower eyelids were cut all of the way through. Her physicians were also very concerned about her unborn child. Tests were immediately run to make sure that no harm had come to the child she was carrying.

A plastic surgeon was called in to examine Loan. He immediately determined that her complex facial trauma required surgery to repair. Loan was very worried about subjecting her unborn child to anesthesia, but the plastic surgeon explained that it would be impossible for him to repair her torn and missing eyelids without complete sedation. Loan reluctantly agreed. During surgery, substantial quantities of glass were removed from Loan's face. Her surgeon next turned his attention to her cheek injuries. Pieces of skin from Loan's cheek were missing, having been pulled off during the impact of the accident. Her surgeon carefully tried to pull the remaining pieces together. The plastic surgeon then rebuilt her lower eyelid by creating a flap from some of the tissue remaining after the trauma. Her upper eyelid also required substantial reconstruction. Because the area around her left eye was so swollen, the surgeon was forced to make another deep incision in the area of Loan's eyelid to relieve the pressure on her eye and provide her with some vision.

For Loan, the passage of time did not heal all of her wounds. It made some of them worse. For example, the passage of time resulted in more pieces of glass working their way from deep in her skin to the surface. Loan pulled pieces of glass from her face for months following the accident, each time experiencing bleeding, scabbing and more scarring. Within weeks of the accident, she developed horrible left-sided headaches, from which she has suffered daily. These post-concussion headaches have not lessened with time and make it difficult for her to concentrate or think while suffering from one. The accident also caused Loan to experience neck and back pain for months, which made her pregnancy very uncomfortable, as well as making the care of her other children—ages 1, 2, 4, & 5—a painful chore instead of the joy that it once was to her.

Loan's deep facial lacerations healed over time, but the lacerations left behind other wounds—significant, and permanent, scarring. For Loan, the disfigurement of her face has scarred her entire life. She is so embarrassed by her disfigurement that she does not want to leave her house. She quit her job and stopped attending all of her classes. She cannot bear people staring at her face, which they always do. Questions about how she got the very visible scarring upset her greatly and always cause her to cry. The family's dreams of a larger home are on hold because of Loan's inability to work, and her dream of a beauty shop of her own has been crushed. She does not believe that customers will come to be made beautiful by such a monster, as she sees herself now.

Her self-confidence and self-image have been shattered. She is depressed and tearful most of the time, which affects every member of her family. She and her husband argue frequently now, especially when he tries to convince Loan to go to a social function or resume her classes. He attends many functions alone. Loan's older children miss their smiling, happy mom, who used to be a whirlwind of energy. The younger children reach to touch her scarring and ask what happened, angering and upsetting their mother. She will not allow her picture to be taken, even when the kids beg for her to be in the photo.

Loan was a victim of a drunk driver. Why should her ability to fully recover for her disfigurement, embarrassment, and humiliation be capped? How will capping her non-economic damages help bring down medical malpractice insurance rates?



Surgeons did their best to reconstruct Loan's torn and missing eyelids, remove pieces of glass from her face, and repair torn and missing skin.



Loan suffers from painful post-concussion headaches and her disfigurement has left her embarrassed and humiliated.