



# Case Studies of Transportation Issues

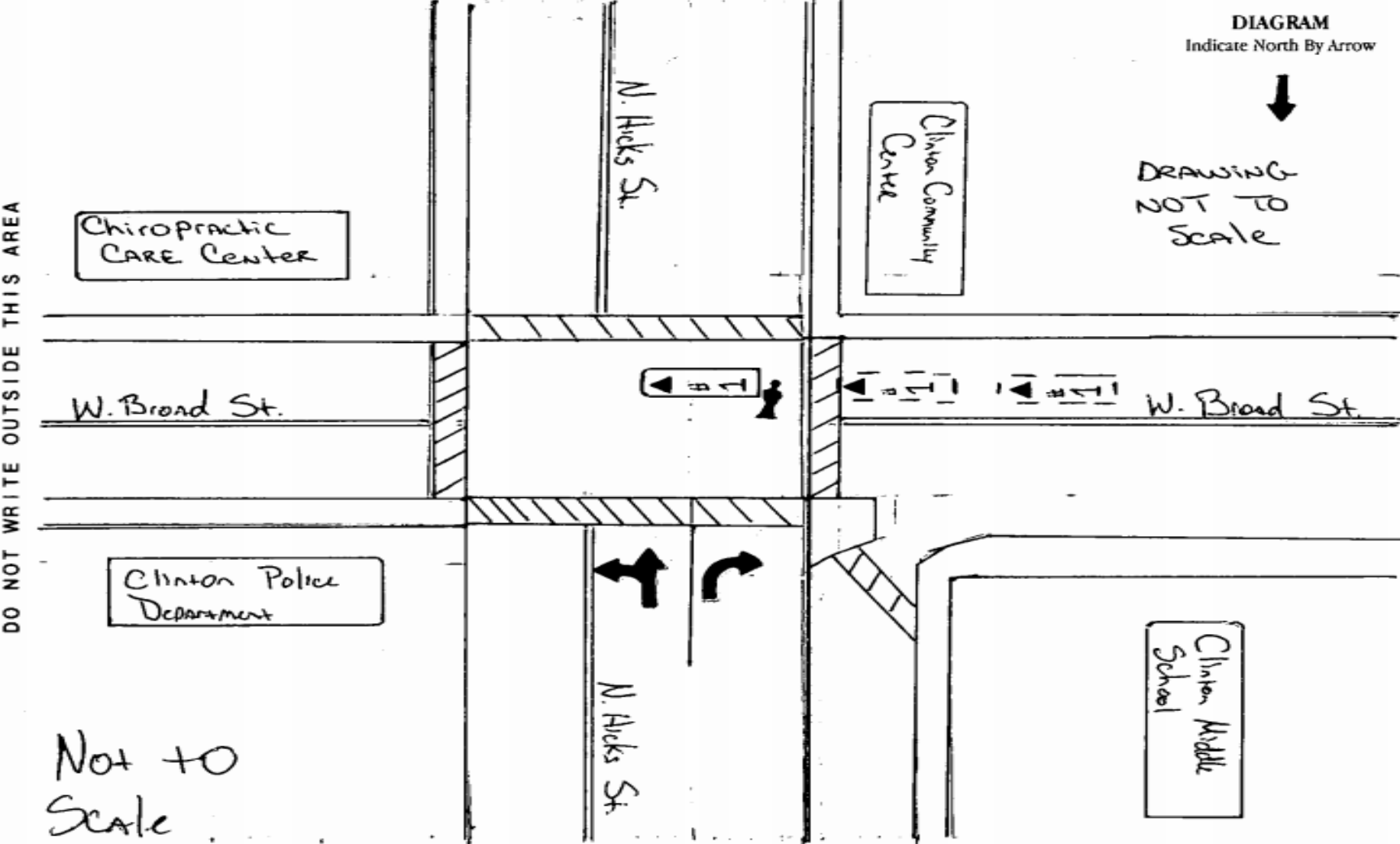
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July 29, 2021

# Russell v. Anderson County, et al.

- Three children were attending a basketball game at Clinton Middle School and left to retrieve a video game from a vehicle parked several blocks away.
- The accident occurred at the intersection of West Broad Street and North Hicks Street in downtown Clinton at approximately 7:00 p.m. during the wintertime.

# Russell v. Anderson County, et al.



# Russell v. Anderson County, et al.

The child's parents filed a wrongful death suit against:

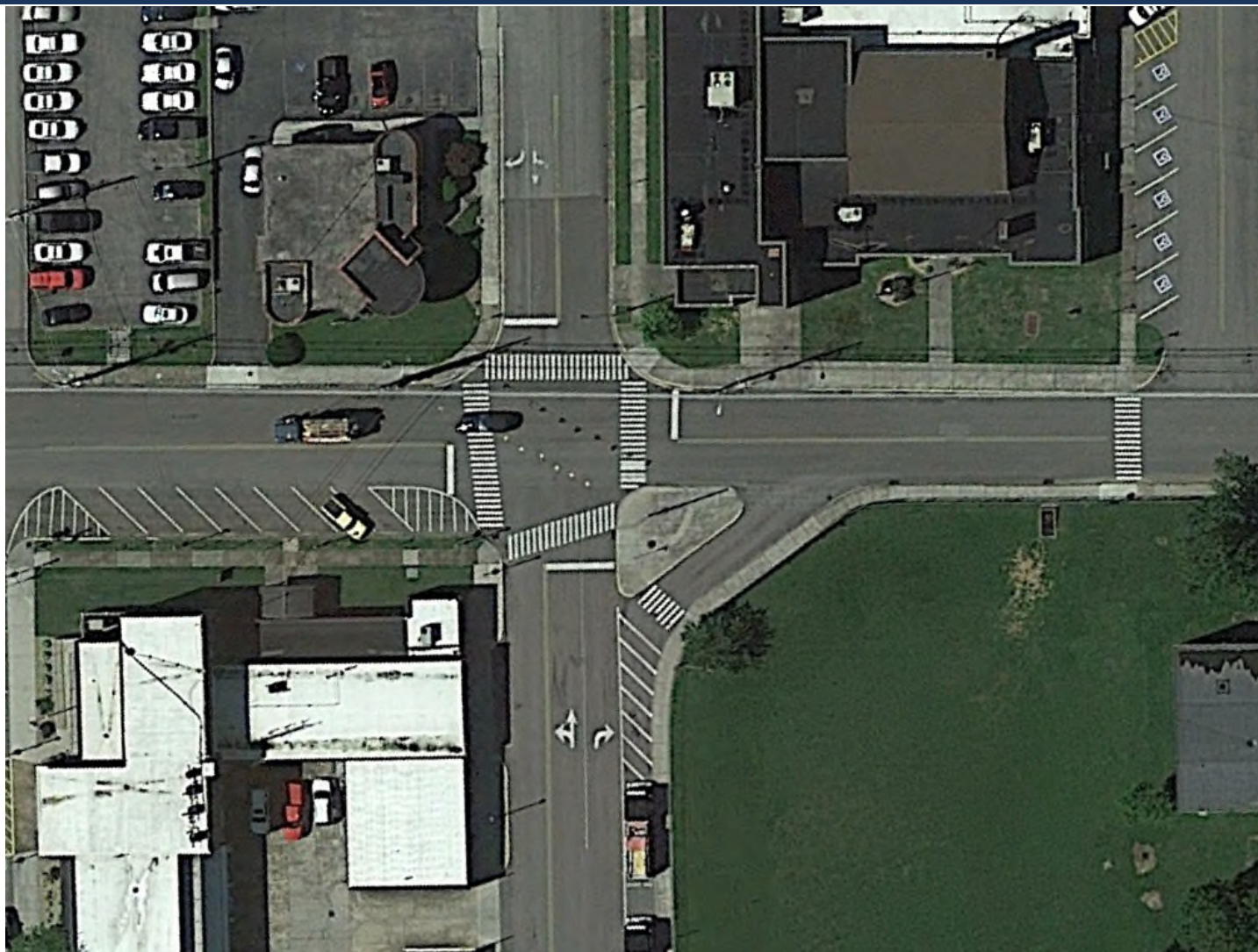
Anderson County;  
Anderson County Schools;  
Anderson Board of Education;  
City of Clinton;  
Clinton Utilities Board; and  
Driver of the pickup truck.

# Russell v. Anderson County, et al.

## Evidence

- The intersection is at a signalized location.
- A school board member had requested the installation of pedestrian signals at the intersection several years prior to the incident.
- The City provided a crossing guard for safety purposes at the intersection during morning and afternoon school hours.
- Prior to this accident, there were no other pedestrian-vehicle accidents at this intersection.

# Russell v. Anderson County, et al.





# Russell v. Anderson County, et al.



# Russell v. Anderson County, et al.

## Evidence

*Q. When you went into the intersection could you still see the boys on the island?*

*A. No, I didn't because I wasn't paying attention to them. I was paying attention to the traffic.*

*Q. When you saw the boys standing on the island, how long did you see them?*

*A. As long as it took to travel the two, three blocks.*



# Russell v. Anderson County, et al.

## Evidence

*Q. Could you see what they were doing?*

*A. They were standing on the island.*

*Q. Well, did you see them standing there when you pulled up to the red light?*

*A. No, I didn't look over at them. I was paying attention to where I was going.*

# Russell v. Anderson County, et al.

## Evidence

- The 2000 version of the Manual on Uniform Traffic Control Devices (MUTCD) was applicable to the case.
- Section 4E.03 (Application of Pedestrian Signal Heads Standard) stated that pedestrian signal heads **shall** be used in conjunction with vehicular traffic control signals **at an established school crossing at any signalized location.**

# Russell v. Anderson County, et al.

## Evidence

Plaintiffs: The provisions of the MUTCD were clear that the City was required to have installed pedestrian signals at the intersection.

# Russell v. Anderson County, et al.

## Evidence

City:

(1) the intersection was not an established school crossing at the time of the accident - 7:00 p.m;

(2) the MUTCD only required pedestrian head signals during the times that children were entering and exiting during the school day; and

(3) pedestrian head signals were not required at the intersection at any other time or on the weekend or when school was not in session.

# **Russell v. Anderson County, et al.**

**BASED UPON THE EVIDENCE,  
HOW DO YOU THINK THE TRIAL COURT RULED?**

**IN FAVOR OF  
THE PLAINTIFFS OR  
THE DEFENDANT, CITY OF CLINTON?**

# Russell v. Anderson County, et al.

## Ruling:

**The City was negligent** in failing to install pedestrian head signals at the intersection as required by Section 4E.03 of the MUTCD.



# Russell v. Anderson County, et al.

However,  
the trial court found that the **mother of the  
deceased child was also negligent.**

## Russell v. Anderson County, et al.

The court assessed **50% fault to the Plaintiffs** and **50% fault to the City of Clinton** which barred the Plaintiffs from recovering any damages.

## Russell v. Anderson County, et al.

The court altered its judgment to provide that the **mother's negligence did not bar recovery** but that the damages would be reduced by the fault (50%) assigned to her.

# Russell v. Anderson County, et al.

**First Appeal:** The Court of Appeals held that the trial court committed error in not attributing fault to the truck driver and remanded the case.

## **Trial court then reallocated fault:**

10% to truck driver

45% to the mother

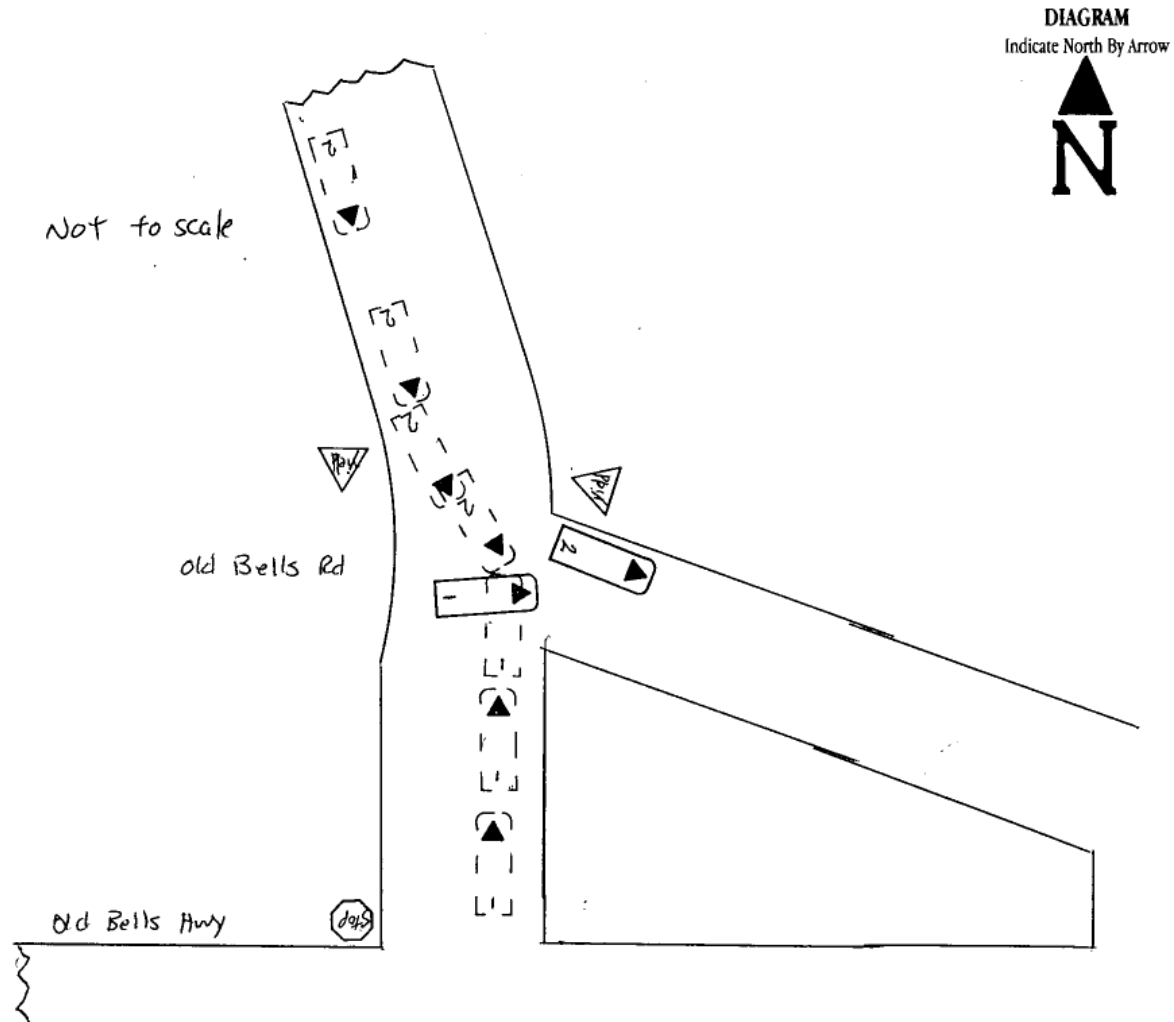
45% to the City of Clinton

# Russell v. Anderson County, et al.

## Second Appeal:

**The Court of Appeals affirmed the judgment.**

# Zamek v. O'Donnell, et al.





# Zamek v. O'Donnell, et al.



# Zamek v. O'Donnell, et al.





# Zamek v. O'Donnell, et al.





# Zamek v. O'Donnell, et al.



# Zamek v. O'Donnell, et al.

Plaintiffs filed suit against 18-year-old Mr. O'Donnell, his parents and Madison County alleging that the intersection and spur road were dangerous conditions.

# Zamek v. O'Donnell, et al.

## Evidence

- TDOT built the intersection and spur road as part of a construction project for the new Bells Highway in 1988.
- The intersection and spur met all TDOT specifications when it turned the intersection over to Madison County in 1991 and TDOT had received no complaints about this roadway when it had control of the road.
- The County had no record of any complaints about the intersection or the spur road.
- Signs at the intersection were in place on the day of the accident and there was no vegetation overgrowth.



# Zamek v. O'Donnell, et al.

## Evidence

Plaintiffs' expert:

- (1) the intersection was confusing and negligently designed;
- (2) use of a yield sign for traffic turning left was dangerous;
- (3) weak centerline striping confused motorists; and
- (4) the spur road should have been eliminated.

# Zamek v. O'Donnell, et al.

**BASED UPON THE EVIDENCE,  
HOW DO YOU THINK THE TRIAL COURT RULED?**

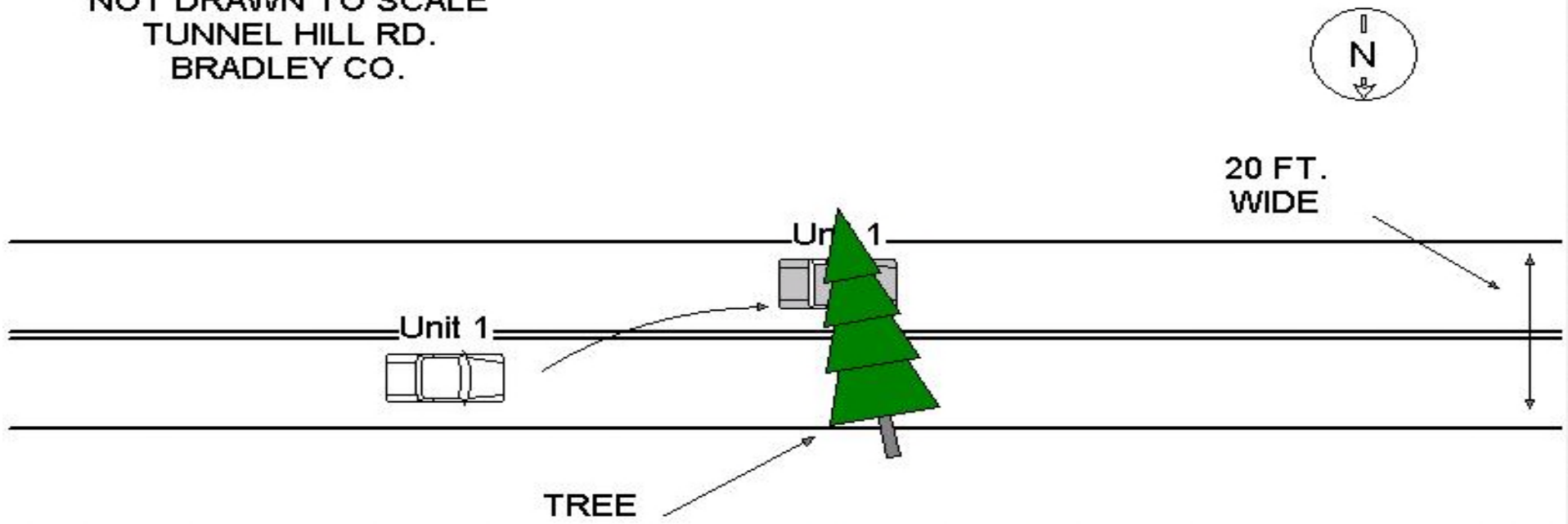
**IN FAVOR OF  
THE PLAINTIFFS OR MADISON COUNTY?**

# Zamek v. O'Donnell, et al.

The trial court **dismissed** Madison County from the case and the Court of Appeals **affirmed** the judgment.

# Graham v. Bradley County, Tennessee

NOT DRAWN TO SCALE  
TUNNEL HILL RD.  
BRADLEY CO.



## Narrative

VEHICLE ONE WAS TRAVELING WEST IN THE 3300 BLOCK OF TUNNEL HILL ROAD WHEN A TREE FELL ACROSS THE TOP OF THE VEHICLE. THE TREE WAS BROKEN OFF ABOUT HALF WAY UP DUE TO STRONG WINDS FROM THE STORM. THE TREE CRUSHED THE TOP OF THE CAR, PINNING THE OCCUPANTS INSIDE THE CAR. BOTH OCCUPANTS HAD TO BE EXTRICATED FROM THE VEHICLE AND WERE TRANSPORTED TO ERLANGER MEDICAL CENTER FOR TREATMENT. PHOTOS WERE TAKEN BY BRADLEY CO. RESCUE SQUAD.

# Graham v. Bradley County, Tennessee

## Evidence

- Bradley County was responsible for maintaining the roadway and would remove hazards that were above the road even if on private property.
- Approximately 15 years prior to the accident, the tree had been damaged such that it had begun decaying and had lost about 85% of its strength at the time of the accident. However, the tree still had green foliage.
- While the tree was behind a fence line, it was only approximately 15 feet from the roadway and tree limbs extended well over the roadway.

# Graham v. Bradley County, Tennessee

## Evidence

- Bradley County employees had likely passed by the tree as they responded to complaints or performed general maintenance.
- Bradley County did not have the budget or manpower to inspect each tree and ascertain the condition of a particular tree.
- There were no prior complaints about this tree.
- There had been a severe storm earlier on the day of the accident and Bradley County had received about 10 reports concerning trees/tree limbs that had fallen on County roads because of the storm.

# Graham v. Bradley County, Tennessee

## Evidence

- Plaintiffs presented testimony from an arborist who had also worked for the Electric Power Board of Chattanooga.
- He stated that the tree exhibited evidence of having been trimmed and, since the property owner testified that he had never trimmed the tree, the only conclusion was that Bradley County employees had trimmed the tree.
- The arborist testified that anyone cutting the limbs on the tree would have seen the tree's defects and, if using reasonable care, would have conducted further investigation as to the tree's condition.



# Graham v. Bradley County, Tennessee





# Graham v. Bradley County, Tennessee



# Graham v. Bradley County, Tennessee

**BASED UPON THE EVIDENCE,  
DO YOU THINK THE COURT FOUND IN FAVOR OF  
THE PLAINTIFFS OR BRADLEY COUNTY?**

# Graham v. Bradley County, Tennessee

The trial court **dismissed** Bradley County from the case and the Court of Appeals **affirmed** the judgment.

# Bolton v. State of Tennessee

- Accident occurring at the intersection of Highway 11 (State Route 2) and Shaw Ferry Road in Loudon County.
- Plaintiff and her husband sustained serious injuries.
- Plaintiffs sued the State alleging that the intersection was a dangerous condition, the State should have installed signals or safety devices and that it negligently designed and maintained the roadway.



# Bolton v. State of Tennessee



# Bolton v. State of Tennessee



# Bolton v. State of Tennessee

## Evidence

- Plaintiff stopped at a stop sign on Shaw Ferry Road and proceeded across Highway 11 when she was rear-ended.
- The intersection of Highway 11 was constructed in 1924 and had not been redesigned or reconstructed since that time.
- TDOT's Region 1 Traffic Engineer at the time conducted a study of the intersection the year before the accident at the request of Loudon County.
- Study determined that the intersection had limited sight distance.

# Bolton v. State of Tennessee

## Evidence

- As a result of the study, TDOT cut back trees/brush at the intersection and installed crossroad signs, a 40 mph advisory speed plate and stop bars for Shaw Ferry Road.
- TDOT's Traffic Engineer also discussed with TDOT and Loudon County about installing a flashing beacon at the intersection.
- Loudon County would have been responsible for installing any traffic control device.
- Federal funds were available for the installation of traffic control devices.



# Bolton v. State of Tennessee



# Bolton v. State of Tennessee

The State filed a motion to be dismissed from the case.

**DID THE TRIAL COURT RULE IN FAVOR OF THE STATE OF TENNESSEE?**

# Bolton v. State of Tennessee

The trial court **denied** the State's motion.

# Bolton v. State of Tennessee

On appeal, the Court of Appeals reversed the trial court's decision as it related to the installation of a traffic signal and granted judgment, on that claim, to the State.

However, the Court of Appeals upheld the trial court's ruling as to the claim of a dangerous condition at the intersection and the State remained in the case.



# Bolton v. State of Tennessee





**Thank you**