



And The Defense Wins

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DRI member [Stacy L. Moon](#), a shareholder with **Fees & Burgess, P.C.**, in Huntsville, Alabama, teamed with two colleagues recently to successfully defend a municipal employee in a rear-end collision, receiving summary judgment in the negligence and wantonness case. The plaintiff and defendant were traveling in the same direction on a major traffic artery, with the defendant immediately behind the plaintiff, when traffic in front of the plaintiff came to a stop in response to an accident further ahead of both vehicles. The plaintiff, who was driving a small sedan, was able to avoid a collision with the vehicle in front of her. The defendant, the municipal employee driving a heavier vehicle, was unable to avoid colliding with the plaintiff's vehicle. The plaintiff did not file suit against the municipality; she only named the employee/driver defendant in the matter.

Defense counsel moved the court for summary judgment because the plaintiff had no evidence that the defendant was negligent. Relying on the plaintiff's testimony that she did not see the defendant do anything unsafe, and relying on case law providing that a plaintiff must prove more than the fact of a collision (which was undisputed), the defendant argued that the plaintiff could not meet her burden of proof of either negligence or wantonness, in spite of the rarity of summary judgment in negligence cases. The plaintiff conceded that she could not prove wantonness, and the court granted summary judgment to the defendant on the negligence claim. The plaintiff did not appeal.

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