

GloucesterTimes.com, Gloucester, MA

April 16, 2013

GPD pins Essex Avenue fatality on truck

By Richard Gaines
Staff Writer

---- — The Gloucester Police Department report on the May 31, 2012 crash that claimed the life of a local motorcyclist has pinned the cause of the crash was the fact that a Dumpster truck “was in the breakdown lane” of Essex Avenue just as a UPS delivery truck was entering from a side street.

According to the city police report, the the position of the Dumpster truck prevented rider Stephen Bennett from seeing the UPS truck, “and slammed into the side of the truck,” killing him.

The only Gloucester police citation for the fatal accident, which is the subject of lawsuit in U.S. District Court by Bennett’s family and estate, was a “marked lane violation” written against Barbara Cox, the driver of the Coxco Dumpster.

Efforts Monday to reach Cox, of 7 Diamond Ave., were unsuccessful. Cox and her insurance carrier, Arbella, declined comment when reached in January for a previous story.

The Gloucester Police report stands in conflict with the report on the accident by the Massachusetts State Police reconstruction team and released in December by the Office of Essex County District Attorney Jonathan Blodgett. That report concluded that Bennett was solely responsible for the collision that killed him, even though it also noted that Cox had been cited by the Gloucester Police for a “lane violation.”

Attorney Joseph Orlando, representing the Bennetts, provided the Times with a copy of the Gloucester Police report written by Patrolman William Cahill, who responded to the accident with two colleagues.

In his handwritten “Motor Vehicle Crash Police Report,” Cahill included made a diagram of the accident that put the Coxco truck entirely in the breakdown lane as it prepared and executed a right turn off Essex Avenue onto Fernwood Lake Avenue just as the UPS truck was preparing and crossing the single eastbound lane of Essex Avenue (Route 133) to turn left and westbound.

UPS has made what Orlando has described as generous and satisfactory settlement with the Bennett family for its driver’s role in the crash. Stephen Bennett’s wife Tammy, driving an SUV, was trailing Stephen’s cycle with Hunter, 12, the youngest of their four children next to her at the time of the accident, about one quarter mile from their home in the Heights of Cape Ann.

Orlando said he has filed a federal suit against Coxco for negligence and wrongful death.

“We hope to recover,” said Orlando, “but it goes way beyond that. It goes to clearing the name and reputation of Stephen Bennett.

“The world might not care,” Orlando said, “but his family does.”

Orlando said he was outraged that the state police collision reconstruction report of the crash concluded that Stephen Bennett was responsible for his own death, even though the report released by the DA’s office noted the citation against Cox by the Gloucester Police.

The key distinction between the Gloucester police report and the state police collision reconstruction report of the incident involves whether the Coxco truck was entirely in the breakdown lane, as the Gloucester police report asserted, or only partially in the breakdown lane, as the state police report indicates.

The state police report quoted from the state law requiring that, on a divided two-lane road “the operators of motorcycles ... shall ride single file when passing and shall not pass any other motor vehicle within the same lane, except another motorcycle.”

The state police report held that the Coxco truck was partially in the travel lane and partially in the breakdown lane. But Officer Cahill’s “formal” report of the incident, typed from his handwritten “Motor Vehicle Crash Report”

“Therefore the (UPS) truck driver in this scenario had no expectation of a motorcycle passing (the preceding) truck within the same lane on a two lane roadway separated by a double yellow center lane which defined an area as a no passing zone,” the state police report indicated. “The cause of this collision and the resultant fatal injuries suffered by Stephen Bennett was his illegal passing of the (preceding) truck that obscured his vision of the roadway ahead on Route 133 while in the eastbound travel lane.”

“Witness statements reveal that Mr. Bennett did in fact pass the (preceding) truck in violation of Massachusetts General Laws linking a chain of events that resulted in his fatal injuries,” that report said..

Bennett was 43, and employed at Ophir Optics LLC of North Andover, a major manufacturer of precision infrared optical components.

The Bennetts moved to Gloucester from Illinois in 2001 after Gloucester Engineering hired Stephen, who had posted his resume on Monster.com.

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