

November 2023

RAZOR
eNewsletter FROM



**O'Connor
Carnathan &
Mack**

GIVING OUR CLIENTS AN EDGE



Insurer's Low Settlement Offer Not Unreasonable In Case Where Plaintiff Later Obtained Much Larger Jury Verdict

Plaintiff Erika McDade's ("McDade") vehicle struck the rear side of another vehicle when it turned across McDade's lane of travel. Defendant Safety Insurance Company ("Safety") insured the other driver. McDade was treated for neck and back pain and requested that Safety pay \$130,000 to compensate her for her injuries. In response, Safety offered to pay McDade \$15,000. After trial on the underlying tort claim, a jury found in favor of McDade and awarded her damages of \$225,000, fifteen times the amount of Safety's settlement offer.

McDade sued Safety under G.L. c. 93A and c. 176D, alleging that Safety failed to offer her a reasonable settlement. Following a bench trial, the Superior Court decided in favor of Safety, and the Massachusetts Appeals Court affirmed.

The Appeals Court held that Safety's offer of \$15,000 was a reasonable assessment of McDade's damages because, at the time, her medical bills were less than \$12,000, she had returned to a rigorous job as a nurse shortly after the accident, and there was evidence that her soft-tissue injuries were likely not permanent. In addition, Safety had a basis to believe that McDade was partly at fault for the accident, although the jury later found she was not comparatively negligent. The court explained that "[e]ven a serious undervaluation of a claim may not render an insurer liable without evidence that the insurer acted deliberately to derail the settlement process."

This case is a reminder that, in making out a claim under G.L. c. 176D and c. 93A, it is not sufficient to rely on a large disparity between an insurer's initial settlement offer and an eventual jury verdict in plaintiff's favor.

About OCM

OCM is boutique litigation firm based in Burlington, Massachusetts, whose clients include Fortune 500 companies as well as closely held businesses and astute individuals. OCM's attorneys help their clients not only resolve disputes but also avoid them altogether. Whether you are facing a courtroom battle, arbitration, mediation, or negotiation, OCM can help.





[View Our Website](#)

[Unsubscribe](#)

OCM Law 10 Burlington Mall Road Suite 301 Burlington, Massachusetts 01803 United States (781) 359-9000