



dbi DAILY BUSINESS REVIEW

OFFICIAL COURT NEWSPAPER OF SOUTH FLORIDA

DailyBusinessReview.com

An ALM Publication VOL. 91, NO. 170 \$2.00

Injured Drivers Sue Florida DOT Over Express Lane Dividers

by Celia Ampel

Two motorcyclists are suing the Florida Department of Transportation, alleging the department's poor maintenance of the plastic express lane separators on Interstate 95 encourages dangerous driving.

The lawsuits, filed by Coral Gables firm Colson Hicks Eidson, claim Cynthia Fleischmann and Catherine Milagros Perez Garcia suffered devastating injuries after a driver crossed through a gap in the orange poles into the express lanes, hitting the two women.

Fleischmann had to have her right leg amputated above the knee because of the crash near the Northwest 103rd Street exit, according to her lawsuit, while her companion had a less severe leg injury. Plaintiffs lawyers estimate the total damages for the motorcyclists, both in their 30s, to be in the millions of dollars.

The women are suing the car's driver and owner, along with FDOT and DBi Services, an infrastructure maintenance contractor that works on I-95. Those responsible for maintaining the poles should know that any gap will inspire

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drivers sitting in traffic to cross over into the fast-moving express lanes, according to plaintiffs attorneys Lewis "Mike" Eidson, Susan Carlson and Ervin Gonzalez of Colson Hicks.

"DBi and FDOT failed to properly maintain, repair and replace the delineator poles which separated the general-purpose lanes from the express lanes, creating large gaps which invited drivers to 'lane dive,'" according to the negligence lawsuits filed Feb. 3 in Miami-Dade Circuit Court.

Lane diving on I-95 has long been a source of consternation for South Florida drivers and FDOT itself. Records show Miami-Dade County has seen 12,000 crashes in the express lanes in

the last three years, Eidson said. It's not clear how many of those were caused by lane-diving, but drivers can be seen weaving through the poles every day, he said.

"They do it all the time, and when they do it, it creates an unreasonable risk of danger because you have one car going at a very low rate of speed and one going 65 to 70 mph," Eidson said.

Drivers also know they're unlikely to be face punishment, the attorney said: Police officers don't often ticket lane-divers because the shoulder is too narrow to safely pull them over.

FDOT announced in September that it would be installing less flimsy poles, a year after WLRN reported the department spent more than \$1 million every year replacing the delineators. The average pole needs to be replaced six to eight times a year, according to WLRN.

A spokesperson for FDOT declined to comment. DBi Services did not respond to a media inquiry.

Eidson has been involved in many high-profile automotive product liability cases, including leadership roles in a Toyota sudden acceleration case that resulted in a \$1.2 billion settlement and Firestone defective tire litigation. He said part of his hope in bringing the case is to create a safer I-95, whether that means creating a sturdier concrete barrier or removing the delineators altogether.

"You can have express lanes without having those poles," he said. "There are other solutions to prevent what happened to my client. We want to bring this to the attention of the government so they can make this safer, in addition to compensating our client."

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