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\$20M awarded to Mahopac crash victim for state negligence

July 30, 2012 by KEN SCHACHTER / kenneth.schachter@cablevision.com



A Mahopac man whose arm was crushed in a collision five years ago on an icy patch of Route 6 in the Town of Somers has been awarded \$20.2 million because the state Department of Transportation failed to maintain the road.

The award is one of the largest ever ordered by the court that hears liability cases against the state.

[New York](#) State Court of Claims Judge Stephen Mignano still must render a final judgment on how the money will be distributed in lump sums and [annuities](#), said Robyn Brazzil of Block, O'Toole & Murphy, the [New York](#) City firm that represented driver Slim Zouaoui, who was 32 at the time of the 2007 accident.

The \$20.2 million award, ordered Wednesday after a nearly three-week civil trial before Mignano, included sums for past and future medical care, past and future loss of earnings, and past and future pain and suffering.

Zouaoui, described as an IT prodigy, competitive pool player and guitarist, was treated at Westchester Medical Center in Valhalla and underwent almost 30 operations, but he was left with little function in his left arm, according to his lawyers.

Calls on Monday to the Department of Transportation and to the state attorney general's office, which defended the case, were not immediately returned. It was unclear whether the state would file an appeal.

The award stems from an accident on March 11, 2007, when Zouaoui was driving a 2003 [Volkswagen Passat](#) eastbound near the intersection with Windsor Road about 11 p.m. Zouaoui's car collided with a westbound vehicle. The driver of that car was not seriously injured.

Mignano ruled that the DOT knew that snow melting on that [stretch](#) of road failed to flow into a nearby creek because it was restricted by dirt and vegetation.

A DOT highway maintenance supervisor testified that the roadway was a "hot spot" and that black ice had been a problem for two to three weeks before the accident, but that crews typically did not work on it during weekends.

"The record demonstrates overwhelming proof that this area of Route 6 was subject to recurrent hazardous icing in late February-early March 2007 resulting from a disruption of the highway's normal drainage," Mignano wrote in his decision.

He said the DOT was aware of the problem and failed to post warnings advising of the condition. Further, he said, the only reason DOT crews were not trying to clear the drainage that day was because it was a Sunday, "something that does not constitute a defense."

Brazzil said that based on a search of awards from the New York State Court of Claims, the \$20.2 million was second only to a 2004 \$42 million award involving a child in a traffic accident.

Efforts to reach Zouaoui, who worked at a [payment](#) processing company, were unsuccessful. Brazzil said her client did not want to be contacted or have his whereabouts known.