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SUMMARIES WITH TRIAL ANALYSIS

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A monthly review of Pennsylvania State and Federal Civil Jury Verdicts with professional analysis and commentary.

The Pennsylvania cases summarized in detail herein are obtained from an ongoing monthly survey of the State and Federal courts in the State of Pennsylvania.

VERDICTS BY CATEGORY

Summaries with Trial Analysis

$4,464,565 VERDICT – MOTOR VEHICLE NEGLIGENCE – REAR END COLLISION – ALLEGED NEGLIGENT ENTRUSTMENT OF VEHICLE TO DRIVER WITH SUSPENDED LICENSE – COMPLEX REGIONAL PAIN SYNDROME – CERVICAL DISC HERNIATIONS WITH FUSION – LUMBAR DISC HERNIATION – EMOTIONAL INJURIES – DAMAGES/ CAUSATION ONLY.

Montgomery County, PA

This action arose in December of 2005 when the plaintiff's vehicle was struck from behind by a van driven by the defendant driver and owned by his employer, the defendant Norristown Ford. The plaintiff alleged that Norristown Ford negligently entrusted its vehicle to the defendant driver who was driving without a driver's license at the time of the impact. The plaintiff sought both compensatory and punitive damages. The defendants stipulated to the driver's negligence in striking the back of the plaintiff's car. The defense denied that punitive damages were appropriate and maintained that Norristown Ford made reasonable yearly inquiries into the drivers' license status of its employees.

The plaintiff testified that she was driving on DeKalb Pike near its intersection with Swede Road in Whitpain, Pennsylvania, when her car was impacted from behind by the defendant's Ford E-150 van. The plaintiff testified that her vehicle was pushed into the intersection as a result of the impact. The plaintiff was airlifted to the hospital from the scene and both vehicles were deemed to be a total loss as a result of the damages sustained.

Evidence showed that the defendant driver's driving license had been suspended in both Pennsylvania and New Jersey at the time of the accident. The plaintiff contended that the defendant Norristown Ford was negligent in failing to ascertain the license suspension and in failing to follow-up on a question which was left blank on the defendant driver's employment application. The question which was left blank asked: "Has your driver's license ever been suspended in any state?" The plaintiff argued that, at the time of hire, the defendant driver had a suspended Pennsylvania license and a valid New Jersey license. The plaintiff contended that the defendant driver failed to disclose his past history which included a prior suspension of his New Jersey license, as well as the suspension of his Pennsylvania license.

The plaintiff was diagnosed with herniated discs in her cervical spine and a lumbar disc herniation, which her physicians causally related to the subject collision. The plaintiff underwent a cervical fusion and complained of continuing pain radiating from her lumbar spine into her lower extremity. The plaintiff's doctors testified that the plaintiff also developed debilitating and painful complex regional pain syndrome as a result of the injuries she sustained in the accident.

The plaintiff's medical experts opined that the plaintiff exhibited symptoms of complex regional pain syndrome, including radicular pain and burning in her right arm, almost immediately after the accident. However, the plaintiff's doctors testified that the diagnosis of regional pain syndrome was delayed until some three years post-accident because the plaintiff's symptoms were masked by the symptoms caused by her cervical disc herniation. The plaintiff testified that she has virtually lost the use of her dominant right arm.

The plaintiff's psychiatrist testified that the plaintiff also suffered from major depression and post-traumatic stress disorder as a result of the accident and related injuries. The plaintiff's psychiatrist opined that the plaintiff was disabled psychiatrically as well as physically.

The plaintiff returned to her employment as a real estate salesperson approximately four months after the accident and worked for some three years. She testified that she was ultimately forced to resign as a result of her accident-related injuries. The plaintiff was in her 40s at the time of the collision. Her past medical expenses were stipulated to be $168,103. A full tort insurance threshold applied.

The defendant driver contended that he looked down momentarily when one of his documents dropped to the floor of his vehicle and his vehicle struck the back of the plaintiff's car. The defendant driver argued that he was unaware that his driver's license had been suspended approximately six weeks before the subject accident for failure to respond to a traffic ticket. The defendant driver contended that he had moved from his prior address and did not receive notice of the suspension.

The defendant Norristown Ford argued that it had no knowledge that the defendant driver's license had been suspended and that it acted reasonably in checking the drivers' license of its employees on a

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Founder
Ira J. Zarin, Esq.

Editor in Chief
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Customer Services
Meredith Whelan
meredithw@jvra.com

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Web Development & Technology
Juris Design
www.jurisdesign.com

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yearly basis. Norristown Ford contended that the defendant driver had been found to be properly licensed in the two prior yearly checks before the subject collision. The defense also argued that the license suspension was completely unrelated to the defendant driver's admitted negligence in striking the back of the plaintiff's car.

On damages, the defendant argued that the plaintiff's complex regional pain syndrome symptoms did not manifest until some three years post-accident. The defendant's neurologist opined that the plaintiff's complex regional pain syndrome was not causally related to the collision because, if it were related, it would have manifested soon after the collision.

The defendant's psychiatrist testified that, while the plaintiff might benefit from anti-depressant medication, she did not believe that the plaintiff's psychological issues were related to the accident. The defendant's psychiatrist also opined that the plaintiff was an exaggerator and that she suspected motives of secondary gain.

The jury awarded the plaintiff $4,464,565 in compensatory damages and declined to award punitive damages. The defendant's post-trial motions are currently pending. The plaintiff has filed a motion for delay damages, seeking an additional $507,000.

REFERENCE

Plaintiff's economic expert: David Crawford from Philadelphia, PA. Plaintiff's life care expert: Mona Yudkoff from Bala Cynwyd, PA. Plaintiff's neurology expert: Robert Knobler from Fort Washington, PA. Plaintiff's neuroradiology expert: Michael Brooks from Darby, PA. Plaintiff's orthopedic surgery expert: Mark Manzione from Huntingdon Valley, PA. Plaintiff's psychiatric expert: Wolfram Rieger from Philadelphia, PA. Plaintiff's vocational expert: Richard Baine from Blue Bell, PA. Defendant's neurology expert: Lawrence Kerson from Norristown, PA. Defendant's psychiatric expert: Gladys Fenichel from Ardmore, PA.

Tarca vs. Norristown Ford. Case no. 2007-25935; Judge Gary Silow, 05-31-11.

Attorneys for plaintiff: Joseph Mayers, John A. Anastasia, and Christina Herrmann of Mayers, Mennies & Sherr in Blue Bell, PA. Attorney for defendant Norristown Ford: Frederick B. Buck of Rawle & Henderson in Philadelphia, PA. Attorney for defendant driver: Elizabeth F. Walker of Kennedy, Campbell, Lipsky & Dochney in Philadelphia, PA.

COMMENTARY

One of the most unusual aspects of this rear end motor vehicle negligence case was the fact that the plaintiff's claim for punitive damages went to the jury. Several defense motions to dismiss the punitive damage count were unsuccessful. It was undisputed that the driver who struck the plaintiff's car from behind had his driving privileges suspended in both New Jersey and Pennsylvania at the time of the collision. Plaintiff's counsel sought to hold the driver's employer responsible for this omission, alleging that it failed to use reasonable precautions to detect the loss of license and failed to follow-up on an employment application which left blank a question regarding license suspension.

Both the defendant driver and employer were initially represented by the same counsel as it was undisputed that the driver was acting in the course and scope of his employment at the time of the accident. However, at trial, each defendant was separately represented. The jury ultimately rejected the plaintiff's claim for punitive damages and there was no question for apportionment of negligence as between the two defendants.

The other striking feature of the case was the debilitating nature of the plaintiff's injuries, primarily the complex regional pain syndrome. The plaintiff, who had immigrated to the United States from Romania, detailed the constant pain and burning sensations in her limbs and the excruciating hypersensitivity to so much as a mere touch. This was compared to the plaintiff's pre-accident status and her jubilation, just moments before the subject im-

pact, when she had told her son about her first real estate sale. During trial, the plaintiff called seven live experts and presented a total of 17 witnesses, including the plaintiff's son and daughter, a former boss and a former co-employee.
The defendant raised a significant causation defense which stressed evidence that the plaintiff's complex regional pain syndrome had not been diagnosed for some three years post-accident. However, plaintiff's counsel successfully negated the causation defense through expert medical testimony that the complex regional pain diagnosis was delayed because the plaintiff's symptoms had been masked by her cervical disc herniations.

While the defense stipulated to past medical expenses, there was a dispute over the causal relationship of $20,000 in additional past medical treatment for complex regional pain syndrome (Ketamine injections) which were not covered by the plaintiff's insurance. The jury awarded the plaintiff these damages as well. Ultimately, $714,251 of the $4,464,565 total damage award was slated for future loss of earnings with $1,329,413 in future pain and suffering and $1,898,778 in future medical expenses.

$287,000 COMBINED VERDICT – MOTOR VEHICLE NEGLIGENCE – LEFT TURN COLLISION – NEGLIGENT LEFT TURN FROM RIGHT LANE STRIKES SIDE OF PLAINTIFFS' VEHICLE – HERNIATED CERVICAL AND LUMBAR DISCS WITH RADICULOPATHY TO PLAINTIFF DRIVER – SPRAIN AND STRAIN AND DENTAL INJURIES TO PLAINTIFF PASSENGER – DAMAGES CAPPED AT $175,000 BY AGREEMENT.

Philadelphia County, PA

This action involved the personal injury claims of two plaintiffs who alleged that the defendant caused a collision by negligently attempting a left turn from the right lane of a two-lane roadway. The defendant denied negligence and maintained that the host driver caused the accident when he drove outside the designated travel lane and rode up the left side of the defendant's vehicle as the defendant was making a left turn. The plaintiff driver was uninsured and limited tort threshold was deemed to apply. A full tort insurance threshold applied to the plaintiff passenger.

The plaintiffs were occupying an older model pick-up truck and were traveling north on 7th Street in Philadelphia near its intersection with Spring Garden Street. The plaintiffs testified that the defendant was traveling in the same direction slightly behind their truck and struck the right side of their truck as he attempted to make a left turn from the right lane. The plaintiffs maintained that their truck was in the left of the two northbound lanes at the time of the collision.

The plaintiff read the deposition testimony of an eyewitness who was unavailable for trial. The witness testified that he was standing on the corner holding his bicycle when he observed the collision. He placed the defendant's vehicle in the right lane and testified that the defendant struck the plaintiff's truck as he made a left turn from the right lane. The plaintiff's pick-up truck was deemed a total loss and both plaintiffs were transported from the scene to the hospital by ambulance.

The plaintiff driver (limited tort) was diagnosed with herniated cervical and lumbar discs and lumbar radiculopathy which his family physician causally related to the accident. The plaintiff complained of ongoing, radiating back pain which limits his physical activities. The plaintiff testified that he has difficulty walking, is tired all the time and spends most of his time in and out of bed since the date of the accident. The plaintiff, who was in his mid-50s, was receiving social security disability benefits for a preexisting psychological condition at the time of the accident. No claim for economic damages was presented to the jury. The plaintiff passenger (full tort) claimed sprain and strain injuries, as well as broken teeth which occurred when his face struck the windshield on impact.

The defendant testified that he was driving in the left lane and was in the process of making a left turn onto Spring Garden Street when the plaintiff's truck drove up his left side and caused the impact. The defense maintained that the host driver was outside of the designated travel lanes when the collision occurred.

The defendant's radiologist testified that he reviewed the plaintiff driver's diagnostic studies and determined that the plaintiff driver did not sustain disc herniations as a result of the accident and that his condition was degenerative in nature. On cross-examination, it was elicited that this expert reviewed only test studies performed at the hospital and did not view subsequent radiologic studies which had been routinely destroyed. The defendant also called a dental expert who opined that the plaintiff passenger's dental treatment was necessitated by long-standing deterioration and not as a result of accident-related trauma.

The jury found the defendant 100% negligent. The jury also determined that the plaintiff driver sustained a serious impairment of body function as a result of the accident. The plaintiff driver was awarded $250,000 in damages and the plaintiff passenger was awarded $37,000, for a total combined award of $287,000. The parties agreed, prior to verdict, to cap damages at $100,000 for the plaintiff driver and $75,000 for the plaintiff passenger. The defendant's post-trial motion for new trial on damages is pending.

REFERENCE

Plaintiff's family medicine expert: Vincent Baldino from Philadelphia, PA.

Ector, et al. vs. King. Case no. 03-08-04788; Judge Eugene E. Maier, 05-12-11.

Attorney for plaintiff: Libro G. Taglianetti, Jr. in Philadelphia, PA. Attorney for defendant: Kevin R. McNulty of Gerolamo, McNulty, Divis & Lewbart, P.C. in Philadelphia, PA.

COMMENTARY

Plaintiff's counsel sought to paint the collision giving rise to this action as clearly the fault of the defendant and was successful, despite conflicting versions of the accident, in achieving a finding of 100% negligence against the defendant. In this regard, the plaintiff's case on liability was greatly assisted by an eyewitness whose name appeared on the police report and whose deposition testimony was read to the jury. This witness corroborated the plaintiffs' claim that the defendant made a left turn from the right lane and thus rendered the appearance of an accident reconstruction expert unnecessary.

The all-female jury was quite generous as to the plaintiff driver's $250,000 award. The defendant had a $100,000/$300,000 liability policy in place at the time of the collision and the plaintiff's counsel agreed to cap the damage award at $100,000 for the plaintiff driver and $75,000 for the plaintiff passenger. In exchange, the defendant agreed to preclude a medical expert who had issued a report for the defense of the case.

The jury assessed damages of only $37,000 to the plaintiff passenger. Plaintiff's counsel put forth in opening statements that the passenger had served time in jail for violation of probation in relation to a relatively minor drug charge. This fact, along with health problems suffered by plaintiff's counsel, explained the long delay in the case reaching trial in light of evidence that the accident occurred more than eight years ago.

The plaintiff passenger's presentation may also have been hampered by the fact that his treating dentist was in Iraq at the time of trial and was not available to testify. Thus, only lay testimony, that this plaintiff struck his face and sustained dental fractures in the collision, was available. The defense presented a dental expert who disputed causation of the dental injuries claimed by this plaintiff.

$8,500 VERDICT – MOTOR VEHICLE NEGLIGENCE – REAR END COLLISION – CERVICAL DISC BULGES – AGGRAVATION OF DEGENERATIVE DISC DISEASE – CERVICAL RADICULOPATHY – CERVICAL DISCECTOMY AND FUSION PERFORMED – DAMAGES/ CAUSATION ONLY.

Elk County, PA

The plaintiff was the driver of a Dodge Neon and was stopped for traffic when his vehicle was struck from behind by a 1987 Dodge Dakota pick-up truck operated by the defendant. The plaintiff claimed that the collision caused him permanent and debilitating neck injuries. The defendant admitted negligence in striking the back of the plaintiff's car. However, the defense maintained that the plaintiff's neck condition was unrelated to the accident.

The plaintiff was treated at the emergency room following the collision on April 8, 2004. Records showed that his complaints included neck pain, blurred vision, headaches and right arm pain. The plaintiff was subsequently diagnosed with bulging cervical discs, aggravation of preexisting cervical degenerative disc disease and cervical radiculopathy.

The plaintiff underwent an anterior cervical discectomy and fusion at the C5-C6, C6-C7 and C4-C5 levels. His medical experts causally related the plaintiff's cervical condition and necessity for surgery to the subject collision. The plaintiff testified that he had no significant neck pain before the date of the accident.

The plaintiff was 43 years old at the time of the accident. He was collecting social security disability benefits as a result of a prior low back injury. The plaintiff worked approximately 17 hours per month, taking inventory for an equipment company, at the time of the collision. He returned to his previous employment and did not make a claim for diminished future earning capacity.

The defendant's neurosurgeon opined that the plaintiff's cervical condition and the necessity for surgery were caused by his preexisting progressive degenerative disease, not the accident-related trauma he sustained. This expert testified that, at most, the plaintiff sustained temporary sprain and strain type injuries as a result of the impact. The defendant argued that, after the plaintiff's initial emergency room complaint of neck pain, he had multiple visits with his primary care physician over the next six months. The defendant argued that there were no further documented complaints of neck pain during that six-month period.

Some six months post-accident, the plaintiff complained of neck pain with radicular symptoms and was referred to physical therapy, according to defense arguments. Records showed that the plaintiff's physical therapy records indicate that the plaintiff advised the therapist that his symptoms began "about a month ago." The defense maintained that would have placed the start of the plaintiff's neck symptoms five to six months post-accident.

The jury found that the defendant's negligence was a factual cause of injury to the plaintiff and awarded the plaintiff $8,500 in damages.

REFERENCE

Plaintiff's neurosurgery expert: David R. Oliver-Smith from Pittsburgh, PA. Plaintiff's orthopedic surgery expert: David R. Kraus from Pittsburgh, PA. Defendant's neurosurgery expert: Howard Senter from Pittsburgh, PA.

Krieg vs. Bartges. Case no. no. 2006-00275; Judge Richard A. Masson, 04-27-11.

Attorney for defendant: Matthew B. Taladay of Hanak, Guido & Taladay in Dubois, PA.

COMMENTARY

The jury obviously did not accept the plaintiff's claim that his neck condition and multi-level cervical fusion surgery was causally related to the subject rear end collision. The defendant admitted liability, a full tort insurance threshold applied and the defendant's neurosurgeon opined that the plaintiff likely sustained a sprain/strain injury as a result of the accident. Accordingly, the jury was instructed that they were required to award the plaintiff some damages, but that the amount of damages was for it to determine.

The defense pointed to a gap of some six months in the plaintiff's medical record with no complaints of neck pain. In addition, a damaging notation in the plaintiff's physical therapy records seemed to indicate that the plaintiff's cervical symptoms began some five months after the subject collision. The plaintiff maintained that he did not make such a statement regarding when his neck symptoms began and that the physical therapy record was not accurate.

Evidence showed that the plaintiff was already limited to part-time employment due to a preexisting low back injury for which he was collecting social security disability payments at the time of the collision. However, the plaintiff's records did not indication prior neck complaints and he testified that he had no significant neck pain before the date of the accident.

There was an asserted Medicare lien of approximately $15,000, but medical expenses were not admitted at trial after the defense successfully argued that there was a lack of supporting medical testimony regarding their reasonableness and necessity. The defendant reportedly offered $25,000 of a $250,000 liability policy limit to settle the case prior to trial.

$510,000 RECOVERY – PRODUCT LIABILITY – DEFECTIVE DESIGN OF INDUSTRIAL CAN FILLER MACHINE – LACK OF INTERLOCK GUARD FOR POWER TAKE-OFF SHAFT – FRACTURES OF RIGHT HUMERUS, RADIUS, AND ULNA – SHOULDER IMPINGEMENT SYNDROME – MULTIPLE SURGERIES PERFORMED – PTSD.

U.S. District Court, Middle District of PA

The plaintiff was in the course and scope of his employment as a butcher when his jacket sleeve became snagged on the rotating power take off shaft of a can filler machine, causing multiple right arm fractures. The plaintiff alleged that the machine was defectively designed in that the defendant manufacturer failed to provide an interlock for the power take-off shaft guard so that the machine would not operate if the guard was removed. The plaintiff also alleged that the defendant seller of the used machine failed to ensure that the power take off guard was with the machine when it was sold to the plaintiff's employer and that the defendant distributor/service company failed to warn the plaintiff's employer that the machine was missing the power take off shaft guard. The defendants argued that the machine was originally provided with a fixed guard for the power take off shaft and that the guard could only be removed by trained and authorized personnel using specialized tools.

The defense contended that the parts manual provided notification to the plaintiff's employer that the power take off shaft guard was missing and that the employer was also warned by an electrical contractor that the equipment was dangerous without the power take off shaft guard. The defendants maintained that it was the responsibility of the plaintiff's employer, under OSHA regulations, to ensure that the equipment was properly safeguarded.

The plaintiff was a 33-year-old man at the time of the incident. In connection with his employer's interest in a canning company, his employer purchased the used can filler machine in "as is" condition. The power take off shaft of the machine was designed and manufactured with a four-sided fixed guard that completely covered all sides of the power take off shaft and required special tools to remove.

It was factually disputed as to whether the power take off shaft guard was provided with the equipment when it was shipped to the plaintiff's employer. The defendant seller claimed that the shaft guard was, in fact, with the equipment when it was loaded onto a flatbed trailer destined for the facility of the plaintiff's employer. The plaintiff's employer maintained that it did not receive any guard for the power take off shaft when it purchased the machine. The plaintiff's employer also contended that, at no time, was it advised that the power take off shaft guard was missing.

The plaintiff contended that, on the morning of the accident, he was standing between the filling and canning machines and was loading stacks of lids into the canning machine. The plaintiff claimed that he was asked by his supervisor to hand him a tool. As the plaintiff reached over and between the two machines, he claimed that his jacket got caught on the rotating power take off shaft, pulling his arm in to the can filler machine. The plaintiff alleged that, if the power take off shaft guard had been in place, the plaintiff's injuries would have been prevented.

The plaintiff was diagnosed with multiple fractures of the right humerus, radius and ulna bones. He underwent open reduction and internal fixation of his forearm bones and humerus. He also required plastic surgery to revise the wound. In addition, the plaintiff claimed shoulder impingement syndrome and post-traumatic stress disorder as a result of the incident. The plaintiff claimed past medical expenses of $98,412 and past loss of wages in the amount of $21,567. His wife also asserted a claim for loss of consortium.

The defendants argued that the machine was provided to the plaintiff's employer with all of its parts including the power take off guard and that the plaintiff's employer lost, misplaced or failed to install the guard prior to the plaintiff's injury. The defendants also argued that, to the extent that the power take off shaft guard was not provided when the equipment was resold, the manufacturer's parts manual provided notification to the plaintiff's employer of all original parts that were provided with the machine, including the power take off guard.

Additionally, the defense argued that an electrical contractor, consulted by the plaintiff's employer to assist in setting up the filler machine, warned the plaintiff's employer prior to the plaintiff's injury that the power take off shaft guard was missing and that the machine was dangerous without this safety device. The defendants also contended that the plaintiff's fractures had healed and he had only missed four months of work after the accident. The defendants denied that the plaintiff sustained post-traumatic stress disorder as alleged. The defendant's psychiatrist opined that the plaintiff's personality was predisposed to anxiety and depression.

The case was settled prior to trial for a total of $510,000.

REFERENCE

Plaintiff's mechanical engineering expert: Bartley J. Eckhardt from Lancaster, PA. Plaintiff's orthopedic surgery expert: Charles M. Davis from Hershey, PA. Plaintiff's orthopedic surgery (shoulder) expert: April Armstrong from Hershey, PA. Plaintiff's plastic surgery expert: Thimothy Johnson from Hershey, PA. Plaintiff's psychology expert: Arnold T. Shienvoid from Harrisburg, PA. Plaintiff's vocational expert: John Risser from Elizabethtown, PA.

Gonzalez vs. Defendants. Case no. 1:09-CV-01455-CCC; Judge Christopher C. Conner, 05-18-11.

Attorney for plaintiff: Richard M. Jurewicz of Galfand Berger LLP in Philadelphia, PA.

COMMENTARY

While arguably industry standards do not require the fixed guard for the power take off shaft of the machine in question to be interlocked, plaintiff's counsel was able to show that there were access panels and doors on the machine that did have limit switches to prevent the machine from running in the event the access doors were open or removed. Also, the product literature, provided by the limit switch manufacturer to the defendant manufacturer of the can filler machine, noted that its limit switches had application for fixed guards as well. Plaintiff's counsel was also able to establish that safety literature recommended interlocking or providing limit switches for the guards. This evidence may have served as the foundation for the plaintiff to establish a design defect of the filler machine.

In addition, records showed that the defendant distributor/service company had been to the facility of the plaintiff's employer at least three times before the plaintiff's injury to service the machine at issue. This documentation seemed to show that the power take off shaft guard was not a fixed guard, but a readily removable guard. This fact became especially oblivious in light of the plaintiff's evidence that the guard was not on the machine when the defendant serviced it.

The defendant distributor/service company's awareness of the absence of the power take off shaft guard was critical evidence in the plaintiff's ability to successfully defeat of the defendant manufacturer's motion for summary judgment on the issue that the employer had made substantial changes to the machine. The evidence proved that the employer had not made substantial changes since the guard was not present when the machine was originally set up on site.

The exact contribution of each defendant towards the settlement is confidential. However, the defendant filler machine manufacturer paid approximately 60% of the total settlement funds.

$490,000 RECOVERY – CONSTRUCTION SITE NEGLIGENCE – NEGLIGENT POURING OF CONCRETE – HOSE OF CONCRETE PUMP TRUCK WHIPS INTO PLAINTIFF – TIBIA FRACTURE OF RIGHT LEG – OPEN REDUCTION – INTERNAL FIXATION.

Philadelphia County, PA

The plaintiff was a 46-year-old carpenter working at a construction site in Philadelphia when the hose of a concrete pump truck whipped around and struck him in the leg. The plaintiff alleged that the concrete pumping company negligently operated the concrete pump and that the co-defendant construction management company failed to identify and address the safety hazard at the site. The defendants argued that the plaintiff was comparatively negligent in failing to remove himself from the area of the concrete hose as the material was being poured and that the plaintiff's employee was in charge of the pouring operation.

The defendant construction management company was contracted for to build a cancer center at the Hershey Medical Center in Hershey, Pennsylvania. The plaintiff worked as a carpenter for a construction company which, in turn, had subcontracted the defendant concrete pumping company for delivery of a concrete type mix in the basement of the building.

The plaintiff was assigned to work at the concrete pour and was stationed, by his employer, at the end of the hose of a concrete pump truck which was pumping the concrete mix into the building.

The plaintiff was straddling the concrete hose at the start of the pump in order to direct the stream of concrete-like mix. When the pump was turned on, the concrete hose whipped and struck the plaintiff in the right leg. The plaintiff sustained a fracture of the tibia of his right leg as a result of being struck with the concrete hose. He underwent open reduction and internal fixation for the fracture. The plaintiff returned to his prior position, but alleged that he will not be able to continue to work at his pre-accident level due to the injuries received. The plaintiff claimed $42,328 in past medical expenses; $78,479 in past loss of earnings and $535,213 in loss of future earning capacity.

The plaintiff alleged that the operator of the pump truck failed to follow the vehicle's operator manual which clearly instructs that all persons near the hose should be told to move away when the pump was activated and the hose was in operation. The plaintiff maintained that all persons at the site should have been ordered to stand at least 50 feet away from the discharge point for their own safety. The plaintiff also alleged that the defendant management company was responsible for overall safety at the site and failed to identify and address the hazard created by the whipping motion of the concrete hose when the pump was in use.

Each defendant denied liability, arguing that the plaintiff was an experienced concrete worker who should have known to get out of the way of the hose when the pouring operations began. The defendants also argued that it was the plaintiff's employer which was in charge of the concrete pour at the site. On damages, the defense contended that the plaintiff had recovered from his leg fracture and had no loss of earning capacity because he had returned to work at full duty following his recovery.

The case settled prior to trial for a total of $490,000.

REFERENCE

Kramlick vs. Defendants. Case no. 09-01-002394, 06-03-11.

Attorney for plaintiff: Peter M. Patton of Galfand Berger, LLP in Philadelphia, PA.

COMMENTARY

The plaintiff, who was straddling the concrete hose when the pump started, was obviously in a very dangerous position and a jury would no doubt have recognized that he was likely to be injured in the process. One of the main issues in the case centered on the apportionment, if any, of comparative negligence which might have been assessed against the plaintiff. The defense stressed that the plaintiff was an experienced concrete worker and had knowledge of the whipping motion to be expected from the concrete hose when the pump was activated.

Both defendants denied liability and maintained that the plaintiff's employer was in charge of the concrete pour and was in control of the operation at the time of the injury. A general impediment to settlement of a case of this nature is typically the division of responsibility as between the two defendants, the concrete pumping company and the co-defendant construction management company. Employees of the concrete pumping company acknowledged their knowledge of this particular hazard and the concrete pumping company ultimately agreed to contribute an amount representing approximately 80% of the total settlement funds.

The plaintiff maintained that, although the operator of the pump truck was immediately responsible, the defendant management company also had a duty to ensure the safety of the entire project. Only after the plaintiff's injury did the defendant construction management company issue a safety directive addressing the hazard created by the known whipping motion of the concrete hose when material was being poured. The plaintiff maintained that the management company's post-accident safety directive was admissible evidence to show its control of safety issues at the site.

On damages, the plaintiff asserted a sizeable claim for loss of future earning capacity based on the restrictions placed upon him by his physician. The defense vehemently opposed this damage claim and stressed that the plaintiff had returned to his former employment with no loss of income.

$234,674 VERDICT – NEGLIGENT TRUCK LOADING – FAILURE TO SECURE LARGE TRANSPORT DOLLY AT PHILADELPHIA AIRPORT – DOLLY BLOWN ACROSS RUNWAY IN HEAVY WIND – PROPERTY DAMAGE TO COMMERCIAL AIRBUS – CANCELLATION OF FLIGHTS.

Philadelphia County, PA

The plaintiff, US Airways, Inc., brought this suit against the defendant, FedEx Corporation, alleging that the defendant negligently failed to secure one of its large transport dollies at the Philadelphia Airport. As a result, the plaintiff alleged that the dolly was blown across the runway in a heavy wind, struck the back of one of its jets and caused damages. The defendant maintained that the dolly in question was properly secured, but was caused to move by a "Vis Major", or force of nature which was beyond the defendant's control. The defendant also contended that the plane was repaired by the plaintiff's employees with parts in stock and that, accordingly, the plaintiff did not sustain recoverable damages as a result of the incident. The defendant further disputed the plaintiff's claimed business losses.

Evidence showed that in the late afternoon of June 9, 2006, there was a thunderstorm in the area of the Philadelphia National Airport. The winds, measured by

the airport's weather instrumentation, were recorded at speeds of 47 mph. The defendant had left a large wheeled metal dolly, with a container unit on top, positioned on its ramp. The dolly was used for moving packages inside an aircraft. The dolly was blown from the defendant's ramp on the western side of the airport, across a taxiway and into the back of a jet operated by America West. US Airways merged with America West in 2005 and the two airlines were in the process of combining operations when this accident occurred. US Airways was the real party in interest when the lawsuit was initiated.

The plaintiff introduced photographs, taken after the accident, depicting the brake handle of the defendant's dolly in a position indicating that the brake was released. One of the plaintiff's former employees testified that the photographs were an accurate depiction of what he saw when he arrived at the scene. However, on cross examination, this employee admitted that he did not know who took the pictures or in what sequence (time) the photos were taken.

The plaintiff's accident reconstruction expert opined that, given the wind speed and direction, the defendant's dolly could not have been blown into the plaintiff's airplane unless the brake was off. The plaintiff contended that the defendant failed to adequately secure the dolly by placing chocks under its wheels and setting the hand brake.

The plaintiff's witnesses testified that the rear fuselage of the jet, a 120-seat commercial Airbus 319, was badly damaged by the collision from the defendant's dolly. The plaintiff sought damages for the cost of repairs plus loss of the airplane for approximately a week. The plaintiff alleged that it was forced to cancel approximately 14 flights due to loss of use of the plane. The plaintiff's aircraft repair mechanic testified that the plaintiff's plane had been damaged in five areas and the skin of the aircraft had been punctured in two areas. The plaintiff sought $117,444 in repair costs, $117,230 for cancelled flights and an additional $225,615 representing the value to US Airways of having a certain number of spare (lesser utilized) aircraft in its fleet to avoid further cancellations.

The defendant, whom operates primarily at night, claimed that the dolly at issue had been properly chocked and braked on the morning preceding the storm. The defense introduced an Air Operations Division checklist which was completed the morning of the storm, which stated "ALL DOLLIES BRAKED AND CHOCKED."

The defendant argued that the storm at issue created a locally severe wind condition known as a "microburst," which was heaviest in the area of the defendant's ramp. The defendant's meteorologist opined that a more intense event occurred in the location where the dolly was parked and that the wind speeds there were in excess of the 45 to 50 mph which had been measured by the wind device located some two miles away. The defendant argued that crew stairs and other pieces of equipment had also been blown various distances by the wind that afternoon.

The defendant's CPA testified that the plaintiff failed to properly document the repairs to the airplane. The defense contended that the repairs were made by mechanics on staff by the plaintiff with parts already in stock and that the plaintiff did not lose money from flight cancellations as alleged. The defendant contended that the plaintiff did not incur any damages stemming from the collision.

The jury found for the plaintiff in the amount of $234,674. The defendant's post-trial motions are pending.

REFERENCE

Plaintiff's accident reconstruction expert: Steven M. Schorr from Philadelphia, PA. Plaintiff's aircraft repair expert: Jason S. Michael from Baltimore, MD. Plaintiff's economic expert: Scott Measley from Philadelphia, PA. Plaintiff's meteorology expert: Steven M. Wistar from Philadelphia, PA. Plaintiff's vehicle mechanics expert: R. Scott King from Abington, PA. Defendant's accident reconstruction expert: Anthony Bocchicio from Annapolis, MD. Defendant's accounting expert: Gary S. Barach from Philadelphia, PA. Defendant's meterology expert: Jon Nese from State College, PA.

US Airways, Inc. vs. FedEx Corporation, et al. Case no. 08-06-01051; Judge Gregory Smith, 05-23-11.

Attorneys for plaintiff: James G. Lare and Angeline C. Panepresso of Marshall, Dennehey, Warner, Coleman & Goggin in Philadelphia, PA. Attorneys for defendant: Nigel A. Greene and Dawn L. Jennings of Rawle & Henderson, L.L.P. in Philadelphia, PA.

COMMENTARY

This case was strenuously defended on both liability and damages. In addition to denying negligence and proffering the theory that the wind speed in the area of the defendant's ramp was higher than the 45-50 mph measured two miles away, the defense also took the position that the plaintiff incurred no damages as a result of the incident.

There were some problems with the testimony of the defendant's employee who supposedly chocked the dolly and set its brakes on the morning of the storm. This employee was listed as a plaintiff's witness, but, on the eve of his trial testimony, a doctor's note was produced, necessitating the reading of the employee's deposition testimony. Plaintiff's counsel maintained that the testimony indicated that the employee never actually checked the dolly in question on the morning of the accident.

On damages, plaintiff's counsel offered photographs and testimony which clearly establish substantial denting and puncturing of the skin of its aircraft when the plane was rammed by the defendant's large cargo dolly. The crux of the disputed damages centered on the plaintiff's lack of detailed documentation regarding the repair process.

The defendant requested and was granted an adverse inference charge in relation to the plaintiff's alleged failure to produce documentation as to the number of employee man hours, parts and equipment used to repair the plane, and business losses. Similarly, the jury was given a second adverse inference charge as to the plaintiff's failure to produce the employee who manipulated the dolly brake handle and took photographs of the brake handle after the collision.

Despite the double-adverse inference disadvantage, plaintiff's counsel was successful in recovering the entire compensation sought for repair of the plane and cancellation of flights. The jury did not accept the third, and perhaps more convoluted, part of the plaintiff's damage claim, regarding recovery of the lease value of a relocated plane as the cost of limiting flight cancellations. When the case concluded, the jury apparently accepted the expert testimony and visual proof offered by the plaintiff that the plane had, in fact, been substantially damaged and that the plaintiff incurred significant costs to repair the aircraft and for the cancelled flights.

Verdicts by Category

MEDICAL MALPRACTICE

Emergency Department

$325,000 RECOVERY

Medical Malpractice – Emergency Department – Failure to timely diagnose and treat pre-eclampsia – Wrongful death of fetus – Congestive heart failure of mother.

Allegheny County, PA

In this medical malpractice action, the plaintiff contended that the defendant emergency room doctors failed to timely diagnose and treat the plaintiff mother for pre-eclampsia. As a result, the fetus died in utero and the plaintiff mother suffered permanent reduced cardiac function. The defendants argued that the care they provided met medical standards.

On March 29, 2008, the plaintiff mother, age 23, presented to the defendant hospital via ambulance with shortness of breath and left sided chest pain. At the time she was 27 weeks pregnant. According to ambulance records, the plaintiff mother's blood pressure was very high en route to the hospital. When the plaintiff arrived at the defendant emergency room she came under the care of the defendant doctors. These doctors made a working diagnosis of pneumonia/heart failure.

Despite being 27 weeks pregnant, the plaintiff was not hooked up to a fetal monitor for almost four hours. At that point, the defendants called for an ob/gyn consult who recommended immediate transfer to a sister hospital for continuous fetal monitoring and obstetrical emergencies. Despite this consult, the plaintiff was not moved for almost two hours. Upon reaching the sister hospital six hours after initially presenting to the defendant hospital, the plaintiff was diagnosed with severe pre-eclampsia. At 7:15 a.m. on March 29, 2008, the fetus was determined to be dead.

The plaintiff mother remained hospitalized for severe pulmonary edema and reduced cardiac functions as a result of the pre-eclampsia. The stillborn fetus had to be delivered via emergency C-section due to the plaintiff mother's severe condition. The plaintiff alleged that the defendants failed to recognize hallmark signs and symptoms of pre-eclampsia and failed to timely hook the plaintiff mother up to a fetal monitor. The defendants denied all negligence and asserted that all treatment provided to the plaintiff was within the accepted medical standards.

The plaintiff settled with the defendant for $225,000 for her daughter's estate and $100,000 for herself.

REFERENCE

Plaintiff's emergency medicine expert: Rene Alvarez M.D. from Pittsburgh, PA. Plaintiff's obstetrics expert: Joshua Kosowsky M.D. from Boston, MA. Defendant's emergency medicine expert: G.D. Kelen M.D. from Baltimore, MD. Defendant's obstetrics expert: Enid Gilbert Barness M.D. from Tampa, FL.

Estate of Oriana Parker by Sha-Tana Alexander and Sha-Tana Alexander Individually vs. Adam Yates M.D., Leo Shum M.D. and University of Pittsburgh Medical Center. Case no. GD-10-004512; Judge Ronald Folino, 06-06-11.

Attorney for plaintiff: Craig Frischman of Raizman and Frischman P.C. in Pittsburgh, PA. Attorney for defendant: Richard J. Federowicz of Dickie, McCamey & Chilcote, P.C. in Pittsburgh, PA.

Radiology

DEFENDANT'S VERDICT

Medical Malpractice – Radiology – Failure to properly interpret X-ray – Failure to identify 2.0 centimeter mass in lung – Wrongful death of 64-year-old.

Philadelphia County, PA

This medical malpractice action was brought by the estate of the decedent against two radiologists and the hospital where the radiology studies were performed. The plaintiff asserted that the defendant doctors failed to properly read a chest X-ray in June of 2007, which showed a 2.0 centimeter mass in the decedent's left lung. Consequently, the decedent's mass was allowed to grow and the cancer metastasized for five months, causing a delay in the treatment of decedent's lung cancer and a diminished chance of survival. The defendants denied that the mass was visible on the June X-ray and contended that an earlier diagnosis would not have altered the medical outcome for the decedent.

In 1994 the decedent was the recipient of a heart transplant. On December 12, 2006, the decedent presented to the defendant hospital department of radiology for a chest X-ray ordered by decedent's family doctor The defendant doctor performed a chest study and noted left pleural thickening and a right lower calcified lymph node. On June 5, 2007, the decedent again presented to the defendants for another chest X-ray and the defendant doctors interpreted the X-ray and noted a prominent osteophyte or calcified paratracheal lymph node.

In actuality, on this X-ray, there was a new 2.0 centimeter mass in the left upper lobe. On November 7, 2007 the decedent presented to the defendant hospital with persistent cough and yellow mucous. The decedent was admitted and diagnosed with stage IV lung cancer which had metastasized to the bones, liver, adrenals and pancreas. He died on December 19, 2007 at age 64. The defendants denied all liability and claimed that any acts or omissions which were alleged to constitute negligence were not substantial factors in bringing harm to the decedent. They also asserted that even if the diagnosis had been made five months earlier, it would not have changed the medical outcome for the decedent.

The case went to trial against the defendant radiologists only, with the jury finding that neither doctor was negligent.

REFERENCE

Estate of Paul Bouges by Bessie Bouges vs. Chul Kwak M.D., Vineet M.D. and Temple University Hospital. Case no. 081000192; Judge Leon Tucker, 01-14-11.

Attorney for plaintiff: Emmanuel Iheukwumere in Philadelphia, PA. Attorney for defendant: Richard Geschke of McCann and Geschke in Philadelphia, PA.

F.E.L.A.

DEFENDANT'S VERDICT

F.E.L.A. – Unsafe workplace – Failing to warn of the dangers of repetitive stress injuries – Hip and knee traumatically induced arthritis – Future surgery indicated.

Philadelphia County, PA

In this F.E.L.A. case the 58-year-old plaintiff alleged that his arthritis in his knee and hip were the result of repetitive use in the course of his employment with the defendant railroad. The plaintiff alleged that the defendants failed to provide plaintiff with a safe workplace. The defendant denied all allegations and demanded strict proof at trial.

The plaintiff was employed by the defendant railroad as a car inspector and was acting in the scope of his employment when he was exposed to consecutive and repetitive trauma to his hips and knees by walking on uneven ballast and bending and stooping repeatedly, which he was required to do for his job. As a result, the plaintiff suffered arthritis in left hip and right knee, forcing him to retire early and requiring future surgery.

The plaintiff brought suit under the Federal Employers Liability Act and Locomotive Inspection Act, stating that the defendants failed to provide plaintiff with a safe place to work and failed to warn the plaintiff of the risks of repetitive trauma injuries. The defendant denied that they were in any way negligent or the cause of plaintiff's alleged injuries.

The jury found that the defendant did not fail to provide plaintiff with a reasonably safe place to work.

REFERENCE

Kenneth Benton vs. CSX Transportation. Case no. 090602711; Judge Gary Divito, 11-03-10.

Attorney for plaintiff: Gregory Hannon in Philadelphia, PA. Attorney for defendant: Kevin Eddy of Burns, White & Hickton in Pittsburgh, PA.

MOTOR VEHICLE NEGLIGENCE

Rear End Collision

$174,700 VERDICT

Motor Vehicle Negligence – Rear End Collision – Plaintiff stopped for an emergency vehicle struck in the rear by defendant driver operating a tractor-trailer – Lumbar disc herniation.

Philadelphia County, PA

In this rear end collision case, the plaintiff alleged that he was stopped at an intersection in order to allow an emergency vehicle to pass when his vehicle was struck in the rear by defendant. The defendant denied any liability and claimed the plaintiff was negligent in causing the collision.

On October 20, 2008 the plaintiff was traveling northbound on South Black Horse Pike at its intersection with West Browning Road and was stopped to allow an emergency vehicle with lights and sirens activated to cross the roadway. At the same time, the defendant driver was operating a Mack truck for the defendant delivery company and was traveling behind the plaintiff when he failed to stop and violently struck the rear of plaintiff's vehicle. The plaintiff alleged that the defendant failed to observe and heed an emergency vehicle and failed to maintain a proper lookout. The plaintiff also alleged that the defendant company failed to properly maintain the truck and negligently entrusted its vehicle to the defendant driver.

As a result, the plaintiff suffered a L5-S1 disc herniation with impression on the thecal sac. The plaintiff's wife also filed a claim for loss of consortium. The defendants denied all liability and contended that the plaintiff's own negligence caused the accident and any injury the plaintiff may have suffered.

The jury found the defendant was negligent, that the plaintiff suffered permanent harm as the result of the collision and awarded the plaintiff $159,700, and the plaintiff's wife $15,000, for a total of $174,700.

REFERENCE

Shawn and Carolyn Blackwell vs. Edward Palmer, and PJAX d/b/a Vitran Express. Case no. 090801294; Judge Patricia McInerney, 11-22-10.

Attorney for plaintiff: Daniel Hessel of Golkow and Hessel in Philadelphia, PA. Attorney for defendant: Suzanne Bachovin of Christie Pabarue Mortensen and Young in Philadelphia, PA.

$14,330 VERDICT

Motor Vehicle Negligence – Rear End Collision – Plaintiff's vehicle struck in the rear while stopped in a line of traffic at a red light – Failure to keep a proper lookout – Lumbar disc injuries.

Philadelphia County, PA

The plaintiff alleged the defendant driver failed to keep a proper lookout and failed to maintain an assured clear distance while driving, resulting in the plaintiff's host vehicle being struck in the rear by defendant while the host vehicle was stopped in a line of traffic at a red light. The defendant denied causing the accident and denied that the plaintiff was injured as a result of the accident.

The plaintiff was a passenger in a vehicle that was stopped at the intersection of Roosevelt Boulevard and Adams Avenue in the City of Philadelphia when suddenly, and without warning, the defendant struck the rear of the plaintiff's vehicle. The plaintiff suffered lumbar disc injuries and lumbar sprain and strain as a result of the collision.

The defendant denied all liability and denied that the plaintiff sustained a compensable injury. The defendant also claimed that the actions of a third party over whom the defendant had no control caused the accident.

This case was tried as a bench trial, with the judge finding for the plaintiff in the amount of $14,330.

REFERENCE

Tremaine Jenkins vs. John Difeo. Case no. 081204873; Judge Esther Sylvester, 01-23-11.

Attorney for plaintiff: Jill Mezyk of Mednick, Mezyk & Kredo in Philadelphia, PA. Attorney for defendant: Paul Gambone in Philadelphia, PA.

$13,500 VERDICT

Motor Vehicle Negligence – Rear End Collision – Plaintiff's vehicle struck in the rear while stopped at an intersection – Cervical and lumbar injuries.

Philadelphia County, PA

In this rear end collision case, the plaintiff claims to have suffered spinal stenosis as a result of his vehicle being struck in the rear by the defendant. The defendants denied all negligence and denied that the plaintiff suffered a serious injury.

The evidence revealed that on May 21, 2008, the male plaintiff was traveling north on 7th Street at Oregon Avenue and was stopped at the intersection when his vehicle was struck in the rear by the defendant driver who was operating a taxi owned by the defendant cab company. The plaintiff contended that the defendant driver was driving inattentively and that the defendant cab company negligently entrusted its vehicle to an unsafe driver.

As a result of the collision, the plaintiff suffered cervical sprain, lumbar stenosis at L3-4, lumbosacral sprain, lumbar radiculopathy and degenerative changes of the lumbar spine. The defense contended that at all times they acted in a reasonable and prudent manner and that the plaintiff was negligent in causing the collision. The defendants also denied that the plaintiff was seriously injured as a result of the collision.

This case was tried as a bench trial, with the judge finding for the plaintiff and awarding $13,500.

REFERENCE

Wade Moore vs. Oualar Keita. Case no. 091202641; Judge Joseph Papalini, 01-14-11.

Attorney for plaintiff: Brian Chacker in Philadelphia, PA. Attorney for defendant: David Alperstein of Alperstein and Associates in Philadelphia, PA.

$6,000 RECOVERY

Motor Vehicle Negligence – Rear End Collision – Plaintiffs are struck from behind by defendant cab driver – Multiple sprain and strain injuries to plaintiff mother and her minor child.

Allegheny County, PA

In this rear end collision case, the plaintiffs alleged that they were stopped in their vehicle when it was struck in the rear by the defendant cab driver operating a vehicle owned and maintained by the defendant cab company. As a result, the plaintiff mother and her minor daughter, who was a rear seat passenger in her mother's car at the time, suffered injuries. The defendant driver and the defendant cab company denied that their actions caused the collision.

On August 9, 2007, the minor plaintiff, age ten, was a rear seat passenger in a vehicle being operated by her mother, age 42, that was stopped on South Braddock Ave. in the city of Pittsburgh when her vehicle was struck in the rear by defendant. The plaintiffs claimed that the defendant driver was operating his vehicle at an excessive rate of speed and failed to keep a proper lookout. The plaintiff's also asserted that the defendant cab company negligently entrusted the cab to the defendant driver.

As a result of the collision, the plaintiff mother suffered loss of normal cervical lordosis, a sprain of the left elbow and sprains to the knee and hip. The minor plaintiff suffered a left trapezius sprain, a minor concussion, headaches and nausea. The defendants denied any negligence.

The defendants settled with the plaintiffs for $6,000, with $4,500 going to the mother and $1,500 going to the minor.

REFERENCE

Ariana Allen a minor by and through her png Doreen Allen and Doreen Allen individually vs. Ruth Fajt and Veterans Cab Company. Case no. GD09013986; Judge Eugene Strassburger, 11-16-10.

Attorney for plaintiff: Monte J. Rabner of Rabner Law Office in Pittsburgh, PA. Attorney for defendant: John Pion of Dickie, McCamey & Chilcote, P.C. in Pittsburgh, PA.

DEFENDANT'S VERDICT

Motor Vehicle Negligence – Rear End Collision – Plaintiff's vehicle is struck in the rear while stopped at stop sign – ACL tear requiring surgery – Neck and back injuries – Dental injuries.

Cumberland County, PA

The plaintiff contended that she was stopped at a stop sign at an intersection when her vehicle was struck in the rear by defendant. The defendant admitted negligence in causing the accident, but denied that plaintiff sustained any serious or permanent injury as a result of the accident.

The female plaintiff was stopped for a stop sign on Trindle Road at its intersection with Central Boulevard in Hampton Township Pennsylvania. At the same time, the defendant was traveling directly behind the plaintiff when she failed to stop her vehicle and struck the plaintiff's vehicle in the rear.

As a result, the plaintiff suffered an ACL tear of the right knee which required surgery, whiplash and dental injuries. The defendant admitted liability in causing the accident, but claimed that the plaintiff did not sustain any injury in the accident and that the plaintiff had an extensive medical history of knee and dental injuries.

The jury declined to award damages to the plaintiff.

REFERENCE

Plaintiff's Dental expert: Michael P. Mendelson DDS from Mechanicsburg, PA.

Dian Stroheck vs. Elizabeth Schoppert. Case no. 087090; Judge J. Wesley Oler, 02-01-11.

Attorney for plaintiff: Timothy Salvatore in York, PA. Attorney for defendant: Kevin Rauch of Summers, McDonnell, et al. in Lemoyne, PA.

DEFENDANT'S VERDICT

Motor Vehicle Negligence – Rear End Collision – Failing to keep an adequate distance from vehicles results in strike from behind – Lumbar spine injuries.

Philadelphia County, PA

In this rear end collision suit, the male plaintiff maintained that his vehicle was struck in the rear at an intersection when the defendant failed to keep a proper lookout. The defendant contended that the acts of a party over whom the defendant had no control caused the collision.

The evidence revealed that on April 6, 2009, the plaintiff was operating a vehicle at the intersection of 2nd Street and Berks Street in the city and county of Philadelphia when his vehicle was struck in the rear by the defendant. The plaintiff alleged that the defendant failed to keep an adequate distance from vehicles and failed to maintain a proper lookout. The plaintiff claimed that he suffered lumbosacral sprain and strain and a L4-5 disc herniation with lumbar radiculopathy.

The defendant denied any negligence and claimed that any injury or damage alleged to have been suffered by the plaintiff were caused solely by acts or omissions of others over whom the defendant had no control.

The jury found that the defendant was negligent, but determined that the defendants negligence was not a factual cause of bringing harm to the plaintiff.

REFERENCE

Hasan Bethea vs. Rafael Soto. Case no. 091104400; Judge Joseph Papalini, 02-11-11.

Attorney for plaintiff: Marc F. Greenfield of Rand Spear & Associates, P.C. in Philadelphia, PA. Attorney for defendant: Thomas Summerville in Philadelphia, PA.

DEFENDANT'S VERDICT

Motor Vehicle Negligence – Rear End Collision – Plaintiff struck in the rear by defendant in heavy, slow moving traffic – Neck and back injuries.

Allegheny County, PA

The male plaintiff in this rear end collision case contended that he suffered multiple neck and back injuries when the van he was operating in heavy stop and go traffic was struck in the rear by the defendant. The defendant admitted liability but argued that the plaintiff was not seriously injured in the accident.

The evidence revealed that the plaintiff was traveling north on route 28 in Pittsburgh PA operating a van in heavy stop and go traffic when his vehicle was struck in the rear by the defendant, who was operating her SUV directly behind the plaintiff. The plaintiff's van was deemed a total loss. The plaintiff asserted that the defendant failed to maintain a proper lookout and failed to remain attentive while driving.

As a result of the collision the plaintiff claimed that he suffered cervical and lumbosacral segmental dysfunction, nonallopathic lesions of pelvic region, myalgia and myositis, decreased motion of right SI joint, and decreased motion of L4-5 vertebrae.

The defendant admitted negligence in striking the rear of the plaintiff's vehicle, but denied that the plaintiff suffered a serious or permanent injury.

The jury found that the defendant's negligence was not a factual cause of harm or bringing harm to the plaintiff.

REFERENCE

John Hanlin vs. Denise Freisberg. Case no. Gd07015456; Judge Paul F Lutty, 06-11-11.

Attorney for plaintiff: Bruce S. Gelman of Reisman & Gelman in Pittsburgh, PA. Attorney for defendant: Philip Earnest of Robb Leonard Mulvihill in Pittsburgh, PA.

DEFENDANT'S VERDICT

Motor Vehicle Negligence – Rear End Collision – Defendant fails to keep a proper lookout and strikes rear of plaintiff's vehicle stopped in traffic – Thoracic and lumbar injuries – Damages/ causation only.

Allegheny County, PA

In this rear end collision case the plaintiff alleged that the defendant failed to keep a proper lookout, failed to maintain his vehicle under proper and adequate control, and failed to maintain an assured clear distance. Plaintiff's vehicle was stopped in traffic when it was struck in the rear by defendant. The defendant admitted negligence, but denied that plaintiff was injured in the accident.

The evidence showed that the female plaintiff was operating her car in a southerly direction of State Route 48 at its intersection with Sunset Drive in White Oak PA. She was stopped in a line of traffic when the

defendant, who was also traveling in a southerly direction, failed to keep a proper lookout and struck the rear of plaintiff's vehicle.

The plaintiff alleged that she suffered disc bulges at L4-5 and L5-S1 along with thoracic strain and headaches. Additionally, the plaintiff's husband filed a claim for loss of consortium.

The defendant admitted liability in causing the accident, but denied that the plaintiff sustained any serious or permanent injury in the accident.

The jury found that the defendant's negligence was not a substantial cause of harm to the plaintiff.

REFERENCE

Christina and Scott Shank vs. Stephen Tobe. Case no. 08010270; Judge Alan Hertzberg, 05-04-11.

Attorney for plaintiff: James Welsh of Payne, Welsh and Klingensmith in Turtle Creek, PA. Attorney for defendant: Stephen Summers of Summers, McDonnell Et Al in Pittsburgh, PA.

NEGLIGENT SECURITY

$10,000 VERDICT

Negligent Security – Assault and battery on premises – Negligent hiring, training and supervision of employees – Head contusion and laceration.

Philadelphia County, PA

In this premises liability case, the plaintiff alleged that he was assaulted by regular personnel and security personnel of the defendant retail store. The defendant contended that all actions taken by the employees of the store were defensive and in reaction to the behavior of the plaintiff.

On September 28, 2007, the plaintiff was shopping in the defendant retail store and was in the checkout line when he noticed that in paying for his merchandise, he was shorted a ten, or in the alternative, dropped a ten dollar bill. As plaintiff was informing the checkout clerk of the situation, a male store employee approached the plaintiff and told him he was holding up the line. The plaintiff replied that he was still being waited on and was not holding up the line. The store employee then suggested that they take the matter outside; the plaintiff did not respond and just left the store.

A few seconds later, the plaintiff decided to return to the store and confront the male clerk on his rude behavior. As the plaintiff approached the clerk, the clerk punched the plaintiff in the face. The plaintiff swung back at which point he was tackled from behind by another employee of the defendant. While on the ground, he was punched and kicked until he lost consciousness.

He suffered a head laceration requiring staples, a head contusion, loss of consciousness, and rug burns to his elbows and knees. The plaintiff alleged that the defendants failed to properly train security personnel and failed to properly supervise, manage and control employees. The defendant contended that all employees were acting in self-defense and that since the plaintiff started the altercation, the defendant's actions were defensive or preventative in nature.

The jury found for the defendant on the negligent hiring and training claim, but found for the plaintiff on the assault and battery claim and awarded the plaintiff $10,000.

REFERENCE

Jose Cancel vs. Dollar Express d/b/a The Dollar Store. Case no. 090902837; Judge Norman Ackerman, 01-07-11.

Attorney for plaintiff: Salvatore LaRussa in Philadelphia, PA. Attorney for defendant: Brian Calistri of Weber Gellagher Simpson Stapleton Fires & Newby in Philadelphia, PA.

POLICE LIABILITY

DEFENDANT'S VERDICT

Police Liability – Excessive force – Violation of plaintiff's civil rights – Plaintiff tasered after he had already been restrained – Facial contusions and abrasions with edema – Electrical injuries causing mild brain damage and cardiovascular damage.

Allegheny County, PA

In this excessive force and violation of civil rights case, the male plaintiff contended that the defendant officers used excessive force on the plaintiff after he had already restrained. Specifically, the plaintiff contended that the defendant officers tasered him while he was restrained. The plaintiff further alleged that a videotape of the incident was caught on a security

camera. However, the defendants alleged that the camera had malfunctioned at the time of the incident. The defendants also maintained that only the force required to execute an arrest was used.

The evidence revealed that the defendant officers were placing the plaintiff under arrest in the city of Pittsburgh when they allegedly maliciously and sadistically slammed the plaintiff's face onto the cement while the plaintiff was handcuffed face down. The defendant officers then proceeded to use a taser on the plaintiff while he was restrained face down on the ground. The plaintiff maintained that the event was captured on security cameras. However, the tape could not be retrieved by the plaintiff as the defendant told the plaintiff that at the time of the incident, the security camera had malfunctioned.

The plaintiff claimed that he suffered facial contusions and abrasions with edema, taser electrocution causing mild brain damage and cardiovascular damage. The plaintiff alleged that the defendants used excessive force, subjected plaintiff to cruel and unusual punishment, and violated his civil rights.

The defendants contended that the plaintiff and a companion were seen smoking from a glass pipe and that the defendant officers were dispatched to the scene. Upon arriving at the scene, the defendants found the plaintiff to be combative and belligerent and the plaintiff was placed under arrest. Only the force necessary to subdue the plaintiff was used to place him under arrest according to the defendant.

The jury found no negligence against the defendant officers.

REFERENCE

Anthony Bugno vs. The Port Authority of Allegheny County, Port Authority Officer Ronald Fukas, and Port Authority Officer Brian O'Malley. Case no. Gd08022148; Judge Judith Friedman, 06-02-11.

Attorney for plaintiff: John R. Orie Jr of Orie & Zivic in Pittsburgh, PA. Attorney for defendant: Nicholas Evashavik of Evashavik & Evashavik in Pittsburgh, PA.

PREMISES LIABILITY

Fall Down

$160,000 VERDICT

Premises Liability – Fall Down – Failure to properly remove ice and snow from the parking lot – Slip and fall – Knee fracture with ligament damage.

Philadelphia County, PA

In this premises liability slip and fall case, the female plaintiff contended that the premises owner and the landscaping company in charge of snow removal were negligent for allowing ice and snow to remain on the premises creating a hazardous condition. While walking to her vehicle, the plaintiff slipped on black ice and suffered a patella fracture and torn ligaments. The defendant diocese and church asserted that they had no notice of the icy condition and the defendant landscaping company asserted that they properly treated the premises and acted reasonably at all times.

On January 30, 2009 the female plaintiff parked in the defendant St. Albert the Great church's parking lot in Huntingdon Valley, Pennsylvania, in order to pick her children up from the St. Albert the Great school. After putting her children into the back of her minivan, the plaintiff walked around her vehicle to the driver's side and slipped and fell on black ice.

As a result, the plaintiff suffered a dislocated knee, complete medial tear, torn fibular collateral ligament, quadriceps strain and a patella fracture. The plaintiff alleged that the church and diocese were negligent in failing to make proper inspections to the premises and the defendant landscaping company failed to properly treat the premises for ice and snow.

The defendant church and diocese contended that they had no notice of the condition. The defendant landscaping company argued that the premises had been properly treated and that they acted reasonably at all times.

The jury found for the defendant landscaping company, but against the defendant church and diocese, awarding the plaintiff $160,000.

REFERENCE

Nancy and Randall McNeely vs. The Archdiocese of Philadelphia, St Albert the Great Church and M.J. Sutton Landscaping. Case no. 090902454; Judge Nitza Quinones Alejandro, 11-08-10.

Attorney for plaintiff: Michael Olley in Bala Cynwyd, PA. Attorney for defendant: Joseph Kelleher of Stradley Ronon Stevens & Young in Malvern, PA.

DEFENDANT'S VERDICT

Premises Liability – Fall Down – Slip and fall on grease in retail warehouse store – Failure to make proper inspections of the premises – Lumbar spine injuries.

Allegheny County, PA

In this premises liability case the plaintiff was shopping at warehouse store when she slipped and fell on discarded food or grease in an aisle. The plaintiff alleged that the defendants failed to remove the greasy substance from the floor. The defendants denied that they were negligent and contended that they had no notice of the condition.

The plaintiff testified that on December 20, 2007 she was shopping at the defendant's retail warehouse store on West Waterfront Drive in Allegheny County when she slipped and fell on discarded food or grease. As a result she sustained a L3-4 disc herniation, lumbosacral sprain and strain, L3 radiculopathy, and sacroiliac sprain.

The plaintiff alleged that the defendant was negligent in failing to remove food or greasy substance from the floor, failing to properly clean the aisles, and failing to make proper inspections of the floor. The defendant denied all liability and claimed there was no debris on the floor, they had no notice of the condition and they made proper and routine inspections of the premises.

The jury found no negligence on the part of the defendant.

REFERENCE

Plaintiff's neurosurgery expert: Matt El-Kadi M.D. from Pittsburgh, PA. Plaintiff's orthopedics expert: Jon Levy M.D. Defendant's expert: William Bookwalter M.D. from Pittsburgh, PA.

Pamela Eberhardt vs. Costco Wholesale Corporation. Case no. 08010106; Judge Robert Colville, 06-02-11.

Attorney for plaintiff: Michael Balzarini of Balzarini and Watson in Pittsburgh, PA. Attorney for defendant: Joseph Selep of Zimmer and Kunz in Pittsburgh, PA.

Falling Object

$268,000 VERDICT

Premises liability – Falling object – Plaintiff is struck by a fan that falls off shelf – Improper display of the fan creating a hazardous condition – Cervical and lumbar injuries with RSD.

Philadelphia County, PA

The plaintiff contended that the defendants negligently created a hazardous condition in their retail store by negligently stacking a 42 inch ionic fan on display. The plaintiff was struck in the upper body by the fan when she reached for a nearby product and the fan fell on her. The defendant contended that the plaintiff caused the fan to fall by failing to use due care when reaching for the merchandise.

The female plaintiff was shopping in the defendant's retail store on May 14, 2007, and was business invitee of the defendant when she was struck by a 42 inch fan that fell from a nearby display. The plaintiff suffered herniated cervical and lumbar discs, cephalgia, upper and lower extremity radiculopathy and reflex sympathetic dystrophy of the spine.

The plaintiff's husband brought a loss of consortium claim. The plaintiff alleged that the defendants showed an indifference to the plaintiff's safety by placing the fan in a dangerous location and failed to act in a reasonable manner. The defendants denied that they were in any way negligent in causing the accident and contended that the plaintiff was comparatively negligent in failing to use due care in obtaining merchandise.

The jury found that the defendant was negligent and awarded the plaintiff $252,000. Additionally, the jury awarded the plaintiff's husband $16,800 for his loss of consortium claim.

REFERENCE

Marie and Raymond Mannino vs. Walgreens. Case no. 090501887; Judge Victor DiNubile, 01-20-11.

Attorney for plaintiff: Blake Berenbaum of Richman, Berenbaum & Associates, LLC in Philadelphia, PA. Attorney for defendant: James Moore of Thomas, Thomas & Hafer, LLP in Philadelphia, PA.

$125,000 VERDICT

Premises Liability – Falling Object – Plaintiff is struck by falling boxes when shelf collapses – Shoulder fracture with surgery – Nerve damage – Ongoing shoulder complaints – Damages only.

Philadelphia County, PA

The plaintiff alleged that she was a patron in the defendant's Rag Shop when a shelf collapsed and caused boxes to fall and strike her. The defendant filed for bankruptcy, was not represented at trial and did not appear. Accordingly, the case was heard as an assessment of damages only.

The plaintiff was a female in her 30s at the time of injury. She testified that she was on her knees in the defendant's store looking through paint that she wanted to purchase. The plaintiff contended that an upper shelf broke loose and caused boxes of merchandise to fall and strike her in the shoulder. The plaintiff alleged that the metal shelving was not properly inspected by the defendant, was not adequately secured and constituted a dangerous condition on the premises.

The plaintiff's medical reports showed that the plaintiff sustained a shoulder fracture as a result of the incident. The plaintiff underwent shoulder surgery and also claimed permanent nerve damage, confirmed by EMG findings, as a result of the injury. The plaintiff contended that she suffers ongoing shoulder complaints and will require future medical care and treatment.

The case was tried as a bench trial, with a damage award of $125,000 to the plaintiff.

REFERENCE

Aponte vs. Rag Shops, Inc., et al. Case no. 04-11-02474; Judge Norman Ackerman, 05-20-11.

Attorney for plaintiff: Allan J. Aigeldinger, III of Craig A. Altman, P.C. in Philadelphia, PA.

Hazardous Premises

$125,000 VERDICT

Premises Liability – Hazardous Premises – Trip and fall at retail store – Shepherd's hook laying in aisle – ACL tear requiring surgical repair.

Philadelphia County, PA

The plaintiff alleged that the defendant retail store created a dangerous condition on their premises in the form of a shepherd's hook laying in an aisle or walkway of the store. The plaintiff tripped on the hook and fell, sustaining injury. The defendant denied placing the shepherd's hook in the aisle and maintained that the actions of others caused the plaintiff's injuries.

On October 18, 2007, the plaintiff was a business invitee of the defendant retail store on Chestnut Street in Philadelphia when he tripped and fell on a shepherd's hook which had been negligently placed on the floor in an aisle by an employee of the defendant. The plaintiff sustained a torn anterior cruciate ligament in the left leg, necessitating reconstructive surgery, along with emotional distress.

The plaintiff alleged that the defendant failed to keep the aisle free from hazards and failed to warn of the dangerous condition. The defense contended that if the plaintiff sustained injuries, those injuries were caused by the actions of those over whom the defendant had no control.

The jury found the defendant negligent and awarded future medicals of $55,000, past medicals of $413 and pain and suffering of $69,587, for a total of $125,000.

REFERENCE

Thomas Malone vs. The Gap Incorporated. Case no. 090902454; Judge Patricia McInerney, 12-02-10.

Attorney for plaintiff: Peter Greiner of Meyerson & Oneil in Philadelphia, PA. Attorney for defendant: Francis Blatcher of Mallon & Blatcher in Media, PA.

DEFENDANT'S VERDICT

Premises Liability – Hazardous Premises – Trip and fall on uneven sidewalk in residential area – Neck and back sprain and strain injuries.

Philadelphia County, PA

In this premises liability action, the plaintiff brought suit against the defendant homeowners and the defendant city for failing to properly maintain the sidewalk. As a result, the plaintiff tripped and fell on an uneven or broken sidewalk and was injured. The defendant home owners contend that no defective condition existed on the premises and the defendant city was dismissed from the suit.

On January 22, 2009, the female plaintiff was an invitee lawfully on the defendant's residential premises in the defendant city when she tripped and fell on an uneven sidewalk owned and maintained by the defendants. The plaintiff contended that the defendants failed to properly maintain the premises, failed to make proper inspections to the premises, and failed to warn of the defective condition of the sidewalk. The plaintiff suffered cervical, lumbar and thoracic sprain, bilateral patella contusions, and lumbar disc bulges.

Both defendants denied all negligence and contended that the plaintiff did not suffer a serious injury as a result of the incident. The defendant city was dismissed prior to trial and the case proceeded against the defendant home owner only.

The jury found that the defendant was not negligent.

REFERENCE

Lynn Gamble vs. Daniel and Grace Scullin. Case no. 090903535; Judge Annette Rizzo, 01-28-11.

Attorney for plaintiff: Marc F. Greenfield of Rand Spear & Associates, P.C. in Philadelphia, PA. Attorney for defendant: Denise Mandi of Law Office of Twanda Turner Hawkins.

Negligent Maintenance

DEFENDANT'S VERDICT

Premises Liability – Negligent maintenance – Escalator abruptly stops while plaintiff is riding on it – Sprain and strain injuries.

Philadelphia County, PA

The plaintiff alleged that the defendants failed to properly maintain and inspect an escalator at the mall where plaintiff was employed. As a result, the escalator malfunctioned, causing it stop abruptly and causing plaintiff to be thrown down the escalator steps. The defendants denied that they had any notice of the escalator being faulty and asserted that the escalator was properly and routinely serviced.

The plaintiff was employed as a security guard at the defendant mall and was in course and scope of her employment on May 12, 2007 when she was riding down the escalator maintained by defendant maintenance company. Suddenly, the escalator stopped, throwing the plaintiff down the escalator and causing her to sustain injuries. The plaintiff maintained that the defendants failed to properly inspect and maintain the escalator.

As a result of the incident, the plaintiff suffered sprain and strain injuries to her left hand, left knee and left arm and elbow. All of the defendants denied that they were negligent in any way and denied any notice of a problem with the escalator.

The jury found no negligence on the part of the maintenance company or the premises owner and returned a verdict for the defense.

REFERENCE

Yvonne Elsey vs. Pennsylvania Real Estate Investment Trust, Echelon Mall and Schindler Elevator Company. Case no. 090501284; Judge George Overton, 01-28-11.

Attorney for plaintiff: Joseph Adams in Chalfont, PA. Attorneys for defendants: Keith Johnston of Lucas & Cavallier in Philadelphia, PA, and Bradley Vance of Reger Rizzo & Darnall in Philadelphia, PA.

The following digest is a composite of additional significant verdicts reported in full detail in our companion publications. Copies of the full summary with analysis can be obtained by contacting our Publication Office.

Supplemental Verdict Digest

MEDICAL MALPRACTICE

$23,000,000 VERDICT AGAINST HOSPITAL ONLY - MEDICAL MALPRACTICE - HOSPITAL NEGLIGENCE - FAILURE TO TIMELY ADMINISTER ANTIVIRAL MEDICATION - DELAY IN TREATMENT OF HERPES SIMPLEX VIRUS ENCEPHALITIS - SEVERE BRAIN INJURY - DAILY LIVING ASSISTANCE REQUIRED BY 36-YEAR-OLD FEMALE.

Philadelphia County, PA

This action was brought by the court-appointed guardian (sister) of the plaintiff who suffered a severe brain injury caused by herpes simplex virus encephalitis (inflammation of the brain). The defendants in the case included an emergency room physician, house physician (off-hour admitting physician) and the hospital where the plaintiff was treated for the alleged negligence of its nursing staff. The plaintiff alleged that the defendants failed to timely administer the antiviral medication Acyclovir and failed to diagnose the plaintiff's condition, significantly increasing her risk of brain injury. The defendant hospital was no longer a party when the case reached trial, but remained listed on the verdict form. The two remaining physicians argued that their care of the plaintiff was exemplary and her severe brain injury did not result from medical negligence.

The jury found that all defendants (the hospital through its nurse, the emergency room physician and the house physician) were negligent. However, the jury found that only the negligence of the nurse was a factual cause of injury to the plaintiff. The plaintiff was awarded $23,000,000 against the defendant hospital only.

REFERENCE

McGill vs. Roxborough Memorial Hospital, et al. Case no. 08-12-04060; Judge George Overton, 03-21-11.

Attorneys for plaintiff: Timothy R. Lawn and Stephen E. Raynes of Raynes McCarty in Philadelphia, PA. Attorney for defendant physicians: Nancy K. Raynor of Raynor & Associates in Malvern, PA.

$5,500,000 VERDICT - MEDICAL MALPRACTICE - HOSPITAL NEGLIGENCE - EXCESSIVE ADMINISTRATION OF EPIDURAL BLOCK - INABILITY TO DETERMINE PAIN DUE TO EXCESSIVE BIRTHING MANEUVERS - FRACTURED PELVIS - RUPTURE OF PELVIC LIGAMENTS - SEPARATION OF SACROILIAC JOINTS - SECOND DEGREE LACERATION OF PERINEUM - EXTENSIVE BRUISING - HERNIATED AND BULGING DISCS.

New York County, NY

In this medical malpractice matter, the plaintiff alleged that the defendant hospital was negligent in the excessive administration of epidural block to the plaintiff during childbirth, which resulted in her inability to ascertain pain, which resulted in various injuries including a fractured pelvis, extensive bruising, and ruptured discs. The defendant denied any deviation from appropriate standards of care occurred and claimed that the plaintiff's injuries were not foreseeable.

The matter was tried over a period of nine days. The jury deliberated for less than one hour and returned its verdict in favor of the plaintiffs and against the defendant. The jury awarded the plaintiffs the total sum of $5,500,000 which consisted of $1,500,000 to the plaintiff mother for past pain and suffering; $3,000,000 to the plaintiff mother for future pain and suffering; $500,000 to the plaintiff father for past loss of services and $500,000 to the plaintiff father for future loss of services.

REFERENCE

Maria Bustos and Cesar Bustos vs. Lenox Hill Hospital. Index no. 107925/2004; Judge Carol Edmead, 03-31-11.

Attorney for plaintiff: Scott Occhiogrosso of Hill & Moin, LLP in New York, NY.

$3,000,000 CONFIDENTIAL RECOVERY - MEDICAL MALPRACTICE - HOSPITAL NEGLIGENCE - UNAUTHORIZED ADMINISTRATION OF PANCURONIUM BROMIDE IN NEONATAL INTENSIVE CARE UNIT - 24-HOUR PARALYSIS - CEREBRAL PALSY AND KERNICTERUS IN LATER DEVELOPMENT.

Suffolk County, MA

In this medical malpractice matter, the plaintiff contended that the hospital's failure to regulate and store the pancuronium bromide resulted in an overdose to the infant which caused a period of 24 hour paralysis and affected his later development, resulting in kernicterus and cerebral palsy. The defendant disputed negligence and any causal relationship between the child's later developmental delays and neurological problems and the administration of the drug while the boy was in the NICU at the defendant hospital.

The parties agreed to mediation. The matter settled for the sum of $3,000,000 in a confidential settlement agreement. The plaintiff infant died after the first day of the mediation.

REFERENCE

Doe Child vs. Roe Hospital. 12-27-10.

Attorneys for plaintiff: Lisa Arrowood, Jed DeWick, and Alexis D'Arcy of Todd & Weld in Boston, MA.

$1,850,000 CONFIDENTIAL RECOVERY - MEDICAL MALPRACTICE - OPHTHALMOLOGY - FAILURE TO DILUTE CLINDAMYCIN BEFORE ADMINISTERING INTRAOCULAR INJECTION - BLINDNESS - LIABILITY ADMITTED.

Middlesex County, MA

In this medical malpractice matter, the plaintiff contended that the defendant was negligent in failing to dilute an antibiotic before injecting it intraocularly, resulting in blindness in her one eye. The defendant originally denied the allegations and then later admitted liability.

The plaintiff brought suit against the defendant alleging negligence in the intraocular injection of undiluted antibiotic which resulted in left eye blindness. The defendant initially denied the allegations, but later admitted that he had failed to dilute the antibiotic, an admission that he had made to the plaintiff prior to the institution of suit.

The matter was resolved for the sum of $1,850,000 prior to a trial in this matter.

REFERENCE

Doe Plaintiff vs. Roe Ophthalmologist. 03-01-10.

Attorneys for plaintiff: Andrew C. Meyer, Jr. and Krysia J. Syska of Lubin & Meyer in Boston, MA.

$1,659,913 VERDICT - MEDICAL MALPRACTICE - OB/GYN - RADIOLOGY - WRONGFUL BIRTH - DOCTORS' NEGLIGENCE PREVENTED EARLY DETECTION OF SPINA BIFIDA - WEEK-OLD BABY REQUIRED TO UNDERGO BACK AND BRAIN SURGERY.

Essex County, NJ

In this case for medical malpractice, the plaintiffs alleged that the defendants negligently failed to perform appropriate testing that would have detected their unborn child's spina bifida condition. The defendants generally denied the allegations with both obstetrician/gynecologists ultimately placing the blame, if any malpractice was proven, on the radiologist.

Prior to the initial trial on this matter which took place in 2007, defendant Dr. Lawrence S. settled with the plaintiffs for $1,000,000. That trial then concluded in a $1,500,000 verdict divided among the two obstetrician/gynecologists. At that time, the jury found defendants Dr. Donato R. and Dr. Marianne H. to be 51% and 49% liable, respectively.

This verdict was ultimately appealed with the defense arguing that some percentage of fault should have been apportioned to defendant Dr. Lawrence S., despite his settlement. Both obstetrician/gynecologists argued that Dr. Lawrence S. was at fault for the initial failure to diagnose the fetus's condition. In 2009, the defendants' appeal was granted and the matter was remanded for trial on the issue of apportionment of the initial verdict only.

Thus, on January 19, 2011, the jury re-allocated 10% of the negligence to defendant Dr. Lawrence S., reducing the damages payable by the two obstetrician/gynecologists from $1,490,323 to $1,341,291. The plaintiffs were also awarded post judgment interest of $295,836, for a total award of $1,659.913.

REFERENCE

Anna DoOuteiro and Paul DoOuteiro, individually and as guardians ad litem for Hailey DoOuteriro, a minor vs. Donato Russo, Marianne Herrighty and Lawrence Selzer. Docket no. ESX-L-3102-04; Judge Donald S. Goldman (first trial) and Judge James S. Roths, 01-19-11.

Attorney for plaintiffs: Dennis M. Donnelly of Blume Goldfaden Berkowitz Donnelly Fried & Forte, P.C. in Chatham, NJ. Attorney for defendant Dr. Marianne H.: Jay Scott MacNeill of Post, Polak, Goodsell, MacNeill & Strauchler, P.A. in Roseland, NJ. Attorney for defendant Dr. Donato R.: Philip F. Mattia of Philip F. Mattia & Associates, P.C. in Wayne, NJ.

PRODUCTS LIABILITY

$41,816,001 VERDICT - PRODUCT LIABILITY - MANUFACTURING DEFECT - FAMILY OF GIRL PARALYZED IN TIRE SEPARATION ROLL-OVER SUES TIRE MANUFACTURER - PARALYSIS FROM THE UPPER CHEST DOWN.

Dimmit County, TX

On April 25, 2009, the plaintiff, Rubi R., 17, was being driven by her boyfriend's mother in a 2001 Ford F-150. The plaintiff was the passenger in the right rear seat. The vehicle suddenly lost control, allegedly the result of a tread/belt detachment on the right rear tire. The plaintiff was ejected from the vehicle as it rolled over several times.

The jury found Michelin sole and completely negligent and awarded the plaintiff $41,816,001.31, including $12,000,000 in future pain and suffering.

REFERENCE

Adam Rocha and Marisela Rocha, each individually and as next friends of Rubi Ann Rocha and Rubi Ann Rocha, individually vs. Michelin North America Inc. Case no. 09-06-11001-DCVAJA; Judge Amado Abascal, 12-08-10.

Attorneys for plaintiffs: Jason P. Hoelscher and Brantley White of Sico, White, Hoelscher & Braugh, L.L.P. in Corpus Christi, TX, and Rolando M. Jasso of Knickerbocker, Heredia, Jasso & Stewart, P.C. in Eagle Pass, TX. Attorneys for defendant: Chris A. Blackerby and Thomas M. Bullion III of Germer, Gertz, Beaman & Brown in Austin, TX, and Daniel M. Gonzalez of Langley & Banack, Inc. in Carrizo Springs, TX.

DEFENDANT'S VERDICT - PRODUCT LIABILITY - DEFECTIVE DESIGN OF MACK TRUCK - CLAIMED NEGLIGENT PLACEMENT OF BATTERY IN CLOSE PROXIMITY TO FUEL TANK - VEHICLE FIRE - ALLEGED WRONGFUL DEATH FROM BURN INJURIES.

Miami-Dade County, FL

This action arose from the death of a 45-year-old truck driver after the Mack truck and fuel tank trailer he was hauling collided with a sports utility vehicle on the Seven Mile Bridge in the Florida Keys. The plaintiff alleged that the defendant manufacturer, Mack Trucks, Inc., defectively designed the truck with the truck battery box positioned too close to the diesel fuel storage system. The design created an ignition source in the event of a collision and made the Mack truck not crashworthy, according to the plaintiff's claims. The defendant argued that the truck was not defectively designed and that the decedent's death resulted solely from the initial head-on impact which caused a second impact to the back of the truck by the fuel tanker he was hauling, not from the ensuing fire.

The jury found for the defendant.

REFERENCE

Zaidi vs. Mack Trucks, Inc. Case no. 06-15906 CA 31; Judge John Schlesinger, 03-10-11.

Attorneys for plaintiff: Theodore J. Leopold and Leslie Kroeger of Leopold~Kuvin, P.A. in Palm Beach Gardens, FL. Attorneys for defendant: Peter R. Restani and Helen Hauser of Restani, Dittmar, & Hauser, P.A. in Coral Gables, FL.

MOTOR VEHICLE NEGLIGENCE

$37,392,000 TOTAL VERDICT - MOTOR VEHICLE NEGLIGENCE - AUTO/PEDESTRIAN COLLISION - DEFENDANT DRIVING STOLEN VEHICLE WHILE INTOXICATED - CO-DEFENDANT VEHICLE OWNER LEAVES KEYS IN VEHICLE WHILE RUNNING AN ERRAND - PLAINTIFF COLLEGE STUDENT SUFFERS TRAUMATIC BRAIN INJURIES - PERMANENT MEMORY LOSS - LOSS OF USE OF THE LEFT SIDE OF HER BODY - PERMANENT AROUND-THE-CLOCK CARE REQUIRED.

Queens County, NY

In this motor vehicle negligence case, the 22-year-old female plaintiff Queens College student contended that she was struck by an intoxicated driver, leaving her in need of life-long attendant care. The plaintiff's guardian sought judgment against both the defendant inebriated driver and the co-defendant vehicle owner who left his keys in the subject vehicle. The vehicle owner denied liability in this was case which was tried as a bench trial. The plaintiff was the guardian ad litem for the adult victim incapable of managing her own affairs. The plaintiff alleged that in 2004, the defendant intoxicated driver had stolen a car and struck the 22-year-old female victim sidewalk pedestrian, dragging her through a fence and pinning her to the hood of the car as she was pressed against a wall.

The plaintiff was awarded $5,000,000 for past pain and suffering, $10,000,000 for future pain and suffering, $347,000 for past medical expenses, and $12,045,000 for future medical expenses. The court ruled that the plaintiff was entitled to recover from both defendants, stating that "both defendants are liable under the law." "One has primary liability for the accident itself and the other has vicarious liability under the laws of the state of N.Y. as the owner of the vehicle for negligently leaving his keys in the vehicle." Judgment was also entered against the defendant intoxicated driver only for punitive damages in the sum of $10,000,000.

REFERENCE

Belt, et al vs. Girgis, et al. Index no. 017956/2005; Judge Martin J. Schulman.

Attorney for plaintiff: Michael S. Feldman of Jacoby & Meyers, L.L.P. in Newburgh, NY. Attorney for defendant intoxicated driver: Gregory Nelson of Morris, Duffy, Alonso & Falley in New York, NY. Attorney for defendant car owner: Tracy Reifer of Carmen, Callahan & Ingham in Farmingdale, NY.

$950,000 RECOVERY - MOTOR VEHICLE NEGLIGENCE - AUTO/PEDESTRIAN COLLISION - DEFENDANT DRIVES ONTO SIDEWALK AND STRIKES PLAINTIFF - TORN ROTATOR CUFF - LEG FRACTURES WITH SURGERY - UNDERINSURED MOTORIST CLAIM.

Broward County, FL

The plaintiff was walking on a Broward County sidewalk when the defendant's vehicle drove up onto the sidewalk and struck him. The defendants in the case included the driver of the vehicle which struck the plaintiff (the tortfeasor) as well as the plaintiff's automobile insurance carrier under the underinsured motorist provision of his policy.

The case was settled prior to trial for a total of $950,000.

REFERENCE

Lingerfeldt vs. Defendants. Case no. 062010C A002561; Judge John B. Bowman, 09-01-10.

Attorney for plaintiff: Crane A. Johnstone of Law Offices of Sheldon J. Schlesinger in Fort Lauderdale, FL.

PREMISES LIABILITY

$5,500,000 VERDICT - PREMISES LIABILITY - HAZARDOUS PREMISES - FAILURE TO COMPLY WITH ELECTRIC CODE GROUNDING REQUIREMENTS - VOLUNTEER FIREFIGHTER ON BUSINESS'S ROOF SEVERAL DAYS AFTER MINOR FIRE CONTACTS SIGN LEAKING ELECTRICITY - DEATH BY ELECTROCUTION.

Nassau County, NY

This was an action involving the death of a 43-year-old volunteer firefighter who was on the roof of a one story commercial building to retrieve the tarp three days after a minor fire had occurred. The decedent contacted an electrical sign on the roof that had not been properly grounded, and which was leaking electricity. The plaintiff contended that the decedent was conscious for 15 to 20 seconds, realizing that he was probably about to die. The plaintiff named the non-settling commercial tenant and non-settling electrician who supervised the electrical work some eight years earlier. The plaintiff also named the electrician who certified the premises as safe after the fire and before the incident, the owner of the building, the supplier of the sign and the manufacturer of a component part in the sign - all of whom settled during the trial. The cases against these settling defendants resolved for a total of $3.1 million and the case proceeded against the tenant and electrician who supervised the electrical work eight years earlier. The plaintiff contended that requirements under the code, including those relating to proper grounding, were not followed and that the sign was giving off dangerous electricity. The plaintiff-decedent's attorney contended that because of the failure to ground the sign, the electricity flowed through the decedent upon contact.

The jury found the non-settling tenant 85% negligent, the settling defendant, who conducted the inspection after the fire, 15% negligent and that, although the electrician supervising the initial electrical work eight years earlier was negligent, there was an absence of proximate cause. The jury found the other settling defendants not responsible. The jury awarded $5,500,000.

REFERENCE

Greene vs. Long Island Cheeseburgers, et al.; Index no. 2016/07; Judge Ute Wolff Lally, 04-19-11.

Attorneys for plaintiff: Henry G. Miller and Lucille A. Fontana of Clark Gagliardi & Miller in White Plains, NY.

$1,500,000 VERDICT - PREMISES LIABILITY - HAZARDOUS PREMISES - FAILURE TO WARN OF BUILDING HISTORY WITH ELEVATED MERCURY LEVELS IN DAY CARE CENTER - CHILDREN AND STAFF MEMBERS AFFECTED - POSSIBLE COGNITIVE DEFICITS - BENCH TRIAL.

Gloucester County, NJ

This was a class action bench trial in which the plaintiffs, staff members and parents of children attending a daycare center during the 2004-2005 and 2005-2006 school years, contended that disclosures that the premises were previously used as a thermometer factory until the factory closed in the 1990s, and warnings regarding the presence of elevated mercury levels were not given. The defendants included the real estate company which had acquired the premises after paying delinquent taxes and who leased the premises to the daycare center. The plaintiffs also named the municipality as a defendant. The plaintiffs contended that the municipality had underwritten regulation, the ministerial duty to adequately inspect, warn and refrain from issuing permits without determining that the mercury was below a certain level and that this defendant and the co-defendants, county and state, breached such ministerial duties. The plaintiffs' claims were for periodic neuropsychological testing to ascertain if the exposure caused cognitive deficits and plaintiffs' counsel relates that nothing in the case precludes future litigation in the event of a claim that any of the plaintiffs became ill as a result of the exposure.

The court found 35% negligence against the owner/real estate company, 35% liability on the part of the municipality, 20% responsibility against the county and 10% liability against the state. The court then awarded $1,500,000 to be paid into a fund for periodic neuropsychological tests. The defendant owner and real estate company settled during the first week of trial for $965,000. The county settled shortly before the verdict for $950,000.

REFERENCE

Adair, et al. vs. Sullivan, et al. Docket no. GLO-L-1730-06; Judge James Rafferty, 01-11-11.

Attorney for plaintiff: James J. Pettit (Lead Counsel for all cases and Counsel for Plaintiff Adair) of Locks Law Firm, LLC in Cherry Hill, NJ. Attorneys for plaintiffs: Stuart J. Lieberman of Lieberman & Blecher, P.C. in Princeton, NJ, Thomas T. Booth, Jr. of Law Offices of Thomas T. Booth, Jr., LLC in Voorhees, NJ, and Philip Stephen Fuoco of Law Offices of Philip Stephen Fuoco in Haddonfield, NJ.

$1,500,000 VERDICT - PREMISES LIABILITY - HAZARDOUS PREMISES - VEHICLE SLIDES ON ICE AND STRIKES WALL IN HOSPITAL PARKING GARAGE - LUMBAR DISC HERNIATION - CERVICAL AND LUMBAR SPRAIN AND STRAIN.

Philadelphia County, PA

The plaintiff claimed that the defendant hospital failed to maintain its parking garage in a safe condition, causing his vehicle to slip on ice and strike a wall. The defendant denied that the plaintiff's collision was caused by ice or any other dangerous condition in the parking garage. The defendant also disputed the injuries which the plaintiff claimed to have sustained as a result of the impact.

The jury found the defendant 100% negligent and awarded the plaintiff $1,500,000 in damages. Post-trial motions are currently pending.

REFERENCE

Mapp vs. Mercy Hospital of Philadelphia. Case no. 09-12-03186; Judge Patricia McInerney, 03-10-11.

Attorney for plaintiff: Todd M. Felzer of Swartz Culleton, P.C. in Newtown, PA. Attorney for defendant: Frank A. Gerolamo of Gerolamo, McNulty, Divis & Lewbart, P.C. in Philadelphia, PA.

ADDITIONAL VERDICTS OF INTEREST

Contract

$10,000,000 VERDICT - CONTRACT - TORTIOUS INTERFERENCE - VIOLATION OF SHAREHOLDER'S AGREEMENT - INTERFERENCE WITH ECONOMIC ADVANTAGE - DEFENDANTS INTENTIONALLY INTERFERED WITH THE DEVELOPMENT OF LUXURY HOTEL PROJECTS IN MEXICO - PAST AND FUTURE LOST PROFITS ALLEGED.

Dallas County, TX

In this breach of contract matter, the plaintiffs alleged that the defendants breached the parties' shareholder agreement and interfered with plans to build luxury hotels in Mexico causing the plaintiffs to incur lost profits. The defendants denied the allegations and disputed the plaintiffs' damage claims.

After the six -ay trial, the jury deliberated for four days and returned its verdict in favor of the plaintiffs and against the defendants. The jury awarded the plaintiffs the sum of $10,000,000.

REFERENCE

Plaintiff's hospitality valuation expert: Bruce Goodwin from San Diego, CA. Defendant's shareholder agreements expert: J. Mark Hesse from Addison, TX.

Resort Development Latin America, Inc. f/k/a JMJ Development Mexico, Inc. Aliber Garcia and Eliud Garcia vs. Timothy L. Barton, Christopher R.J. Knable, JMJ Development, Inc., et al. Case no. DC-07-10870-F; Judge Tonya Parker, 03-08-11.

Attorneys for plaintiff: Hunter M. Barrow and Charles A. Lestage of Thompson & Knight LLP in Dallas, TX. Attorneys for defendant: Christopher M. Weil and Teresa M. Robbins of Weil & Petrocchi PC in Dallas, TX, and Vance McMurry of McMurry & McMurry in Richardson, TX.

Dram Shop

$2,000,000 VERDICT - DRAM SHOP - DEFENDANT BAR'S FAILURE TO RECOGNIZE CO-DEFENDANT VISIBLY INTOXICATED LEADS TO CAR CRASH - FRACTURED NOSE - PUNCTURED LUNG - FRACTURED LUMBAR VERTEBRA - FRACTURED TIBIA AND ANKLE - SERIOUS DE-GLOVING INJURY TO CALF.

Morris County, NJ

In this dram shop action, the plaintiff alleged that the defendant establishment failed to recognize the signs of visible intoxication in his friend, the co-defendant. As a result, the plaintiff was involved in a serious car accident resulting in devastating bodily injury and disfigurement. The

defendant establishment denied the allegations; arguing instead that the liability for the accident rested solely with the co-defendant.

Ultimately, on January 8, 2010, after three days of testimony and a full day of deliberation, the jury awarded the plaintiff a total sum of $2,000,000. The jury was unanimous in finding that the co-defendant was visibly intoxicated when served his last drink and that the defendant establishment's failure to discontinue service proximately cause the plaintiff's injuries. Therefore, the jury split liability between the co-defendant and the defendant establishment, assigning 65% fault and 35% fault, respectively. The plaintiff was also awarded pre-judgment interest, attorneys' fees and court costs; the latter two being the result of an offer of judgment that had previously been served upon the defense.

REFERENCE

Brian M. Birchenough vs. Matthew R. Hurban, The Fone Booth, Six Gee Corp. t/a The Fone Booth, et al. Docket no. MRS-L-000649-08; Judge David Rand, 01-08-11.

Attorneys for plaintiff: Howard D. Popper, Esq. in Morristown, NJ, and Cornelius W. Caruso, Jr. of Tobin, Reitman, Greenstein, Caruso, Wiener & Konray in Rahway, NJ. Attorney for defendant: Thomas J. Heavy of Grossman & Heavy, P.C. in Brick, NJ.

Fraud

$6,104,418 VERDICT - FRAUD - FRAUDULENT TRANSACTIONS TO AVOID LOSS IN A PERSONAL INJURY CASE RESULT IN ADDITIONAL MULTI-MILLION DOLLAR AWARD - DAMAGES RESULTING FROM AVOIDANCE OF DEBT.

Hidalgo County, TX

This case saw a suit for fraudulent transactions by a family being sued in a shooting-related personal injury suit in South Texas. The shooter was an octogenarian now serving a life sentence for the attempted murder of a tractor driver. The plaintiff left the plaintiffs in both cases with an additional $6.1 million on top of a $19.7 million verdict from the personal injury action.

In January 2011, the court returned a $6.1 million verdict for the plaintiff on the charges of fraudulent transactions, finding that Leonardo Sr., Anita R., Anita G. and Filiberto R. conspired to and did transfer real estate and money with the intent to hinder, delay and defraud their creditors. The defendants, with the exception of Alicia R. and Feliberto R., Jr., were found jointly and severally liable for exemplary damages and legal fees as a result of the verdict. An additional fee of $145,947.56 was tendered for the services of plaintiff's counsel, Demetrio Duarte, and $105,190.37 for the services of the Trustee, Michael Schmidt.

REFERENCE

Jose Alberto Rodriguez, et al. vs. Anita Ramirez, et al. Case no. 09-70051/09-7004; Judge Marvin Isgur, 01-25-11.

Attorney for plaintiff Michael B. Schmidt: Demetrio Duarte, Jr. of Demetrio Duarte, Jr. & Associates, P.C. in San Antonio, TX. Attorney for defendant: Albert Villegas of Albert Villegas in McAllen, TX.

$900,000 VERDICT INCLUDING $675,000 IN PUNITIVE DAMAGES - FRAUD - FAILURE TO CONVEY PROCEEDS FROM SALE OF REAL ESTATE TO CHURCH - SETTLEMENT MADE WITH FORGED POWER OF ATTORNEY.

Delaware County, PA

The plaintiff is this action was a non-profit church located in Media, Pennsylvania. The church alleged that it was bilked out of some $225,000 in a fraudulent real estate investment scheme. The defendants in the case included a real estate investment company, its principal, a notary public, the individual who took title to the church properties and the title company which handled the closings. The title company settled the plaintiff's claims prior to trial under a joint tortfeasor's release for $115,000. The notary public and purchaser of the properties were placed into default. The defendant real estate investment company and its principal initially argued that the church's money was legitimately invested, but the investment was lost. However, at the time of trial, the remaining defendants did not appear and were not represented.

The case was heard as a bench trial with an award of $900,000 to the plaintiff. The award included $225,000 in compensatory damages and $675,000 in punitive damages against the defendant and Ewell's Real Estate & Investment, Inc.

REFERENCE

Abounding Grace Family Worship Center, Inc. vs. Ewell, et al. Case no. 08-6740; Judge Chad F. Kenney, 02-11-11.

Attorney for plaintiff: Robert M. Firkser of DelSordo & Firkser in Media, PA.

Insurance Obligation

$30,872,266 VERDICT - INSURANCE OBLIGATION - FAILURE TO MAINTAIN VEHICLE IN SAFE CONDITION - CAR FIRE - BLACK SMOKE OBSCURES VISIBILITY - ROLLOVER COLLISION - WRONGFUL DEATH OF 46-YEAR-OLD FATHER OF THREE - UNDERINSURED MOTORIST CLAIM.

Hillsborough County, FL

This case proceeded to trial as an underinsured motorist claim against the defendant GEICO. The plaintiff alleged that the defendant owner failed to maintain her vehicle in a safe condition and the defendant driver continued to drive at a high speed and disregarded audible warnings of imminent engine failure. As a result, the plaintiff contended that the tortfeasors' vehicle caught fire and emitted black smoke which obscured the decedent's vision. The decedent lost control of his vehicle, drove into a five-foot swale in the median and the vehicle rolled over, which resulted in ejection and death. The defendant denied that the tortfeasors were negligent and argued that the mechanical breakdown of their vehicle was not predictable. The defendant also raised a seatbelt defense and contended that the decedent over-reacted to the situation and was comparatively negligent. The defendant owner/driver had a $25,000 underlying liability policy limit and settled with the plaintiff prior to trial.

The jury found that both tortfeasors were negligent and that the decedent was not negligent. The jury awarded the plaintiffs a total of $30,872,266 in damages, comprised of $29 million in non-economic damages to the surviving wife and three children and $1,872,266 in economic damages.

REFERENCE

Bottini vs. Geico General Insurance Company. Case no. 08-08851; Judge Herbert J. Bauman, Jr., 02-03-11.

Attorneys for plaintiff: C. Steven Yerrid and David D. Dickey of The Yerrid Law Firm in Tampa, FL. Attorneys for defendant: James B. Thompson, Jr., Todd B. Miller, and Jason Stedman of Thompson, Goodis, Thompson, Groseclose, Richardson & Miller, P.A. in St. Petersburg, FL.

Municipal Liability

$1,350,000 RECOVERY - MUNICIPAL LIABILITY - OVERFLOW OF SEWERAGE DESTROYS PLAINTIFFS' CONDOMINIUM UNITS - FAILURE TO KEEP CITY SEWER SYSTEM IN PROPER REPAIR - RECONSTRUCTION OF ALL UNITS AS A RESULT OF DAMAGE - RELOCATION OF ALL PLAINTIFFS DURING RECONSTRUCTION PERIOD.

Bristol County, MA

In this municipal liability matter, the plaintiff condominium owners alleged that the defendant city was negligent in failing to take corrective action to prevent the backflow of the sewer into the private property of plaintiffs and repair the sewer system after a second overflow situation. The defendant city denied the allegations and disputed the nature and extent of the plaintiffs' damages.

The plaintiffs were able to settle with the defendant trustees and the defendant contractor and pursued their claim against the defendant city.

REFERENCE

Thomas vs. City of Taunton. Case no. 2007-00736, 10-01-10.

Attorney for plaintiff: Alan Fanger of Alan S. Fanger Law Office in Wellsley, MA.

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