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FEATURED CASES

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A monthly review of New Jersey State and Federal Civil Jury Verdicts.

The New Jersey cases herein are obtained from an ongoing monthly survey of the State and Federal courts in the State of New Jersey.

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FEATURED CASES

$12,000,000 RECOVERY – MEDICAL MALPRACTICE – EMERGENCY DEPARTMENT – HOSPITAL NEGLIGENCE – EMERGENCY ROOM STAFF FAIL TO ADMINISTER EPINEPHRINE TO PLAINTIFF'S DECEDENT SUFFERING SEVERE ALLERGIC REACTION TO PERFUME – FAILURE TO TIMELY DIAGNOSE AND TREAT ANAPHYLAXIS – WRONGFUL DEATH OF 35-YEAR-OLD-MALE.

Monmouth County, NJ

In this action for medical malpractice, the estate of the decedent maintained that the defendant emergency room doctor and staff failed to properly treat the decedent's allergic reaction resulting in an impaired airway and leading to cardiac arrest from which the decedent could not be revived. The defense maintained that certain medications were contraindicated given the decedent's obesity.

On January 1, 2017, the 35-year-old male presented to the defendant hospital's emergency room complaining of shortness of breath and an earlier bout of hives that he believed was caused by his wife's perfume. According to hospital records, the decedent weighed over 300 pounds and had never had an allergic reaction before. He was admitted to the E.R. under the care of the defendant doctor Sirchio, a physician board certified in emergency medicine, nurse Schwartz, and nurse Bathgate. Diphenhydramine (Benadryl), Famotidine (Pepcid), and Dexamethasone (Decadron) were administered. The decedent's condition worsened and 2 unsuccessful attempts to establish an airway occurred. Doctors attempted a cricothyrotomy which was not successful. After several more minutes passed the decedent was taken for emergency surgery. By then the decedent had been deprived of oxygen for too long and he suffered a cardiac arrest and died that evening.

The estate sued all the doctors involved in the decedent's care. The estate alleged that the defendants were negligent in failing to timely diagnose and treat anaphylaxis, failing to administer proper anaphylaxis medication, failing to promptly establish and airway and delaying emergency surgery to protect the decedent's airway. The decedent is survived by his wife and 2 minor children. The defense denied all allegations of negligence and argued that despite proper care in accordance with all standards, the decedent suffered a fatal allergic reaction. The anesthesiologist parties were dismissed from the action.

The estate and the defendants settled for $12,000,000.

REFERENCE

The Estate of David Gago by Michelle Gago vs. Kevin Sirchio, D.O. Alfonso Ciervo, M.D., Kambiz Kamrani, M.D., Monmouth Medical Center, North American Partners Anesthesiology, North American Partners in Anesthesia, Llp, and Dan-Thuy Tran, M.D. Docket no. L001381-18; Judge Kathleen A Sheedy, 03-08-23.

Attorney for plaintiff: Daryl L. Zaslow of Eichen Crutchlow Zaslow in Edison, NJ. Attorney for defendant: William G. Theroux of Buckley Theroux Kline & Cooley in Princeton, NJ. Attorney for defendant: Lauren Zalepka of Ronan, Tuzzio & Giannone in Tinton Falls, NJ.

COMMENTARY

Testimony in this medical malpractice action revealed that even among the defendants there was differing opinions of how the decedent's care was managed. The estate maintained that epinephrine should have been administered in the E.R. by the E.R. staff but they countered that the decedent was not hypotensive or tachycardic, so they opined he was suffering from bradykinin mediated angioedema for which epinephrine is not indicated. Further, epinephrine could cause morbidity in obese patients, so it therefore was not administered. Several of the defendants alleged that the defendant surgeon who transferred the decedent from the E.R. to the O.R. failed to appreciate the urgency of establishing an airway despite the patient's blue coloring and low oxygen saturation.

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$1,750,000 RECOVERY – MEDICAL MALPRACTICE – OPTOMETRIST NEGLIGENCE – DEFENDANT OPTOMETRIST FAILS TO ORDER PROPER TESTING AND TREATMENT FOR PLAINTIFF'S EYE COMPLAINTS RESULTING IN DELAY IN DIAGNOSIS OF GLAUCOMA – FAILURE TO MAKE PROPER AND TIMELY DIAGNOSIS OF PLAINTIFF'S CONDITION – ADVANCED GLAUCOMA – VISION LOSS.

Union County, NJ

The plaintiff in this medical negligence claim maintained that she routinely saw the defendant optometrist for both routine care and eye complaints which the defendant did not properly address. The plaintiff developed severe glaucoma that the defendant failed to timely diagnose and treat resulting in vision loss. The defendant denied all allegations of negligence and injury.

The 51-year-old female plaintiff was under the care and treatment of the defendant optometrist from approximately April 14, 2016 to December 14, 2019. During this time, the defendant rendered routine eye care and treatment to plaintiff. In February of 2020, the plaintiff was diagnosed with advanced glaucoma and vision loss.

The plaintiff maintained that the defendant optometrist was negligent in failing to make a proper and timely diagnosis of the plaintiff's condition, failing to institute proper and timely treatments, failing to perform or order necessary and appropriate medical interventions and failing to order necessary and appropriate medical interventions in a timely manner. The plaintiff's husband made a claim for deprivation of the society, services, consortium and companionship of his wife. The defendant denied all allegations of negligence and injury and maintained that the actions of the plaintiff and/or a third party caused any damages alleged by the defendant.

The parties settled their dispute for $1,750,000.

REFERENCE

Rupa and Alpesh Dharia vs. David Carotenuto, O.D.; Brunner Eye Care; Family Vision Health Care. Docket no. L-1542-21; Judge John G. Hudak, 02-27-23.

Attorney for plaintiff: Bruce H. Nagel of Nagel Rice, LLP in Roseland, NJ. Attorney for defendant: Frances Wang Deveney of Post & Schell, P.C. in Mount Laurel, NJ.

$1,625,000 RECOVERY – MOTOR VEHICLE NEGLIGENCE – LEFT TURN COLLISION – PAIN IN CERVICAL, THORACIC AND LUMBAR SPINE – LEFT LABRUM TEAR – HEADACHES, CONCUSSION AND PTSD – ARTERIAL THORACIC OUTLET SYNDROME – DECOMPRESSION SURGERY.

Morris County, NJ

A settlement was reached between the parties in this vehicular negligence action after the plaintiff suffered serious neurologic injury when her vehicle was struck by the defendant who attempted a negligent left hand turn. The defendant denied all allegations of negligence and injury and argued that it was the actions of the plaintiff that caused the collision.

On June 9, 2017, plaintiff, C. Bernstein was involved in a motor vehicle crash at the intersection of Tempe Wick Road and Corey Lane in Mendham. The defendant, L. Friedman, made a left turn in front of Bernstein's vehicle and struck the front driver's side of her vehicle; the suit claimed.

The plaintiff maintained that the defendant had negligently operated her vehicle while under the influence of alcoholic beverages, operated a vehicle without using corrective eyewear and negligently attempted a left turn. Following the accident, the plaintiff suffered pain in the cervical spine, thoracic spine, and lumbar spine, left superior labrum tear, tingling in the left hand/fingertips, headaches, concussion, and post-traumatic stress disorder. She was eventually diagnosed with thoracic outlet syndrome and underwent thoracic outlet decompression surgery. The defendant driver denied all allegations of negligence and injury and maintained that the actions of the defendant caused or contributed to the collision. In addition, the defendant denied the extent of the plaintiff's injuries.

The parties settled their dispute for $1,625,000.

REFERENCE

Cynthia Bernstein vs. Linda Friedman. Docket no. L002549-18; Judge Rosemary E. Ramsay, 05-13-22.

Attorney for plaintiff: Salomao Nascimento of Epstein Ostrove, LLC in Edison, NJ. Attorney for defendant: Brian T. Byrne of Marshall Dennehy Warner Coleman & Goggin in Roseland, NJ.

$762,500 RECOVERY – MOTOR VEHICLE NEGLIGENCE – REAR END COLLISION – LUMBAR AND CERVICAL HERNIATIONS – 4-LEVEL ANTERIOR CERVICAL FUSION AND LUMBAR HEMILAMINECTOMY – SURGERIES PERFORMED AFTER SUBSEQUENT ACCIDENT 6 MONTHS LATER – COLLISION OCCURS IN MONMOUTH COUNTY BUT CASE BROUGHT IN ESSEX COUNTY BASED ON INITIAL PIP DISPUTE BY CARRIER DOING BUSINESS IN ESSEX – NO INCOME CLAIMS.

Essex County, NJ

In this action for motor vehicle negligence, the 55-year-old plaintiff driver contended that the defendant driver struck him in the rear as he was proceeding in stop and go traffic. The accident occurred in Monmouth County but that action was brought in Essex County under a dispute with the PIP carrier who did business in Essex County.

The plaintiff asserted that he suffered cervical and lumbar herniations which will cause permanent symptoms despite a 4-level anterior cervical fusion and a lumbar hemilaminectomy. The defendant denied that the subject accident caused the alleged injuries. The defendant pointed out that the plaintiff did not undergo surgery until after a subsequent collision occurred approximately 6 months later. The plaintiff countered that the he had already made numerous cervical and lumbar complaints and underwent injections before the subsequent accident and denied that the defendant's position should be given any weight.

The plaintiff was not working at the time of the accident and no income claims were made.

The defendant had $250,000 in primary coverage, and a $1,000,000 umbrella. The case settled prior to trial for $762,500.

REFERENCE

Plaintiff's orthopedic surgeon expert: Alan Schultz, M.D. from Newark, NJ.

Mustafa vs. Ramins. 07-18-22.

Attorney for plaintiff: Kay A. Gonzalez of Bendit Weinstock, PA in West Orange, NJ.

$1,325,930 AWARD INCLUDING $100,000 IN PUNITIVE DAMAGES – REVERSE EMPLOYMENT DISCRIMINATION – JURY FINDS 2 LESS QUALIFIED AND SIGNIFICANTLY YOUNGER AFRICAN-AMERICAN ADMINISTRATORS HIRED FOR NEW POSITION OF VICE-PRINCIPAL OVER CAUCASIAN APPLICANTS.

Essex County, NJ

This was a reverse racial and age discrimination case/failure to promote case involving two plaintiff Caucasian public school administrators in their mid-late 50s in which the plaintiffs contended that although they were qualified and performing well in their prior positions, they were passed over for promotions to vice principals in favor of 2 less qualified and much younger African Americans. The defendants asserted that the individuals who were hired were more qualified as the plaintiffs and that the defendant was not liable.

The plaintiffs countered through the testimony of those who made the hiring decisions and argued that the resumes and experience of the plaintiffs reflected that they had much more experience and expertise than the individuals who were promoted. The plaintiffs each made claims for back and front pay as well as emotional distress. The plaintiffs also contended that they were entitled to punitive damages.

The jury found for the plaintiffs and awarded a total of $1,325,930. The awards were allocated as follows: $608,000 to the initial plaintiff for front and back pay

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and $200,000 for emotional distress. They also awarded $608,000 to the second plaintiff, declining to make separate awards for economic loss and emotional distress. Finally, the jury rendered a total of $100,000 in punitive damages.

REFERENCE

Plaintiff's forensic accounting expert: James A. DiGabriele, Ph.D. from Fairfield, NJ. Plaintiff's psychologist expert: Susan Cohen Esqulin, Ph.D. from Montclair, NJ.

D'Antonio, et al. vs. Newark Public Schools. Docket no. ESX-L-6132-15; Judge Robert Gardner, 03-01-23.

Attorneys for plaintiff: Jessica L. Mariconda and Kevin Barber of Niedweske Barber, LLC in Morristown, NJ.

COMMENTARY

The jury found that the African-Americans who were hired as vice principals were less qualified than the plaintiffs. In this regard, the plaintiffs argued that their resumes were significantly better than those hired and the witnesses presented by the plaintiffs included the defense employees participating in the hiring decisions.

$1,170,000 RECOVERY – NEGLIGENT SUPERVISION – MOTOR VEHICLE NEGLIGENCE – DEFENDANT ENTERTAINMENT FACILITY CREATES UNSAFE CONDITION IN ALLOWING MEDICAL VEHICLE TO REMAIN UNATTENDED WITH KEYS INSIDE ALLOWING CODEFENDANT TO STEAL IT AND CRASH INTO PLAINTIFF – NECK, SHOULDER AND KNEE INJURIES – DISCECTOMY AND FUSION AT C5-6, C6-7 – RIGHT ARTHROSCOPIC SHOULDER SURGERY – RIGHT ARTHROSCOPIC KNEE SURGERY.

Bergen County, NJ

The plaintiff in this personal injury negligence action maintained that he suffered injuries which required surgical treatment when his cab was struck by a stolen vehicle that the defendant entertainment company left unattended with keys in it and the defendant individual stole the vehicle and attempted to speed away. Both defendants denied negligence. The plaintiff and the defendant entertainment company settled their dispute.

On June 10, 2018, the male plaintiff was as a cab driver at Met Life Stadium. A hip hop concert had just let out and the plaintiff was expecting concert goers to need a ride. The codefendant Kiara Giles, left the concert and got into the defendant NJSEA's trailblazer which was being used as a medical vehicle at the concert. Giles jumped into the vehicle, which had the keys in the center console, and sped off. The individual defendant proceeded to start the vehicle, lose control, swerve, and collide with the cab in which the plaintiff was sitting idle.

The plaintiff maintained that the defendant in leaving a vehicle unattended with the keys in it creating a situation where it was likely that the vehicle would be stolen and operated by an unsafe driver. The plaintiff suffered injuries to his neck, shoulder and knee resulting in discectomy and fusion at C5-6, C6-7, right arthroscopic shoulder surgery and right arthroscopic knee surgery. Both defendants denied being negligent. NJSEA maintained that it was the actions of the defendant individual only that caused the incident and any resulting damages.

The plaintiff and the defendant entertainment facility settled for $1,170,000.

REFERENCE

Mohamed Hamed vs. Giles Kiara, New Jersey Sports and Exposition Authority and Tony Vagueiro. Docket no. L001582-19; Judge Michael Beukas, 02-07-23.

Attorney for plaintiff: Arjun A. Sharma of Fredson Statmore Bitterman in Bloomfield, NJ. Attorney for defendant: Cynthia A. Satter of Brick Law, LLC in Somerset, NJ.

Verdicts By Category

DOG BITE

$175,000 RECOVERY

Dog bite – Defendant's dog bites plaintiff while plaintiff lawfully visiting defendant – Failure to warn of dog's vicious propensities – Lower left leg dog bite with scarring and nerve damage – Emotional distress.

Middlesex County, NJ

The plaintiff in this personal injury negligence action maintained that he suffered permanent injury to his lower leg when he was bitten by the defendant's dog while visiting the defendant at his apartment he rented for the co-defendants. The defendants all denied being negligent.

On February 22, 2020, the male plaintiff was lawfully on the Rojkovic defendant's property located on New Street in Monroe, New Jersey. While lawfully on the defendant's property, a dog owned by the defendant Guerra bit the plaintiff. Consequently, the plaintiff suffered a dog bite to the lower left leg with permanent cosmetic deformity and decreased sensation along with emotional distress.

The plaintiff maintained that the defendant dog owner failed to warn of the dog's vicious propensities, and failed to control the dog. The plaintiff maintained that the defendant property owners were negligent in allowing the dangerous dog to live on the premises. The defendants argued that the plaintiff only had one medical trip as a result of the bite and had fully recovered from his injury.

The board of arbitrators found for the plaintiff and awarded the plaintiff $175,000.

REFERENCE

Edgar Villacres vs. Lucia Guerra and Josue and Yovanka Rajkovic. Docket no. 000396-21; Judge Laurence J. Bravman, 04-25-23.

Attorney for plaintiff: Sean Mahoney of Stathis & Leonardis, LLC in Edison, NJ. Attorney for defendant: Walter Harold Schneider of Law Office of Bobbi J. Vilacha in Seacaucus, NJ.

EMPLOYER LIABILITY

DEFENDANT'S VERDICT

Employer liability – Plaintiff slices hand sharpening hedge trimmer at job with defendant retail establishment – Failure to provide proper safety training and equipment – 20% permanent disability.

Mercer County, NJ

The plaintiff in this personal injury action was injured while performing the duties of his job with the defendant hardware store. The plaintiff received worker's compensation benefits and the defendant moved for summary judgment based on the worker's compensation award.

The minor plaintiff was employed by the defendant retail establishment located in Mercerville, New Jersey and was injured at work on September 7, 2020, when he sliced his hand while sharpening a battery powered hedge trimmer. The injury occurred shortly before the plaintiff's 18th birthday on September 27, 2020. The plaintiff made a claim against the defendant's workers' compensation carrier and filed a workers' compensation claim. He claimed the hand laceration resulted in a 20% permanent disability.

On April 12, 2022, the plaintiff obtained a partial permanent disability award. He subsequently filed the within tort action in August 2022, alleging the defendant failed to provide proper safety training and equipment. The defense argued that as the plaintiff elected to pursue a workers' compensation claim, any subsequent tort action was barred once the Division of Workers' Compensation made its April 12, 2022, determination on his claim petition. The defendant was therefore entitled to summary judgment as a matter of law.

The court granted the defendant's motion for summary judgment.

REFERENCE

Siddartha Suppiah vs. Yardville Supply Company a/k/a Smith's Ace Hardware. Docket no. L001487-22; Judge R. Brian McLaughlin, 04-26-23.

Attorney for plaintiff: Craig Joseph Ubert of Szaferman, Lakind, Blumstein & Blader, P.C. in Lawrenceville, NJ. Attorney for defendant: Peter A. Lentini of Marshall Dennehey Warner Coleman & Goggin, P.C. in Mount Laurel, NJ.

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MOTOR VEHICLE NEGLIGENCE

Intersection Collision

$35,000 VERDICT

Motor vehicle negligence – Intersection collision – Broadside collision – Plaintiff's vehicle struck by defendant's vehicle while proceeding through intersection – Neck pain – Back pain.

Atlantic County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck broadside by the defendant's vehicle while the plaintiff was proceeding through an intersection after a red traffic light causing the plaintiff to sustain injuries. The defendant denied all allegations of negligence.

On October 5, 2019, the plaintiff's vehicle was traveling northbound on North Lincoln Avenue in Vineland, New Jersey. At this time, the plaintiff's vehicle was stopped at a red traffic light at the intersection of North Lincoln Avenue and East Landis Avenue. When the light turned green, the plaintiff's vehicle began proceeding through the aforementioned intersection. At the same time, the defendant's vehicle was traveling eastbound on East Landis Avenue, toward the same intersection. At the time of the incident, the defendant's vehicle failed to stop at the red traffic signal and collided with the rear drivers' side of the plaintiff's vehicle.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to remain adequately attentive, failing to obey traffic signals, failing to observe traffic conditions, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including neck and back pain.

The jury found in favor of the plaintiff and awarded $35,000.

REFERENCE

Helfrich David vs. Ferguson Margaret. Docket no. L003047-21; Judge John C. Porto, 04-19-23.

Attorney for plaintiff: Steven K. Johnson of D'Arcy Johnson Day in Egg Harbor Township, NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Intersection collision – Defendant disregards stop sign and enters collision lawfully occupied by plaintiff striking plaintiff's vehicle on driver's side – Disc bulges of the thoracic and lumbar spine – Aggravation of prior disc bulges.

Middlesex County, NJ

The plaintiff in this vehicular negligence action maintained that she suffered new injuries to her back along with an aggravation of injuries to her neck when her vehicle was lawfully proceeding through an intersection and it was struck by the defendant who disregarded a red light. The defendant denied all allegations of negligence and injury.

On September 5, 2018, the female plaintiff was traveling eastbound on Carteret Avenue at its intersection with Fillmore Avenue in Carteret, New Jersey. The defendant was traveling southbound on Fillmore Avenue when the defendant disregarded a stop and entered the intersection t-boning the driver's side of the plaintiff's vehicle.

The plaintiff maintained that the defendant was negligent in failing to properly stop for a stop sign, failing to keep a proper and adequate lookout, failing to safely enter an intersection and failing to have the vehicle under proper and adequate control. The plaintiff suffered disc bulges at T78-L1, L1-2, L2-3, L3-4, L5-S1along with aggravation of previous cervical disc injuries.

The jury found that the defendant's negligence did cause the plaintiff to sustain a permanent injury as result of the accident.

REFERENCE

Rajawant Gill vs. Kathryn Wertheimer. Docket no. 007362-19; Judge J R Corman, 04-21-23.

Attorney for plaintiff: Paul Garelick of Lombardi & Lombardi in Edison, NJ. Attorney for defendant: Jodi Anne Hudson of Connell Foley in Roseland, NJ.

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Parking Lot Collision

$67,500 RECOVERY

Motor vehicle negligence – Parking lot collision – Plaintiff's vehicle struck in rear driver's side by defendant's vehicle while trying to exit parking spot – Neck pain – Back pain.

Atlantic County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear driver's side by the defendant's vehicle, while the plaintiff was attempting to exit a parking spot causing him to sustain injury. The defendant generally denied all allegations of negligence.

On April 13, 2019, the plaintiff was attempting to back his vehicle out of a parking spot in a lot located at 9 Liberty Court in Galloway, New Jersey. At the same time, the defendant's vehicle was traveling in an eastbound direction in the same parking lot, close to the location of the plaintiff's vehicle. At the time of the incident, the defendant's vehicle proceeded in a straight direction and struck the rear driver's side of the plaintiff's vehicle as it was backing out of the subject parking space.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to observe the plaintiff's vehicle, failing to remain adequately attentive, in negligently traveling at an excessive rate of speed in a parking lot, in failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including neck pain and back pain.

The jury found in favor of the plaintiff and awarded $67,500.

REFERENCE

Aleman Caridad vs. Buster-Wilson Oshajakae. Docket no. L000989-21; Judge John C. Porto, 05-18-23.

Attorney for plaintiff: Lars S. Hyberg of Hyberg, White & Mann Law Firm in Northfield, NJ. Attorney for defendant: Caesar Law of Brazza Law, LLC in Morristown, NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Parking lot collision – Defendant intoxicated driver strikes right rear side of plaintiff's vehicle in parking lot exit – Injuries to neck, back and abdomen – Headaches.

Mercer County, NJ

The plaintiff in this vehicular negligence action maintained that she suffered injuries to her neck, back and abdomen when she was attempting to exit an Auto Zone parking lot and her vehicle was struck by the defendant who was operating a vehicle under the influence of alcohol. The defendant denied all allegations of negligence and died while the case was pending. The case was continued against his estate.

The 42-year-old female plaintiff was stopped at the exit/entrance of an Auto Zone parking lot on April 27, 2018, located on Olden Avenue in Mercer County, Pennsylvania. The defendant was traveling in the same parking lot when his foot slipped off the brake and he collided with the rear right side of the plaintiff's vehicle.

The plaintiff maintained that the defendant was negligent in operating a vehicle under the influence of alcohol, failing to have the vehicle under proper and adequate control, failing to note the point and position of the plaintiff, failing to maintain a proper distance from the plaintiff's vehicle. The plaintiff maintained that the accident resulted in injuries to the plaintiff's neck, back, and abdomen along with headaches.

The jury found that the plaintiff did not suffer a serious or permanent injury in the collision.

REFERENCE

Brandy T. Hayes vs. Donna Meyers as Administrator of the Estate of Aaron R. Peck. Docket no. L-758-20; Judge R. Brian Mclaughlin, 04-14-23.

Attorney for plaintiff: Steven M. Levy of Javerbaum Wurgaft Hicks Kahn Wikstrom & Sinins, P.C. in Voorhees, NJ. Attorney for defendant: Francis John Lynch, III of John J. Gentile, Esquire, LLC in Wall, NJ.

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Rear End Collision

$750,000 RECOVERY

Motor vehicle negligence – Rear end collision – Defendant strikes rear of plaintiff's vehicle as it slowed for traffic – Concussion – Left rotator cuff injury – Cervical disc injuries requiring decompression and fusion – Epidural steroid injections – Lumbar sprain and strain – Damages only.

Ocean County, NJ

The plaintiff in this motor vehicle negligence action maintained that she suffered serious injuries when her vehicle was negligently struck in the rear by the defendant. The defendant stipulated liability in striking the plaintiff's vehicle, but denied the nature and extent of the damages alleged by the plaintiff.

On March 27, 2017, the female plaintiff was operating her vehicle east on the entry ramp of Cedarbridge Ave. in Lakewood, New Jersey. At the same time and place, the defendant was operating a vehicle owned by the defendant company directly behind the plaintiff when he failed to stop and collided with the rear of the plaintiff's vehicle.

The plaintiff maintained that the defendant was negligent in failing to keep a proper adequate lookout, failing to keep a proper and adequate distance from the plaintiff's vehicle, failing to make a timely improper application of the brakes, and failing to have the vehicle under proper and adequate control. As a result of the accident, the plaintiff sustained a concussion without loss of consciousness, a left shoulder rotator cuff tear requiring surgery, cervical disc injuries requiring decompression and fusion along with epidural steroid injections, and lumbar sprain and strain.

The defendant offered a settlement amount of $500,000 which was rejected by the plaintiff. The parties then settled for $750,000.

REFERENCE

Ippolito Donna vs. David Lagarra. Docket no. L000683-19; Judge James Den Uyl, 09-22-22.

Attorney for plaintiff: James Maggs of Maggs McDermott & DiCicco in Wall, NJ. Attorney for defendant: Linda Olsen of Ronan Tuzzio & Giannone, PA in Tinton Falls, NJ.

$150,000 VERDICT

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while stopped for red light – Partial tears of supraspinatus and infraspinatus tendons of left rotator cuff – Disc protrusions at L4-5 and L5-S1 – Anterior compression at T12.

Atlantic County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear by the defendant's vehicle while stopped at a red traffic light, causing him to sustain serious injuries. The defendant generally denied all allegations of negligence.

On November 24, 2018, the plaintiff's vehicle was traveling on Black Horse Pike in Egg Harbor Township, New Jersey. At this time, the plaintiff's vehicle was stopped at a traffic light at the Black Horse Pike jug handle, and was preparing to proceed in a southbound direction on Black Horse Pike. At the same time, the defendant's vehicle was traveling directly behind the plaintiff's vehicle, and was approaching the red light at the Black Horse Pike jug handle. At the time of the incident, the plaintiff's vehicle was still stopped at the red light when it was struck in the rear by the defendant's vehicle.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing remain adequately attentive, failing to obey traffic signals, failing to observe traffic conditions, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including partial tears of the supraspinatus and infraspinatus tendons of the left rotator cuff, disc protrusions at L4-5 and L5-S1, and anterior compression at T12.

The parties entered into a settlement for $150,000.

REFERENCE

Lopez Angel vs. Strommer Brian. Docket no. L003712-20; Judge Danielle J. Walcoff, 04-12-23.

Attorney for plaintiff: Tom Vesper of Westmoreland, Vesper, & Quattrone in West Atlantic City, NJ.

$25,000 POLICY LIMIT RECOVERY

Motor vehicle negligence – Host driver strikes car in front in rear while traffic stopped on NJ Tpk – Plaintiff asleep in rear seat – Plaintiff strikes back of driver's seat – Concussion – 2-inch forehead laceration – Plastic surgery with 30 stitches – Thin but visible forehead scar.

Bergen County, NJ

This motor vehicle negligence case involved a then-17-year-old plaintiff who was asleep in the back seat when the host driver struck a vehicle in front on the NJ Turnpike after traffic stopped. The plaintiff struck the rear of the driver seat. The plaintiff sustained a concussion and a 2-inch laceration on his forehead.

The plaintiff was taken by ambulance to the hospital where he was admitted for 1 day. He underwent plastic surgery with approximately 30 stitches. The plaintiff contended that the 2-inch thin, but visible forehead scar is permanent.

The plaintiff was an accomplished soccer player and was unable to play soccer for 4 months due to the wound on his forehead and residual headaches.

The case settled prior to the institution of suit for the $25,000 policy limits. There was no UIM coverage.

REFERENCE

Plaintiff's plastic surgeon expert: William Boss, M.D. from Paramus, NJ.

Preciado vs. Torrealba.

Attorney for plaintiff: Todd I. Siegel of Siegel & Siegel in Teaneck, NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Rear end collision – Nasal fracture – Fractured teeth – Contusions and abrasions.

Mercer County, NJ

The plaintiff in this motor vehicle negligence action maintained that he suffered various injuries, including a broken nose, when his stopped vehicle was struck from behind by the defendant driver. The defendant denied all allegations of negligence and injury and argued that it was the actions of the plaintiff that caused the collision.

On February 13, 2017, the male plaintiff was an unrestrained driver stopped on a bridge on River Road in Makefield Township, Pennsylvania when his vehicle was hit from behind by the defendant causing the plaintiff to impact the windshield with his face and head. Consequently, the plaintiff sustained lacerations of the nose and forehead, nasal bone fracture and fractured teeth, soft tissue injuries to the left knee, bilateral rotator cuff tears requiring surgery and sprains and strains to the neck and back. In addition, the plaintiff's wife made a claim for loss of consortium.

The plaintiff maintained that the defendant driver was negligent and failing to keep a proper lookout, traveling at an excessive rate of speed for traffic conditions, failing to make a timely and proper application of the brakes and failing to maintain an assured clear distance. The plaintiff also maintained that the defendant vehicle owner, that defendant driver's employer, was vicariously liable for the acts of their employee. The defendants denied all allegations of negligence and injury and maintained that the plaintiff was improperly stopped on the bridge and was not wearing his seat belt and that those actions caused the accident and the resulting damages.

The jury found for the defense.

REFERENCE

Orest and Ludmyla Babyak vs. Jose Roman and J. Spinelli & Sons, Inc. Docket no. L000690-18; Judge Anthony M. Massi, 04-13-22.

Attorney for plaintiff: Patrick Cahalane of Anglin, Rea & Cahalane, P.A. in East Windsor, NJ. Attorney for defendant: Terrence Bolan of Bolan Jahnsen Dacey in Shrewsbury, NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Rear end collision – Defendant strikes rear of plaintiff's stopped vehicle – Thoracic disc herniation – Concussion with post-concussion syndrome – Damages only.

Mercer County, NJ

The plaintiff in this motor vehicle negligence action maintained that he suffered injuries to his head, neck and back when his stopped vehicle was struck in the rear by the defendant. The defendant admitted liability but denied that the plaintiff suffered any serious or permanent injury.

On July 17, 2018, the male plaintiff was operating his vehicle at the intersection of New York Ave. and Route 1 S in Trenton, New Jersey. Suddenly and without warning, the plaintiff's vehicle was struck in the rear by the defendant.

The plaintiff maintained that the defendant driver was negligent in following the plaintiffs vehicle too closely, failing to use ordinary care, failing to properly and timely apply the brakes and failing to have the vehicle under proper and adequate control. Following the accident the plaintiff was diagnosed with post-traumatic cervicalgia, cervical radiculitis, cervical sprain, thoracic sprain, disc herniation T1-T2 and concussion with post-concussion syndrome.

The jury returned a verdict in favor of the defendant.

REFERENCE

Michael Okai vs. Deanna Pohl. Docket no. L-2144-19; Judge Anthony M. Massi, 04-19-23.

Attorney for plaintiff: Marc F. Greenfield of Spear, Greenfield, Rickman, Weitz & Taggart, P.C. in Marlton, NJ. Attorney for defendant: C. Robert Luthman of Weir Attorneys in Ewing, NJ.

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PREMISES LIABILITY

Fall Down

$475,000 VERDICT

Premises liability – Fall down – Plaintiff trips and falls on yellow plastic strap while entering defendant's grocery store – Nasal fractures – Concussion – Post-concussion syndrome.

Mercer County, NJ

The plaintiff in this premises liability action maintained that she sustained injuries when she was lawfully entering the defendant's grocery store and she tripped and fell on a plastic strap that was negligently allowed to be and remain on the floor. The defendant grocery store generally denied all allegations of negligence and injury.

The 70-year-old female plaintiff was walking into the defendant's grocery store located in Warren, New Jersey on November 19, 2018. As she walked through the vestibule she tripped and fell on a plastic yellow strap that binds newspapers or publications. She landed on her face and arms. Consequently, the plaintiff sustained several nasal fractures, concussion, post-concussion syndrome, eye contusion and swelling, broken teeth and various facial contusions and lacerations requiring stitches.

The plaintiff maintained that the defendant grocery store was negligent in allowing a hazardous and dangerous condition to exist on the premises, failing to make routine inspections of the premises and failing to remove the hazardous and dangerous condition. The defendant grocery store denied all allegations of negligence and brought in the The Trentonian, the newspaper that was bundled with yellow straps that was delivered to the vestibule, as an additional defendant. The Trentonian motioned the court for summary judgment which the court granted.

The case settled between the plaintiff and Acme for $475,000.

REFERENCE

Mary Procaccino vs. Acme Markets. Docket no. L - 001850-20; Judge Anthony M. Massi, 04-23-23.

Attorney for plaintiff: Bhaveen Ranjit Jani of Stark & Stark in Hamilton, NJ. Attorney for defendant: Alexander Krasnitsky of Mintzer Sarowitz Zeris Ledva & Meyers in Cherry Hill, NJ.

RELIGIOUS DISCRIMINATION

$100,000 RECOVERY

Religious discrimination – Alleged civil rights violation – Failure of hospital and health center operator to provide religious exemption from vaccine mandate.

Cumberland County, NJ

This claim was brought by the U.S. Equal Employment Opportunity Commission ("EEOC") against Inspira Medical Centers, Inc., also known as Inspira Health Network ("Inspira"). Inspira is a corporation headquartered in Cumberland County, New Jersey which owns and operates several hospitals and numerous health centers in New Jersey. The claim involved 6 religious discrimination charges, which the EEOC asserted, were the result of Inspira denying employees a religious exemption to its mandatory influenza vaccination policy.

Prior to 2020, Inspira's influenza vaccination policy provided for both medical and religious exemptions. In 2020, Inspira modified its influenza vaccination policy in an attempt to comply with a New Jersey statute that requires health care employees to get the influenza vaccine. The statute provided for medical exemptions but didn't provide religious exemptions. Inspira then modified its pre-existing influenza vaccination policy to remove the ability to obtain a religious exemption and denied their employees' request for a religious accommodation.

According to the EEOC, such conduct violated Title VII of the Civil Rights Act of 1964, which requires employers to provide reasonable accommodations to the sincerely held religious beliefs of their employees.

Inspira entered into conciliation agreements providing a total of $100,000 in compensatory damages to 5 employees. Inspira will also revise and disseminate its influenza vaccination policy to provide an exemption because of sincerely held religious beliefs and will grant requests for reasonable accommodations to its influenza vaccination. Inspira also agreed that compliance with the New Jersey statute shall not be considered as imposing an undue burden and cannot be a justification for denying a request for a reasonable accommodation.

REFERENCE

EEOC vs. Inspira Medical Centers. Docket no. n/a; Judge n/a, 05-31-23.

Attorney for plaintiff: Joshua Zugerman of senior trial attorney with EEOC 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

$26,750,000 VERDICT – MEDICAL MALPRACTICE – COUNTY GOVERNMENT NEGLIGENCE – PLAINTIFF'S DECEDENT INCARCERATED FOR DRUG POSSESSION DIED OF RUPTURED INTESTINE WHILE IN JAIL AFTER COMPLAINING OF SEVERE STOMACH PAIN DEFENDANTS INADEQUATELY ADDRESSED – WRONGFUL DEATH OF 55-YEAR-OLD FEMALE.

Eastern District County, WA

In this action for medical malpractice, the plaintiff's decedent was arrested and jailed in the defendant's jail for drug possession. While incarcerated, she suffered a serious medical emergency that the defendants failed to properly respond to. She died in a jail cell from a ruptured intestine. The defendants denied all allegations of negligence and maintained that the decedent was properly treated.

The plaintiff's 55-year-old decedent remained unattended in a cell in the medical housing unit and was found deceased on the floor on the evening of August 25, 2018. She died from the consequences of an acute bacterial infection in her intestinal tract from rupture. The estate maintained that the defendant nurse Gubitz acted with reckless disregard for the decedent's constitutional rights and caused the continued suffering and death of the decedent by failing to follow the accepted standards of care. All defendants were liable under Washington's wrongful death and survival statutes.

The jury found that the estate was entitled to $2 million for the pain and suffering the decedent experienced before her death and $750,000 for the "enjoyment of life" she lost. The jurors apportioned responsibility for the decedent's death at 90% against Naphcare and 10% against Spokane County. The jury was instructed on punitive damages and awarded $24,000,000 for a total verdict of $26,750,000.

REFERENCE

Defendant's expert: Craig Pepin from Seattle, WA.

The Estate of Cindy Lou Hill, by and through its personal representative, Joseph A. Grube vs. NaphCare, Inc., an Alabama corporation and Spokane County, a political subdivision of the State of Washington. Case no. 20-CV-00410; Judge Mary Dimke, 07-27-22.

Attorney for plaintiff: Edwin Budge of Budge & Heipt, PLLC in Seattle, WA. Attorney for defendant: John Justice of Law, Lyman, Daniel, Kamerrer & Bogdanovich, P.S. in Tumwater, WA. Attorney for defendant: Christopher Quirk of Sands Anderson, PC in Richmond, VA. Attorney for defendant: Ketia Wick of Fain Anderson VanDerhoef Rosendahl O'Halloran Spillane, PLLC in Seattle, WA.

$6,250,000 VERDICT – MEDICAL MALPRACTICE – NURSING HOME NEGLIGENCE – FAILURE TO PROPERLY SUPERVISE RESIDENT PREVIOUSLY ASSESSED AS NEEDING SUPERVISION WHILE EATING – RESIDENT WITHOUT TEETH NOT WEARING UPPER DENTURES – CHOKING DEATH OF 72-YEAR-OLD FEMALE.

Queens County, NY

This was a medical malpractice case involving the choking death of a 72-year-old nursing home resident. The decedent had been admitted with spinal issues that prevented her from walking. The decedent also had no teeth and was wearing upper dentures only at the time. The evidence revealed that because of the oral issues, the treatment assessment provided that the resident be supervised while eating. The plaintiff established that during the meal, the employee, whom the plaintiff maintained should have monitored the decedent when she was eating, was in an adjacent room resulting in the plaintiff's decedent's choking death. The defendant asserted that the defendant was only required to "set up" the meal and remaining in ear shot was adequate.

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The plaintiff also contended that the defendant did not respond to the patient for some 20 minutes and the plaintiff's decedent was found unresponsive. The plaintiff asserted that the pain and suffering was horrific and lasted between 2 and 4 minutes. The records revealed that a bolus of meat was removed from the airway. The patient was transferred to the subsequent hospital at approximately 6:00 p.m. She passed away the following day.

The defendant had $1,000,000 in coverage. During the deliberations, the parties entered into a $0/ $975,000 high/low agreement. The jury found for the plaintiff. They then awarded $6,250,000, including $2,500,000 for past pain and suffering, $1,000,000 for past loss of parental guidance and $2,750,000 for future loss of parental guidance. The case resolved for $975,000.

REFERENCE

Plaintiff's elder care nursing expert: Charlotte Sheppard, R.N. from Chapel, FL. Plaintiff's physical medicine & rehabilitation expert: Nocencia I. Carrano, M.D. from Middletown, NY.

Miller vs. Forest View Center for Rehabilitation and Nursing, et al. Index no. 713892/17; Judge Kevin J. Kerrigan, 10-22.

Attorney for plaintiff: Peter S. Thomas of Queens, trial counsel to of Sinel & Olesen, PLLC in New York, NY.

$450,000 RECOVERY – MEDICAL MALPRACTICE – PRIMARY CARE NEGLIGENCE – DEFENDANT DOCTORS FAIL TO APPRECIATE DECEDENT'S ABNORMAL LIVER FUNCTION RESULTS AND FAIL TO DIAGNOSE HEMOCHROMATOSIS RESULTING IN LIVER CANCER – WRONGFUL DEATH OF 73-YEAR-OLD MALE.

Allegheny County, PA

In this action for medical malpractice, the estate of the decedent maintained that the decedent's doctors failed to routinely appreciate the decedent's abnormal liver function studies causing a long delay in diagnosing a genetic liver disorder which increased the chance of liver cancer, which the decedent developed, resulting in his death. The defendants denied that the decedent's death was result of any medical negligence.

The decedent is survived by his longtime companion, his brother and several nieces and nephews. The estate alleged that the defendant doctors were negligent in failing to make a timely diagnosis of hereditary hemochromatosis, failing to do a proper work up to discover the cause of the patients persistently abnormal liver function studies, failing to order additional iron studies and appropriate imaging and carelessly attributing the patient's abnormal liver function study to obesity or alcohol consumption rather than performing an appropriately thorough work up. The estate made a claim for appropriate damages under the survival act including loss of earnings, medical expenses, pain and suffering and mental anguish.

The parties settled for $450,000.

REFERENCE

The Estate of John Amos by Wendi Amos vs. James S. Costlow, M.D., Richard Rosenthal, M.D. and Premier Medical Associates, Inc. Case no. GD-20-008965; Judge Patrick Connelly, 02-07-22.

MOTOR VEHICLE NEGLIGENCE

$1,900,000 RECOVERY – MOTOR VEHICLE NEGLIGENCE – HEAD-ON COLLISION – PLAINTIFF DRIVER CLAIMS BRIEF LOSS OF CONSCIOUSNESS AND NEUROPSYCHOLOGICAL DEFICITS REQUIRING NEUROCOGNITIVE THERAPY – 5 LUMBAR DISC INJURIES – MICRODISCECTOMY – 4 CERVICAL DISC INJURIES – FUTURE CERVICAL SURGERY – INABILITY OF ADMINISTRATIVE EMPLOYEE TO WORK.

Essex County, NJ

In this action for motor vehicle negligence, the plaintiff driver, age 36 at the time and currently age 41, contended that the defendant driver, traveling in the opposite direction, lost control and traveled over the double-yellow line, causing the head-on collision. The plaintiff maintained that she suffered a brief loss of consciousness and a significant closed head injury with permanent deficits involving short-term memory and concentration. The plaintiff also maintained that she suffered 2 lumbar annular tears, and 3 lumbar herniations as well as 4 cervical herniations. The plaintiff has already undergone a lumbar microdiscectomy, and will require future cervical surgery. There was no significant dispute regarding liability; however, the defendant denied that the plaintiff suffered the claimed disc injuries in the accident and would have asserted that the plaintiff suffered degenerative disc disease only.

The plaintiff's neurosurgeon would have related that he believed that the closed head injury and associated deficits would benefit from neurocognitive therapy and the plaintiff's neuropsychologist maintained that the plaintiff will suffer such deficits permanently, despite such therapy.

The case settled prior to trial for $1,900,000.

REFERENCE

Fan vs. Kern. 11-09-21.

Attorney for plaintiff: Sean M. Mahoney of Stathis & Leonardis in Edison, NJ.

$1,426,631 GROSS VERDICT – MOTOR VEHICLE NEGLIGENCE – DISABLED AUTO COLLISION – EXACERBATION OF DISC BULGES RESULTING IN MULTIPLE CERVICAL DISC HERNIATIONS WITH NERVE ROOT IMPINGEMENT – INJECTIONS, PHYSICAL THERAPY, RHIZOTOMY AND CERVICAL DISC REPLACEMENT SURGERY – SIGNIFICANT SCARRING AND PERMANENT LACK OF MOBILITY IN NECK.

Broward County, FL

In this motor vehicle negligence case, the plaintiff asserted that the defendant dump truck driver struck the plaintiff's disabled vehicle on the side of the road with such force that it caused the plaintiff significant, permanent injury. As a result of the collision, the plaintiff sustained exacerbation of disc bulges resulting in multiple cervical disc herniations with nerve root impingement. The plaintiff treated with injections, physical therapy, and rhizotomy, which were unsuccessful and she ultimately underwent cervical disc replacement surgery and was left with significant scarring and lack of mobility in the neck. The defendant denied negligence, arguing that the truck driver could not see the plaintiff's vehicle until he was upon it and that the plaintiff's vehicle presented an emergency situation that caused an unavoidable collision.

The plaintiff conceded that she had prior neck and back issues for which she received pain management therapy but argued that the subject accident caused a traumatic injury compounding her prior issues and resulting in permanency of her condition. The plaintiff's treating surgeon also opined that the plaintiff will require future 3-level anterior cervical discectomy and fusion.

The jury found the plaintiff 70% negligent and the defendant 30% negligent and awarded gross damages in the amount of $1,426,631 broken down as follows: $695,409 in past medical expenses; $402,000 in future medical expenses; $208,622 in past non-economic damages; and $120,600 in future non-economic damages. The plaintiff's net damages after reduction for comparative negligence were $343,814.

REFERENCE

Truong vs. Wright, et al. Case no. CACE19015453; Judge David A. Haimes, 07-19-22.

Attorney for plaintiff: Lake H. Lytal, III of Lytal, Reiter, Smith, Ivey & Fronrath in West Palm Beach, FL.
Attorney for defendant: Maria E. Dalmanieras of Boyd Richards Parker & Colonel in Miami, FL.

PREMISES LIABILITY

$10,548,465 VERDICT – PREMISES LIABILITY – HAZARDOUS PREMISES – AT DIRECTION OF DEFENDANTS, PLAINTIFF'S DECEDENT CLIMBS TO TOP OF TRACTOR TRAILER IN ORDER TO UNLOAD CHEMICALS AND SLIPS AND FALLS FROM LADDER FALLING 14 FEET TO GROUND BELOW SUSTAINING CATASTROPHIC LEG INJURIES RESULTING IN DEATH 8 MONTHS LATER – WRONGFUL DEATH AND SURVIVAL ACTION.

Harris County, TX

In this premises liability action, the plaintiff's decedent was in the course and scope of his employment with one of the defendants at the second defendant's chemical plant when he fell from his trucks ladder to the ground below sustaining injuries that caused complications resulting in his death 8 months after the incident. Both defendants denied all allegations of negligence and injury.

The estate of the decedent maintained that the defendants were negligent in failing to appropriately protect all workers working at heights from falls, and failing to maintain the subject chemical plant in a reasonably safe condition, free of conditions posing an unreasonable risk of harm. The estate sued for wrongful death and survival. The decedent is survived by his wife and 3 children.

The jury found that BASF only was negligent. The jury awarded the estate $5,389,465.14 in past damages and $5,159,000 in future damages for a total of $10,548,465.14.

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REFERENCE

Plaintiff's expert: Richard Friedlander, M.D. from New York, NY.

Melissa Garcia, Individually and as Representative of the Estate of Oberlin Garcia, Deceased, and Amy Garcia Morales, Conrado Garcia, and Oberlin Garcia, Jr., Individually vs. BASF Corporation and Service Transport Company. Case no. 201823951; Judge Tamika Craft-Demming, 02-01-23.

Attorney for plaintiff: Alexander Hilliard of Hilliard Martinez Gonzales, LLP in Corpus Christi, TX. Attorney for defendant: Tynan Buthod of Baker Botts, L.L.P. in Houston, TX.

$4,700,000 VERDICT – PREMISES LIABILITY – FALL DOWN – PLAINTIFF DOCTOR SLIPS AND FALLS ON ICE IN EMPLOYEE PARKING LOT OF BUILDING WHERE HE WORKED – HIP PROSTHETIC FRACTURE – MENISCUS TEAR – SURGERIES – OSTEOMYELITIS – SEPTIC SHOCK – PERMANENT DISABILITY.

Allegheny County, PA

The plaintiff in this premises liability action maintained he suffered catastrophic lower extremity injuries when he slipped and fell on ice in a parking lot owned controlled and maintained by the defendants. His injuries included a periprosthetic fracture of the right hip, hematoma of the right hip, trochanteric avulsion fracture of the right femur and a medial meniscus tear of the left knee. The plaintiff underwent a right total hip arthroplasty and left knee arthroscopy. The plaintiff sustained post-surgical complications including septic shock, infection of the right prosthetic hip joint and seroma of the musculoskeletal structure. All defendants denied all liability and maintained that the property was properly treated but due to melting and refreezing the possibility of ice patches on that date existed.

As a result of the fall, the plaintiff continues to have difficulties with the activities of daily life and is unable to continue his employment as a doctor.

The jury found all of the defendants negligent. The jury did not find any comparative negligence on the part of the plaintiff. The jury apportioned liability at 70% against Banksville and 30% against snow and ice management company and awarded the plaintiff damages in the amount of $4,700,000. Post-trial motions are pending.

REFERENCE

Thomas Bonacorsi, M.D. vs. Banksville Commons, LLC, Snow and Ice Management Company, Inc. and City Limits Landscape. Case no. GD-19-000138; Judge Michael Dellavecchia, 11-07-22.

Attorney for plaintiff: Matthew Barnes in Pittsburgh, PA. Attorney for plaintiff: Eric Anderson of Meyer Darragh in Pittsburgh, PA. Attorney for defendant: Terrance Henne of Mintzer Sarowitz Zeris & Ledva in Sewickley, PA. Attorney for defendant: Dana Horton of Thomson Rhodes & Cowie in Pittsburgh, PA.

$2,000,000 RECOVERY – PREMISES LIABILITY – NEGLIGENT SECURITY – TEENAGER SHOT AT GAS STATION – WRONGFUL DEATH AT AGE 17.

Miami-Dade County, FL

The decedent in this negligent security/wrongful death action was a 17-year-old teenager who was sitting in a parked car at the defendant's gas station when he was shot multiple times causing his death. The plaintiff alleged that the defendant was aware of the foreseeability of crime at the location, yet failed to implement adequate security. The defendant argued that the young decedent was "targeted" for the murder and that it could not have prevented the killing.

The plaintiff argued that the defendant's management of the convenience store was flagrantly negligent, and provided the shooter an opportunity to commit the crime. The plaintiff pointed to part of the cashier's vestibule which was boarded up or covered with signs, making it difficult – if not impossible – for the clerk to monitor activity at the station.

The parties reached a global settlement for $2,000,000. $1,000,000 of the settlement funds was contributed by the defendant gas station operator. The additional $1,000,000 was tendered pre-suit and was confidential as to the parties involved, the attorneys and the insurance carriers.

REFERENCE

Tina David as personal representative for the Estate of Rodney Hinds, Jr. vs. Tahir Enterprises, Inc. Case no. 2021-019952-CA-01; Judge Antonio Arzola, 06-28-22.

Attorneys for plaintiff: Adam Finkel and Michael Haggard of The Haggard of The Haggard Law Firm in Coral Gables, FL.

ADDITIONAL VERDICTS OF PARTICULAR INTEREST

Civil Rights

$1,600,000 RECOVERY – CIVIL RIGHTS – TITLE VII CLAIM – SEXUAL DISCRIMINATION IN WORKPLACE – RETALIATION – FEMALE WORKERS IN FRANCHISE SUBJECTED TO SEXUAL HARASSMENT AND DISCRIMINATION IN WORKPLACE AT FAST FOOD RESTAURANT BY MALE SUPERVISOR.

U.S.D.C. - District of Vermont

In this civil rights claim, the EEOC brought a claim on behalf of a female employee who was subjected to sexual harassment, discrimination and retaliation in the defendant's fast food restaurant by the male supervisor and others in positions of authority. The defendant denied the allegations.

The female employee was subjected to a hostile work environment during her night shift working with the male assistant manager which frequently included unwelcome sexual comments, acts and innuendos, unwanted touching and groping which created a hostile work environment. When the female employee complained to the general manager, the allegations were not properly investigated.

The parties ultimately resolved the plaintiff's claim with a consent agreement whereby the defendant agree to pay a total of $1,475,000 to various employees for lost wages and compensatory damages for sexual harassment as well as $275,000 to the estate of the deceased female employee for her damages. The defendant also agreed to pay the state of Vermont the sum of $125,000 in civil penalties and agreed to prohibit the manager who was the basis of the complaints from entry onto its premises. The defendant was also required to conduct training and make revisions to its company policies and procedures.

REFERENCE

United States Equal Employment Opportunity Commission vs. Coughlin, Inc. Case no. 2;21-CV-99; Judge William K. Sessions, III, 07-01-22.

Attorney for plaintiff: Cara B. Chomski of US EEOC's Office in New York, NY.

Construction Site Negligence

$3,100,000 RECOVERY – CONSTRUCTION SITE NEGLIGENCE – ABSENCE OF SAFETY TRAINING – PLAINTIFF ROOFER FALLS ASCENDING PALLET JACK PARTIALLY SUNK INTO SAND – SKULL FRACTURE – HEMATOMA – COMPLEX REPAIR OF SCALP DEGLOVING INJURY, LEFT-SIDED CRANIOTOMY AND CRANIOPLASTY TO RECONSTRUCT FRACTURED CALVARIUM.

Essex County, NJ

This action involved a plaintiff roofer who was working on a residential construction project. The plaintiff contended that the defendants owner, G.C. and subcontractor were liable for the failure to provide safety training or to have the workers follow the regulations for use of a pallet jack which the plaintiff was using. The pallet jack gave way, and the plaintiff fell. The plaintiff suffered a closed head injury and a TBI which caused extensive cognitive deficits in which the plaintiff is at danger if left alone. The plaintiff contended that he also suffered extensive facial fractures and has undergone a number of surgeries. The defendant maintained that the level of cognition before the accident was relatively low and that the consequences of the head trauma were much less significant than would otherwise be expected.

The plaintiff fell while ascending the ladder jack scaffold carrying a bundle of roofing shingles. The plaintiff asserted that he had no safety training and maintained that if he had been taught properly, the incident would not have occurred. The plaintiff also established that the configuration violated the GC's rules.

The case settled prior to trial for $3,100,000.

REFERENCE

Plaintiff's dental and facial fractures expert: Omar F. Suarez, D.M.D. from New York, NY. Plaintiff's economist expert: Michael Soudry, MBA from East Hanover, NJ. Plaintiff's life care planning expert: Harold Bialski from Paramus, NJ.

Caguana Guaman vs. Princton, et al. Docket no. ESX-L-5802-17.

Attorneys for plaintiff: John Ratkowitz and Michael Gallardo of Ginarte Gallardo Gonzalez & Winograd, LLP in Newark, NJ.

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Dog Attack

$1,000,000 (POLICY LIMIT) RECOVERY – DOG ATTACK – 52-YEAR-OLD PLAINTIFF HOME HEALTH AIDE ATTACKED AND BITTEN THROUGHOUT BODY – NUMEROUS LACERATIONS AND DEEP WOUNDS TO HEAD, FACE, NECK, ARMS AND LEGS REQUIRING SURGICAL INTERVENTION – PERMANENT SCARRING.

Kings County, NY

In this dog attack case, the 52-year-old plaintiff, a home health aide, contended that the defendant homeowner harbored 2 dangerous American bulldogs. The plaintiff contended that as a result, she was attacked and bitten throughout her body by the dogs as she entered the backyard from the home. The plaintiff asserted that she sustained numerous lacerations and deep wounds to the head, face, neck, arms and legs that required surgical intervention to all the affected areas to close the wounds. The defendant homeowner, who did not own the dogs, denied that the dogs were ever at her home prior to the day of the incident.

The plaintiff has residual scarring throughout her body, which she contended is permanent in nature. The evidence would have also reflected that the plaintiff was unable to return to her job as a home health aide for approximately 15 months.

The defendant homeowner had a $1,000,000 policy.