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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.

\$3,000,000 SETTLEMENT – Dram shop – Police liability – Motor vehicle negligence – Plaintiff driver struck in rear by inebriated driver served by defendant tavern while visibly intoxicated – Co-defendant police officers failed to test obviously impaired driver – Severe head trauma – Significant cognitive deficits – Inability to work 2

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\$350,000 SETTLEMENT – Motor vehicle negligence – Auto/pedestrian collision – Rideshare vehicle runs over plaintiff’s foot – Failure to prevent vehicle from rolling forward – Lisfranc ligament tear – Foot fracture – Single-screw percutaneous fixation procedure 4

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FEATURED CASES

\$3,000,000 SETTLEMENT – DRAM SHOP – POLICE LIABILITY – MOTOR VEHICLE NEGLIGENCE – MUNICIPAL LIABILITY – PLAINTIFF DRIVER STRUCK IN REAR BY INEBRIATED DRIVER SERVED BY DEFENDANT TAVERN WHILE VISIBLY INTOXICATED – CO-DEFENDANT POLICE OFFICERS FAIL TO TEST OBVIOUSLY IMPAIRED DRIVER – SEVERE HEAD TRAUMA – SIGNIFICANT COGNITIVE DEFICITS – INABILITY TO WORK.

Bergen County, NJ

This case involved a 36-year-old plaintiff driver in which the plaintiff contended that he was struck in the rear by the defendant inebriated driver, resulting in his striking a utility pole. The plaintiff suffered a fractured skull and was left in a medically-induced coma for 17 days and fed through a tube. The plaintiff then regained consciousness for a brief period and then fell back in a coma. He was hospitalized and again regained consciousness. The plaintiff was left with a severe cognitive deficit and can no longer work. At the time of the accident, the plaintiff worked in law in the Dominican Republic. The tavern denied serving him while visibly intoxicated. The municipality denied that it acted recklessly and contended that the driver simply exhibited signs of being tired.

The plaintiff maintained that the defendant driver was served by the defendant tavern while visibly intoxicated and named the tavern under the Dram Shop Act. The plaintiff also contended that shortly before the accident, the defendant driver was pulled over. The plaintiff maintained that the 2 officers acted recklessly by permitting the defendant driver to call a friend to drive him home and then drove again, causing the accident. The friend was also named as a defendant and was covered under the automobile policy. The plaintiff introduced evidence that the driver was present in the tavern for approximately 3 hours. The plaintiff was found to have a BAC of .28 after the accident. The plaintiff maintained that it was clear that the tavern served him while visibly intoxicated.

The plaintiff was taken by ambulance to a hospital and admitted. He suffered acute respiratory failure and traumatic brain injuries: intracranial bleed, a temporal bone fracture, a sphenoid sinus fracture and a skull fracture with cerebral contusion. The plaintiff then had a tracheotomy and was placed on a ventilator with a feeding tube. The plaintiff was then placed in a medically induced coma, which he remained for 17 days. The plaintiff was then treated in an inpatient facility for several weeks. The plaintiff contended that will permanently suffer substantial cognitive impairment and can no longer work.

Prior to trial, the defendant driver paid its \$100,000, the city paid \$2,200,000 and the tavern paid \$700,000.

REFERENCE

Diaz vs. City of Englewood, et al.

Attorneys for plaintiff: Dennis Harraka and Bogdan Kachuro of council to the Winne Banta in Hackensack, NJ.

COMMENTARY

The defendant tavern denied serving the driver when he was visibly impaired. The plaintiff, in countering this position, stressed that the bar was only a few minutes away, the driver tested at .28 shortly after the accident and emphasized that at such a level, the signs of inebriation would be apparent. Similarly, the plaintiff argued that it was clear that such inebriation would be evident to the police as well. Regarding damages, it is felt that in addition to the claimed economic loss and permanent cognitive deficits The evidence that this accident could have been easily averted provided the defendants a great deal of incentive to resolve the case before it was tried before a jury.

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**\$1,668,424 VERDICT – CONSUMER FRAUD – 19
TIMESHARE PURCHASERS OF DEFENDANT’S RESORT
PROPERTY ALLEGED FRAUD – VIOLATIONS OF
CONSUMER FRAUD ACT AND REAL ESTATE TIMESHARE
ACT – SALES REPRESENTATIVES FRAUDULENTLY
INDUCED PURCHASE BY USING MISREPRESENTATIONS
DURING TIMESHARE PRESENTATION.**

Atlantic County, NJ

This was an action brought by the plaintiff, Keona Palmer, and 18 other plaintiffs, against the defendants, Flagship Resort Development Corp. d/b/a Fantasea Resorts. The plaintiffs alleged the defendant’s sale representatives fraudulently induced them into purchasing timeshares by making misrepresentations during a timeshare presentation, only for the 19 plaintiffs to discover later that their purchase agreements and related documents directly contradicted the salespersons’ statements. The plaintiff’s alleged the defendant was liable for violating the Consumer Fraud Act, N.J.S.A. 56:8-1 to 229 (CFA) and the Real Estate Timeshare Act, N.J.S.A. 45:15-16.50 to 16.85 (RETA) and pled for treble damages.

The plaintiff’s alleged sale representatives fraudulently induced them into purchasing timeshares by using misrepresentations during a timeshare presentation, only for the 19 plaintiffs to discover later that their purchase agreements and related documents directly contradicted the salespersons’ statements. The defendant contended there was no genuine dispute of material fact and motioned for summary judgment based on the parole evidence rule. The defendant further contended the statutes at issue, CFA and RETA, are in conflict and that RETA and its supporting regulations are in conflict.

After trial, the jury reached a verdict of \$1,668,423.88.

REFERENCE

Keona Palmer, et al. vs. Flagship Resort Development Corp d/b/a Fantasea Resorts. Docket no. L-1515-19; Judge James P. Savio.

Attorney for plaintiff: Andrew M. Milz of Flitter Milz, PC in Narberth, PA.

Attorney for defendant: Jordan L. Barbone of Jacobs & Barbone in Atlantic City, NJ.

COMMENTARY

The defendant moved for summary judgment not once but twice. Prior to the close of discovery, the defendant by motion for summary judgment argued that the parole evidence rule barred the admission of any alleged misrepresentations made by the defendant. The court denied the motion without prejudice on the grounds that discovery was not complete. The defendant moved the second time for summary judgment at the conclusion of discovery and the court found that the parole evidence fraud exception did not apply in this case.

“We’re talking about a rule in fraud cases. . . . Which would keep out those allegations in many respects. That’s a hard sell for me to interpret the rule when it is being offered for fraud in the inducement [. . .] They are not offered to change the specific provisions of . . . each contract.” The court denied the defendant’s motion and granted the plaintiff’s motion for summary judgment for the RETA violations and the court voided all of the plaintiffs’ timeshare contracts.

\$350,000 SETTLEMENT – MOTOR VEHICLE NEGLIGENCE – AUTO/PEDESTRIAN COLLISION – RIDESHARE VEHICLE RUNS OVER PLAINTIFF’S FOOT – FAILURE TO PREVENT VEHICLE FROM ROLLING FORWARD – LISFRANC LIGAMENT TEAR – FOOT FRACTURE – SINGLE-SCREW PERCUTANEOUS FIXATION PROCEDURE.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff was injured when a rideshare vehicle ran over her foot. The defendant generally denied all allegations of negligence.

On September 26, 2019, the plaintiff was a passenger in the defendant’s vehicle. At this time, the plaintiff was using a rideshare service, and the defendant driver was operating his vehicle in the scope of his employment with the defendant rideshare company. The defendant driver transported the plaintiff to her destination at Bay Street train station in Montclair, New Jersey. As the plaintiff got out of the vehicle to depart, the defendant’s vehicle suddenly rolled forward. As the vehicle rolled forward, it ran over the plaintiff’s foot, causing her to become injured.

The plaintiff maintained that the defendants were negligent in failing to prevent the vehicle from rolling forward, failing to hire competent rideshare drivers, and failing to wait for the plaintiff to clear the area before moving the vehicle. Consequently, the plaintiff sustained injuries, including a Lisfranc ligament tear, as well as a foot fracture. The plaintiff’s injuries were treated with a single screw percutaneous fixation procedure.

The arbitrator in this case found the defendants 100% liable for the accident and reported an award for the plaintiff in the amount of \$350,000. Following arbitra-

tion, the plaintiff’s counsel requested a trial de novo, which was scheduled to take place on October 15, 2024. However, the parties entered into a settlement on September 18, 2024, before the trial could begin. A stipulation of dismissal was submitted on November 15, 2024.

REFERENCE

Glenda McNeal vs. Uber Technologies, Inc., Bakare Olainbiwoninu. Docket no. ESXL007166-21; Judge Mayra V. Tarantino, 11-15-24.

Attorney for plaintiff: Michael G. Donahue of Stark & Stark in Moorestown, NJ. Attorney for defendant: Steven J. Wiederhorn of Goetz Schenker Blee & Wiederhorn, LLP in Livingston, NJ.

COMMENTARY

Following the accident in this case, the plaintiff had to undergo a single screw percutaneous fixation procedure to stabilize her ligament tear and the fractures in her foot. After this procedure, the plaintiff was required to seek further medical and surgical care for the removal of the single screw. The plaintiff recovered from surgery but still feels pain and discomfort in the affected foot, which impacts her ability to enjoy daily activities and perform duties of her employment. The plaintiff’s physician opined that she may need even further surgery to address her continued discomfort, in the form of a fusion procedure. The settlement amount in this case was likely determined by the prolonged nature of the plaintiff’s injuries.

DEFENDANT’S VERDICT – PRODUCT LIABILITY – DEFECTIVE DESIGN IN VIOLATION OF NEW JERSEY PRODUCTS LIABILITY ACT – FATAL CAR ACCIDENT – LAWSUIT ALLEGED HONDA CR-V DEFECTIVELY DESIGNED BECAUSE NOT EQUIPPED WITH APERTURE WARNING (LDW) SYSTEM AND LANE KEEPING ASSIST – DEFENDANT CONTENDS CR-V SUITABLE FOR DRIVING BECAUSE IT HAD FUNCTIONING STEERING SYSTEM.

Camden County, NJ

This product liability and negligence action was filed by the plaintiff, Richard T. Berkoski, individually and as administrator of the Estate of Ann L. Ramage, M.D., deceased, against the defendants, Honda Motor Company, LTD. and American Honda Motor Company, Inc. The plaintiff alleged on August 4, 2018, the deceased Elizabeth MacNamara was driving a 2016 Honda CR-V on County Road, a 2-lane road, which is divided by a single dotted yellow line and a posted 50 miles per hour speed limit. he plaintiff alleged that a 2016 Honda CR-V was defectively designed because it was not equipped with aperture warning (LDW) system and a lane keeping assist (LKA) system and alleged violation of New Jersey Products Liability Act (the PL Act); and as the 2016 Honda CR-V was not equipped with available aperture warning (LDW) system

and a lane keeping assist (LKA) system, the plaintiff alleged that if the decedent’s vehicle had those technologies, the fatal crash would have been avoided. The plaintiff pled injuries resulting in death. The defendant contended the 2016 Honda CR-V was safe and suitable for driving because it had a functioning steering system that allowed the driver to maintain the intended travel lane.

The defendant further contended it was the plaintiff’s own negligence that was the causation of the accident and her death resulted from her own negligence when the deceased crossed over the center line and crashed head-on into a 2011 Ford Escape, killing both drivers. The defendant contended it had no duty to equip every vehicle with all available technologies, and the plaintiff could have purchased a model that offered the technologies. They further ar-

gued that a manufacturer is not liable if the allegedly unsafe characteristic of the product is known to the ordinary consumer or user.

Judge Daniel A. Bernardin entered an order November 15, 2022, dismissing with prejudice all claims against Honda.

REFERENCE

Richard T. Berkowski, individually and as administrator of the estate of Ann L. Ramage, M.D., deceased vs. Honda Motor Company, LTD and American Honda Motor Company, Inc. Docket no. L-1463-20; Judge Daniel A. Bernardin.

Attorney for plaintiff: Timothy J. Foley of Foley & Foley in Ramsey, NJ. Attorneys for defendant: Alina Alonso Rodriguez and Wendy F. Lumish of Bowman and Brooke, LLP in Coral Gables, FL.

COMMENTARY

The trial court focused on whether the omission of the driver-assistance systems rendered the vehicle not reasonably safe; reasoning that a manufacturer's duty is to provide a reasonably fit, suitable, and

safe product, and that manufacturers do not have a duty to install every available technology. The court held that the plaintiff failed to show that the absence of available technologies rendered the vehicle unsafe and concluded that the plaintiff had not shown that the 2016 Honda CR-V was not reasonably safe for its intended use and that there was no evidence of a design defect.

On appeal, the appellate court held that the 2016 Honda CR-V was "reasonably safe" as a matter of law, stating, "In reaching this conclusion, we have considered the foreseeability of the risk of harm and consumer expectations. It is undisputable that currently it is understood that the safe operation of motor vehicle is dependent on the driver's diligence in steering the vehicle and using the vehicle's systems to control speed and braking. What future technologies may bring are not before us. Instead, our ruling is based on the record in this matter and the technologies available in 2016."

Verdicts By Category

DOG ATTACK

\$265,000 SETTLEMENT

Dog attack – Defendants dog attacks plaintiff and her dog – Bodily injury – loss of earnings.

Mercer County, NJ

In this case, the plaintiff was walking her dog along a berm near Route 206 and East Long Drive in the Township of Lawrenceville, New Jersey on October 3, 2021. A dog owned by the defendants was unleashed when it attacked the plaintiff and her dog causing her to be knocked to the ground, sustaining injuries.

The court documents alleged that the defendants were negligent in their failure to properly restrain their dog; in harboring a dangerous animal, failing to properly train their animal; failing to warn against the existence of the condition created by the animal despite actual or constructive notice; in failing to make proper and timely inspections of the premises; in fail-

ing to leash the dog in public; in failing to control the dog in public and otherwise in failing to exercise due care under the circumstances.

The plaintiff suffered bodily injuries, some or all of which are permanent in nature; aggravation of pre-existing medical condition, and inability to pursue her usual occupation. The plaintiff also alleged the injury has caused loss of consortium.

The parties reached a settlement of \$265,000 in this matter.

REFERENCE

Pamela J. Barricklow and Gary Barricklow vs. Leonard Caralla, Jeanne Caralla and John Does 1-10. Docket no. MER L-001609-22; Judge Kay Walcott-Henderson.

Attorney for plaintiff: Evan J. Lide of Stark & Stark in Lawrenceville, NJ.

MOTOR VEHICLE NEGLIGENCE

Intersection Collision

\$125,890 ARBITRATION AWARD

Motor vehicle negligence – Intersection collision – Plaintiff's vehicle struck broadside by defendant's vehicle after defendant runs stop sign – Disc bulges from C3 through T1 – Lumbar disc bulges from L3-5 – Right shoulder rotator cuff tendinopathy with partial thickness tear of anterior infraspinatus tendon – Cervical and lumbar radiculopathy – Arthroscopic surgery to right shoulder.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck broadside by the defendant's vehicle after the defendant ran a stop sign, resulting in the plaintiff sustaining serious injuries. The defendant generally denied all allegations of negligence.

On April 22, 2020, the plaintiff's vehicle was traveling northbound on First Street, at its intersection with Bergen Street in Passaic, New Jersey. At the same time, the defendant's vehicle was traveling west on Bergen Street, toward the same intersection. At the time of the incident, the plaintiff's vehicle proceeded straight through the intersection. While the plaintiff was proceeding through, the defendant's vehicle ran the stop sign and struck the plaintiff's vehicle broadside.

The plaintiff maintained that the defendant was negligent in failing to obey a stop sign, failing to remain adequately attentive, and failing to yield. Consequently, the plaintiff sustained injuries, including disc bulges from C3 through T1, lumbar disc bulges from L3-5, right shoulder rotator cuff tendinopathy with partial thickness tear of the anterior infraspinatus tendon, and cervical and lumbar radiculopathy. The plaintiff's injuries were treated with 2 cervical and 2 lumbar epidural injections, as well as arthroscopic surgery to the right shoulder.

The arbitrator in this case found the defendant 100% liable for the accident in this case and reported an award for the plaintiff in the amount of \$125,890. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on September 23, 2024. However, the parties entered into a settlement on September 17, 2024.

REFERENCE

Paloma Pilarte vs. Kevin Zuniga. Docket no. ESXL001792-22; Judge Annette Scoca, 10-07-24.

Attorney for plaintiff: Steve D. Byoun of The Law Offices of Fusco & Macaluso, P.C. in Passaic, NJ.
Attorney for defendant: Carl Mазzie of Foster & Mазzie, LLC in Totowa, NJ.

Lane Change Collision

\$75,000 ARBITRATION AWARD

Motor vehicle negligence – Lane change collision – Plaintiff’s vehicle sideswiped by defendant’s vehicle when defendant attempts to change lanes – Cervical disc herniations at C4-5, C5-6, and C6-7 – Herniation and annular tear at L4-5 – Disc bulge at L5-S1 – Tear of posterior horn of left medial meniscus – Grade II patella chondromalacia – Left hip superior labrum tear – Right shoulder SLAP tear.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff’s vehicle was sideswiped by the defendant’s vehicle when the defendant attempted to change lanes, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On December 29, 2019, the plaintiff’s vehicle was traveling southbound on the New Jersey Turnpike, near milepost 113.2 in East Rutherford, New Jersey. At the same time, the defendant’s vehicle was also traveling southbound on the Turnpike, in the same location as the plaintiff but in a different lane. At the time of the incident, the defendant’s vehicle attempted to change lanes, entering the plaintiff’s lane of travel. The defendant’s vehicle then sideswiped the plaintiff’s vehicle.

The plaintiff maintained that the defendant was negligent in failing to remain in the correct lane of travel, in failing to safely and properly change lanes, and failing to yield. Consequently, the plaintiff sustained injuries, including cervical disc herniations at C4-5, C5-6, and C6-7, as well as a herniation and annular tear at L4-5 and a disc bulge at L5-S1. Additionally, the plaintiff sustained a tear of the posterior horn of the left medial meniscus, a grade II patella chondromalacia, left hip superior labrum tear, and right shoulder SLAP tear. A doctor for the defendant opined that the plaintiff’s injuries were pre-existing.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of \$75,000. Following arbitration, the plaintiff’s counsel requested a trial de novo, which was scheduled to take place on September 9, 2024. However, the matter was settled prior to the initial hearing. A stipulation of dismissal was submitted on October 18, 2024.

REFERENCE

Marie Pepe vs. Robert Sunda. Docket no. ESXL007957-21; Judge Mayra V. Tarantino, 10-18-24.

Attorney for plaintiff: Francesca Aiello-Nicholas of Law Offices of Rosemarie Arnold in Fort Lee, NJ. Attorney for defendant: Glenn T. Dyer of Dyer & Peterson, PC in Parsippany, NJ.

\$60,000 ARBITRATION AWARD

Motor vehicle negligence – Lane change collision – Plaintiff’s vehicle struck by defendant’s vehicle after defendant, in intoxicated state, attempts to cross all highway lanes – Soft tissue injuries to neck and back – Thoracic disc bulges – Partial tear of right subscapularis tendon.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff’s vehicle was struck by the defendant’s vehicle after the defendant, in an intoxicated state, attempted to cross all lanes of traffic, resulting in the plaintiff sustaining injuries. The defendant generally denied all allegations of negligence.

On June 20, 2021, the plaintiff’s vehicle was traveling eastbound on Route 22 East in the right lane in Union, New Jersey. At the same time, the defendant’s vehicle was also traveling eastbound on Route 22 East, several lanes to the left. At this time, the defendant was operating her vehicle in an intoxicated state. At the time of the incident, the defendant attempted to cross several lanes of traffic to enter the right lane. The defendant’s vehicle then struck the plaintiff’s vehicle, causing the plaintiff’s vehicle to then strike a pole.

The plaintiff maintained that the defendant was negligent in failing to remain in the correct lane of travel, failing to wait for safe conditions to change lanes, and in negligently and illegally operating a motor vehicle while intoxicated. Consequently, the plaintiff sustained injuries, including soft tissue injuries to the neck and back, thoracic disc bulges, and a partial tear of the right subscapularis tendon. The plaintiff’s injuries were treated with an injection to the shoulder. A doctor for the defendant opined that the plaintiff did not sustain a permanent injury.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of \$60,000. Following arbitration, the defendant’s counsel requested a trial de novo, which was scheduled to take place on October 15, 2024. However, the parties entered into a settlement on September 23, 2024.

REFERENCE

Juliana Excellent vs. Bettie Notice. Docket no. ESXL004772-22; Judge Russell J. Passamano, 10-03-24.

Attorney for plaintiff: Joel I. Bergman of Joel I. Bergman, Esq. in West Orange, NJ. Attorney for defendant: Glenn T. Dyer of Dyer & Peterson, PC in Parsippany, NJ.

Left Turn Collision

\$36,000 ARBITRATION AWARD

Motor vehicle negligence – Left turn collision – Defendant attempts to pass plaintiff’s vehicle on left while plaintiff turns left, resulting in collision – Cervical disc herniation at C5-6 – Cervical and lumbar disc bulges – Nerve entrapment consistent with carpal tunnel syndrome.

Essex County, NJ

In this motor vehicle negligence action, the defendant attempted to pass the plaintiff’s vehicle on the left while the plaintiff was turning left, causing a collision in which the plaintiff was injured. The defendant generally denied all allegations of negligence.

On May 12, 2020, the plaintiff’s vehicle was traveling northbound on Grove Street, near its intersection with 19th Avenue in Irvington, New Jersey. At this time, the plaintiff was attempting to turn left onto 19th Avenue at the subject intersection. At the same time, the defendant’s vehicle was traveling northbound on Grove Street, directly behind the plaintiff’s vehicle. As the plaintiff was preparing to make a left turn, the defendant attempted to pass the plaintiff’s vehicle on the left. According to the defendant, a right turn signal was present at the intersection, and the defendant assumed the plaintiff would be turning right. As the defendant passed, the plaintiff turned left, and the vehicles collided.

The plaintiff maintained that the defendant was negligent in failing to wait, failing to maintain a safe distance from the plaintiff’s vehicle, and in negligently and illegally attempting to pass on the left in the shoulder. Consequently, the plaintiff sustained injuries, including cervical disc herniation at C5-6, cervical and lumbar disc bulges, and nerve entrapment consistent with carpal tunnel syndrome.

The arbitrator in this case found the defendant 80% liable for the accident and the plaintiff 20% liable. The arbitrator reported a net award for the plaintiff in the amount of \$36,000. Following arbitration, the defendant’s counsel requested a trial de novo, which was scheduled to begin on September 23, 2024. However, the parties entered into a settlement on September 19, 2024. A stipulation of dismissal was submitted on November 15, 2024.

REFERENCE

Ricky Jackson vs. Armeena Addison. Docket no. ESXL001567-22; Judge L. Grace Spencer, 11-15-24.

Attorney for plaintiff: Paul DeGrado of DeGrado Law, PLLC in Moonachie, NJ. Attorney for defendant: Shawn R. Stowell of Sellar Richardson, PC in Livingston, NJ.

Parking Lot Exit Collision

\$250,000 SETTLEMENT

Motor vehicle negligence – Parking lot exit collision – Plaintiff’s vehicle struck by defendant’s vehicle pulling out of stadium parking lot – Disc herniations at C5-6 and L5-S1 – Disc bulges in cervical and lumbar spine – Branch block injections, epidural steroid injections to lumbar spine, and percutaneous discectomy at L4-5.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff’s vehicle was struck by the defendant’s vehicle pulling out of a stadium parking lot, resulting in the plaintiff sustaining injuries. The defendant generally denied all allegations of negligence.

On November 16, 2019, the plaintiff’s vehicle was traveling eastbound on Berry Creek Road in East Rutherford, New Jersey. At this time, the plaintiff’s vehicle was passing one of the parking lot outlets at a football stadium, located on the premises of 1 MetLife Stadium Dr. At the same time, the defendant’s vehicle was attempting to pull out of the parking lot and onto Berry Creek Road. At the time of the incident, the defendant’s vehicle pulled out into the plaintiff’s lane of travel, causing a collision.

The plaintiff maintained that the defendant was negligent in failing to wait for clearance before pulling out of the lot, failing to remain adequately attentive, and failing to yield to the plaintiff’s vehicle. Consequently, the plaintiff sustained injuries, including disc herniations at C5-6 and L5-S1, as well as disc bulges in both the cervical and lumbar spine. The plaintiff’s injuries were treated with branch block injections, epidural steroid injections to the lumbar spine, and a percutaneous discectomy at L4-5. A doctor for the defendant disputed permanency.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of \$250,000. Following arbitration, the plaintiff’s counsel requested a trial de novo, which was scheduled to take place on September 16, 2024. However, the parties entered into a settlement on September 13, before the trial could begin. A stipulation of dismissal was submitted on October 24, 2024.

REFERENCE

Latashia Hinton vs. Christian Dalonzo. Docket no. ESXL007290-21; Judge Annette Scoca, 10-24-24.

Attorney for plaintiff: Michael Chelland of Sheptock, Chelland & Grieves, LLC in Union, NJ. Attorney for defendant: Gregory A. Drews of Deutchman & Drews, LLC in Somerville, NJ.

Rear End Collision

\$250,000 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiff’s vehicle struck in rear by defendant’s vehicle while slowing for traffic – Neck and left shoulder injury – Left shoulder SLAP tear – Surgery required.

Monmouth County, NJ

In this motor vehicle negligence action, the plaintiff’s vehicle was struck in the rear by the defendant’s vehicle while the plaintiff slowed for traffic, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence, maintaining that any injuries or damages sustained by the plaintiff were the result of the plaintiff’s own contributory negligence.

On June 22, 2020, the plaintiff’s vehicle was traveling southbound on Ocean Avenue in Sea Bright, New Jersey. At the same time, the defendant’s vehicle was also traveling southbound on Ocean Avenue, directly behind the plaintiff’s vehicle. At the time of the incident, the plaintiff noticed traffic ahead and began to slow her vehicle. As the plaintiff’s vehicle slowed down, it was suddenly struck in the rear by the defendant’s vehicle.

The plaintiff maintained that the defendant was negligent in failing to maintain a safe distance from other vehicles, failing to obey traffic conditions, and failing to remain adequately attentive. Consequently,

\$90,000 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiff passenger injured when host vehicle struck in rear by defendant’s vehicle at intersection – Disc herniation at L2-S1 – Left knee tear – Left shoulder rotator cuff tear.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff passenger was injured when the host vehicle was struck in the rear by the defendant’s vehicle at an intersection. The defendant generally denied all allegations of negligence.

On February 6, 2020, the plaintiff was a restrained passenger in the host vehicle, which was traveling northbound on North Grove Street, at its intersection with William Street, in Essex Fells, New Jersey. At this time, the defendant’s vehicle was also traveling northbound on North Grove Street, directly behind the host vehicle. At the time of the incident, while the host vehicle was stopped at the subject intersection, it was struck in the rear by the defendant’s vehicle.

The plaintiff maintained that the defendant was negligent in failing to maintain a safe distance from other vehicles, failing to remain adequately attentive,

the plaintiff sustained injuries, including neck pain as well as a left shoulder SLAP tear, which was treated with arthroscopic surgery and 3 cortisone shots, and was later treated with epidurals, 2 ablations and a branch block procedure. A doctor for the defendant opined that the plaintiff only sustained soft tissue injuries with no permanency.

The arbitrator in this case found the defendant 100% liable for the accident, and reported an award for the plaintiff in the amount of \$250,000. Following arbitration, the defendant’s counsel requested a trial de novo, which was scheduled to take place on February 20, 2024. However, the parties entered into a settlement conference on February 14, 2024, before the trial could begin. At this time the parties entered into a settlement for an amount not specified on the docket. A stipulation of dismissal was submitted on June 13, 2024.

REFERENCE

Stacey Osborne vs. Ralph Desevo, III. Docket no. MONL001790-21; Judge Kathleen A. Sheedy, 02-14-24.

Attorney for plaintiff: Mark Casazza of Rudnick Addonizio Pappa Casazza, PC in Hazlet, NJ. Attorney for defendant: Jerry Wesner Santer of Bressler, Amery & Ross, P.C. in Florham Park, NJ.

and failing to obey traffic conditions. Consequently, the plaintiff sustained injuries, including a disc herniation at L2-S1, a left knee tear, and left shoulder rotator cuff tear. The plaintiff’s injuries were treated with a left knee arthroscopic surgery as well as left shoulder surgery. A doctor for the defendant disputed causation and permanency.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of \$90,000. Following arbitration, the plaintiff’s counsel requested a trial de novo, which was scheduled to take place on July 15, 2024. However, a stipulation of dismissal was submitted on June 18, 2024, noting that the matter had been amicably adjusted between the parties.

REFERENCE

Terrance Parker vs. Rahdaisha Shelton. Docket no. ESXL007478-21; Judge Russell J. Passamano, 07-27-24.

Attorney for plaintiff: Frederic L. Marcus of Frederic L. Marcus, Esq. in Newark, NJ. Attorney for defendant: Denise M. Lukenbach of Sellar Richardson, P.C. in Livingston, NJ.

■ \$45,000 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiff’s vehicle struck in rear by defendant’s vehicle while slowing down – Right shoulder tear – 4 Cervical disc bulges – Cervical disc herniation.

Bergen County, NJ

In this motor vehicle negligence action, the plaintiff’s vehicle was struck in the rear by the defendant’s vehicle while the plaintiff’s vehicle was slowing down, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On November 6, 2019, the plaintiff’s vehicle was traveling westbound on Godwin Avenue in Midland Park, New Jersey. At the same time, the defendant’s vehicle was also traveling westbound on Godwin Avenue, directly behind the plaintiff’s vehicle. At the time of the incident, the plaintiff’s vehicle began to slow down to accommodate traffic conditions. As the plaintiff’s vehicle slowed down, it was suddenly struck in the rear by the defendant’s vehicle.

The plaintiff maintained that the defendant was negligent in failing to remain adequately attentive, failing to maintain a safe distance from other vehicles, and failing to obey traffic conditions. Consequently, the plaintiff sustained injuries, including a right shoulder

tear, neck pain, 4 cervical disc bulges, and one cervical disc herniation. The plaintiff’s right shoulder tear was treated with a Lidocaine injection, and future surgery was recommended. A doctor for the defendant found no shoulder tear, and disputed the permanency and causation of the plaintiff’s injuries.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of \$45,000. Following arbitration, the defendant’s counsel requested a trial de novo, which was scheduled to take place on February 6, 2024. However, prior to the trial, the parties entered into a settlement conference. The matter was settled between the parties for an amount not specified on the docket before the trial could begin. A stipulation of dismissal was submitted on August 27, 2024.

REFERENCE

Teodoro Mendez vs. Ellen Brophy. Docket no. L002852-21; Judge Mary F. Thurber, 02-06-24.

Attorney for plaintiff: Jean-Claude Labady of Garces Grabler & LeBrocq, PC in Newark, NJ. Attorney for defendant: Mario Batelli of Foster & Mazzie, LLC in Totowa, NJ.

■ \$40,000 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiff’s vehicle struck in rear by defendant’s vehicle at intersection – Cervical disc herniations – Thoracic disc herniation – Lumbar disc herniations – Cervical disc bulges – Lumbar disc bulges – Radiculopathy at C5-6 – Lateral meniscal tear of right knee – Proximal medial collateral ligament sprain – Chondromalacia patellae.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff’s vehicle was struck in the rear by the defendant’s vehicle at an intersection, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On February 17, 2019, the plaintiff’s vehicle was traveling westbound on Central Avenue, at or near its intersection with S. Grove Street, in the City of East Orange, New Jersey. At this time, the defendant’s vehicle was also traveling westbound on Central Avenue, directly behind the plaintiff’s vehicle. As the plaintiff’s vehicle approached the subject intersection, it was suddenly struck in the rear by the defendant’s vehicle.

The plaintiff maintained that the defendant was negligent in failing to maintain a safe distance from other vehicles, failing to remain adequately attentive, and failing to obey traffic conditions. Consequently, the

plaintiff sustained injuries, including cervical disc herniations at C3-4 and C6-7, a thoracic disc herniation at T3-4, lumbar disc herniations at L4-5 and L5-S1, cervical disc bulges at C2-3, C4-5, and C5-6, lumbar disc bulges at L2-3 and L3-4, radiculopathy at C5-6, lateral meniscus tear of the right knee, proximal medial collateral ligament sprain, and chondromalacia patellae. A doctor for the defendant disputed causation and permanency and opined that the plaintiff’s injuries were due to degeneration.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of \$40,000. Following arbitration, the defendant’s counsel requested a trial de novo, which was scheduled to take place on July 29, 2024. However, the parties entered into a settlement for an amount not specified on the docket on July 24, 2024, before the trial could begin.

REFERENCE

Tejumade Falae vs. Jonathan Roman. Docket no. ESXL000336-21; Judge Roselyn Holmes-Grant, 07-24-24.

Attorney for plaintiff: David T. Ercolano of The Law Offices of Fusco & Macaluso, P.C. in Passaic, NJ. Attorney for defendant: Stacey A. Subryan of Ibrahim and Jackson in Scranton, PA.

■ \$35,000 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiff’s vehicle struck in rear by defendant’s vehicle while slowing for traffic – Cervical disc bulge – Cervical disc herniations from C3-6 – Lumbar disc herniations from L3-S1 – Thoracic disc herniation at T11-12 – Lumbar radiculopathy.

Union County, NJ

In this motor vehicle negligence action, the plaintiff’s vehicle was struck in the rear by the defendant’s vehicle while the plaintiff slowed for traffic ahead, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On November 13, 2019, the plaintiff’s vehicle was traveling westbound on Linden Avenue in Union, New Jersey. At this time, the defendant’s vehicle was also traveling on Linden Avenue, directly behind the plaintiff’s vehicle. At the time of the incident, the plaintiff noticed heavy traffic ahead and began to slow his vehicle down. As the plaintiff’s vehicle slowed to accommodate traffic, it was suddenly struck in the rear by the defendant’s vehicle.

The plaintiff maintained that the defendant was negligent in failing to maintain a safe distance from other vehicles, failing to observe traffic conditions, and failing to remain adequately attentive. Consequently, the plaintiff sustained injuries, including cervical disc bulge, cervical disc herniations from C3-6, lumbar disc herniations from L3-S1, thoracic disc herniation at T11-12, and lumbar radiculopathy. The plaintiff’s injuries were treated with epidural injections to the lumbar spine. A doctor for the defendant opined that the plaintiff did not sustain a permanent injury.

The arbitrator in this case found the defendant 100% liable for the accident, and reported an award for the plaintiff in the amount of \$35,000. Following arbitration, the amount was quickly amicably adjusted between the parties. A stipulation of dismissal was submitted on October 11, 2023.

REFERENCE

Wilson Muniz vs. Daniel Delsontro. Docket no. UNNL003401-21; Judge Mark P. Ciarrocca, 10-11-23.

Attorney for plaintiff: Alphonse D. Bartelloni of Birkhold & Maider, LLC in Nutley, NJ. Attorney for defendant: William J. Fitzula of Law Offices of William J. Fitzula in Woodbridge, NJ.

■ DEFENDANT’S VERDICT

Motor vehicle negligence – Rear end collision - Plaintiff’s vehicle struck in rear by defendant’s vehicle while stopped at intersection – Lumbar disc bulge at L4-5 – Disc herniation at L5-S1 – Superior labral tear.

Morris 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 an intersection, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On May 12, 2019, the plaintiff’s vehicle was traveling northbound on Commerce Boulevard in Roxbury, New Jersey. At the same time, the defendant’s vehicle was also traveling northbound on Commerce Boulevard, directly behind the plaintiff’s vehicle. At the time of the incident, the plaintiff’s vehicle was stopped at an intersection on Commerce Boulevard. While stopped, the plaintiff’s vehicle was suddenly struck in the rear by the defendant’s vehicle.

The plaintiff maintained that the defendant was negligent in failing to observe traffic conditions, failing to maintain a safe distance from other vehicles, and failing to remain adequately attentive. Consequently, the plaintiff sustained injuries, including a lumbar disc bulge at L4-L5, a disc herniation at L5-S1, and a su-

perior labral tear. The plaintiff did have disc herniations prior to the accident in this case, which she may have sustained in a prior accident. A doctor for the defendant maintained that the plaintiff’s injuries were not caused by the accident in this case, and opined that according to MRI reports, the plaintiff’s disc herniation was smaller after the accident than it had been before the accident.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of \$20,000. Following arbitration, the defendant’s counsel requested a trial de novo. The trial took place from April 22 to April 24, 2024, at which time the jury returned a verdict that the plaintiff did not sustain a permanent injury proximately caused by the subject accident. On May 13, 2024, the Honorable David H. Ironson ordered that a judgment for no cause of action be entered in favor of the defendant.

REFERENCE

Taylor Quinn vs. Dorothy Presson. Docket no. MRSL001636-21; Judge Rosemary E. Ramsay, 05-13-24.

Attorney for plaintiff: Kevin C. Decie of Birkhold & Maider, LLC in Nutley, NJ. Attorney for defendant: Richard M. Tango of Tango, Dickinson, Lorenzo, McDermott, & McGee, LLP in Millburn, NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle at intersection – Cervical and lumbar disc herniations.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear by the defendant's vehicle at an intersection, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On June 22, 2020, the plaintiff's vehicle was traveling on Route 22 East, at or near its intersection with Morris Avenue in Union, New Jersey. At this time, the defendant's vehicle was also traveling on Route 22 East, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle slowed down as it approached the subject intersection. As the plaintiff's vehicle slowed down, it was struck in the rear by the defendant's vehicle.

The plaintiff maintained that the defendant was negligent in failing to maintain a safe distance from other vehicles, failing to obey traffic signals, and failing to remain adequately attentive. Consequently, the

plaintiff sustained injuries, including cervical and lumbar disc herniations. A doctor for the defendant opined that the plaintiff's injuries were not permanent and were due to pre-existing degeneration.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of \$25,000. Following arbitration, the defendant's counsel requested a trial de novo. The trial took place from July 15 to July 18, 2024, at which time the jury returned a 5-1 verdict of no cause for action in favor of the defendant. On August 22, 2024, the Honorable Thomas R. Vena ordered that the verdict be entered as a final judgment.

REFERENCE

Martine Joseph vs. Shawn Detmar. Docket no. ESXL004934-21; Judge Roselyn Holmes-Grant, 07-18-24.

Attorney for plaintiff: James C. Mescall of Mescall Law, PC in West Orange, NJ. Attorney for defendant: James R. Connell of Dwyer, Connell and Lisbona, LLP in Fairfield, NJ.

Sideswipe Collision

\$83,500 ARBITRATION AWARD

Motor vehicle negligence – Sideswipe collision – Plaintiff driver and passenger injured when defendant's vehicle hydroplanes and sideswipes plaintiff's vehicle – Cervical disc bulges at C3-4 and C6-7 – Cervical disc herniations at C4-5 and C6-7 – Lumbar disc bulges at L2-3 and L5-S1 – Lumbar disc herniations at L3-4 and L4-5 – Disc bulges at C5-6 and L5-S1 – Cervical facet syndrome.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff driver and passenger were injured when their vehicle was struck by the defendant's vehicle as it was hydroplaning. The defendant generally denied all allegations of negligence.

On November 1, 2020, the plaintiff driver was operating her vehicle northbound on the Garden State Parkway, at a toll plaza. At the same time, the defendant's vehicle was also traveling northbound on the Garden State Parkway, and was proceeding through the same toll plaza. As the defendant's vehicle exited the toll plaza, it began to hydroplane, causing the defendant to lose control of the vehicle. The defendant's vehicle then collided with the driver's side of the plaintiff's vehicle, causing both the plaintiff driver and passenger to become injured.

The plaintiffs maintained that the defendant was negligent in failing to keep the vehicle under proper and adequate control, failing to remain in the correct

lane of travel, and failing to stop the vehicle before a collision. Consequently, the plaintiff driver sustained injuries including cervical disc bulges at C3-4 and C6-7, cervical disc herniations at C4-5 and C6-7, lumbar disc bulges at L2-3 and L5-S1, and lumbar disc herniations at L3-4 and L4-5. The plaintiff passenger also sustained injuries, including disc bulges at C5-6 and L5-S1, as well as cervical facet syndrome. A doctor for the defendant disputed causation and permanency.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff driver in the amount of \$75,000, and an award for the plaintiff passenger in the amount of \$8,500, resulting in a new award of \$83,500. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to begin on June 24, 2024. However, the parties entered into a settlement prior to the initial hearing.

REFERENCE

Evelyn Johnson, Qailah Johnson vs. Maxim Vaskovtsev. Docket no. ESXL000492-22; Judge Annette Scoca, 10-07-24.

Attorney for plaintiff: Jacqueline Rosa of Brady, Brady & Reilly, LLC in Kearny, NJ. Attorney for defendant: Michele Benenato of Law Offices of Pamela D. Hargrove in Cranford, NJ.

MUNICIPAL LIABILITY

\$20,000 ARBITRATION AWARD

Municipal liability – Motor vehicle negligence – Intersection collision – Plaintiff’s vehicle struck broadside by defendant’s vehicle due to missing stop sign at intersection – Failure to replace missing stop sign – Disc herniation with radiculopathy at C5-6 – Lumbar disc bulges from L3-S1.

Essex County, NJ

In this negligence action, the plaintiff’s vehicle was struck broadside by the defendant’s vehicle due to a missing stop sign at an intersection. The plaintiff brought suit against the defendant City of Newark as well as the defendant driver. The defendants generally denied all allegations of negligence.

On April 15, 2020, the plaintiff’s vehicle was traveling north on South 6th Street, at or near its intersection with 13th Street in Newark, New Jersey. On this day, the subject intersection was meant to be controlled by a 4-way stop sign. However, a stop sign was missing on 13th Street and had not yet been replaced by the city. At the time of the incident, the plaintiff was attempting to proceed straight through the subject intersection. At the same time, the defendant’s vehicle was approaching the same intersection, traveling

west on 13th Street. Due to the missing stop sign, the defendant did not know to yield, and entered the intersection, striking the plaintiff’s vehicle broadside.

The plaintiff maintained that the defendants were negligent in failing to replace the missing stop sign, failing to close 13th street to traffic due to a missing stop sign, and failing to remain adequately attentive. Consequently, the plaintiff sustained injuries, including disc herniation with radiculopathy at C5-6, as well as lumbar disc bulges from L3-S1.

The arbitrator in this case found the defendant driver 33.3% liable for the accident, the defendant city 33.3% liable for the accident, and the plaintiff 33.3% liable for the accident. The arbitrator reported a net award for the plaintiff in the amount of \$20,000. Following arbitration, the defendants’ counsel requested a trial de novo, which was scheduled to take place on September 13, 2024. However, the parties entered into a settlement on August 8, 2024.

REFERENCE

Bryant Vernell vs. James L. Blackman, City of Newark. Docket no. ESXL001124-22; Judge Jeffrey B. Beacham, 09-09-24.

Attorney for plaintiff: Douglas S. Schwartz of Sisselman & Schwartz, LLP in Roseland, NJ. Attorney for defendant: John M. Malaspina of Law Offices of Marie A. Carey in Florham Park, NJ.

PREMISES LIABILITY

Fall Down

\$285,000 ARBITRATION AWARD

Premises liability – Fall down – Plaintiff trips and fall on defendant’s uneven sidewalk – Distal radius fracture – ORIF.

Union County, NJ

This premises liability action stemmed from a tripping accident that occurred on a uneven sidewalk on the defendant’s pharmacy store sidewalk. The plaintiff tripped and fell and broke her wrist stating the property was not properly maintained. The defendant denied all allegations of negligence and maintained it was the actions of the plaintiff that caused the incident.

On March 16, 2021, the 71-year-old female plaintiff was a lawful business invitee of the defendant’s retail establishment located on Morris Avenue in Union, New Jersey. The plaintiff was walking on the defendant’s sidewalk when she tripped and fell on a raised portion of the sidewalk that was not properly illuminated.

The plaintiff alleged the defendant failed to keep the premises in a safe condition, failed to make proper repairs to the premises and allowed a hazardous and

dangerous condition to exist on the premises. The plaintiff suffered a right distal radius fracture, requiring ORIF, and neck and back sprains. The defendant denied that a dangerous condition existed on the premises and maintained the plaintiff’s actions caused or contributed to the incident.

The board of arbitrators found the defendant Walgreens to be 60% negligent and the plaintiff to be 40% comparatively negligent. The board awarded the plaintiff \$285,000 which was reduced accordingly to \$171,000. Following arbitration for the plaintiff, a request for de novo trial was made by the defendants. The parties later settled their dispute.

REFERENCE

Alicia N. Ortiz Hall vs. Walgreens Company. Docket no. UNNL000831-23; Judge Mark P. Ciarrocca, 09-19-24.

Attorney for plaintiff: Kenneth Esdale of Tsinman, Shmuel, Forman Cardonsky Tsinman, LLC in Rahway, NJ. Attorney for defendant: James Lisovicz of Lisovicz Reilly & Wolff, PC in Parsippany, NJ.

■ \$175,000 ARBITRATION AWARD

Premises liability – Fall down – Plaintiff trips over depressed area of sidewalk and falls – Right ankle injury – Lumbar disc bulge at L2-3 – Lumbar disc herniations at L3-4 and L4-5 – Left knee tears – Surgery required.

Essex County, NJ

In this premises liability action, the plaintiff tripped over a depressed area of the sidewalk at the defendant zoo and fell, causing him to become injured. The defendants generally denied all allegations of negligence.

On August 8, 2021, the plaintiff was a lawful visitor and business invitee at the defendant zoo, located on the premises of 560 Northfield Avenue in West Orange, New Jersey. At this time, the plaintiff was walking on a sidewalk inside the zoo, when he encountered a depressed or otherwise uneven area. The plaintiff then tripped over the uneven ground and fell.

The plaintiff maintained that the defendants were negligent in failing to provide safe passage on the premises, failing to ensure that the sidewalk was in

a safe condition, and failing to warn of uneven ground on the premises. Consequently, the plaintiff sustained injuries, including lumbar disc bulge at L2-3, lumbar disc herniations at L3-4 and L4-5, and left knee tears. The plaintiff's injuries were treated with left knee arthroscopic surgery.

The arbitrator in this case found the defendants 100% liable for the accident and reported an award for the plaintiff in the amount of \$175,000. Following arbitration, the defendants' counsel requested a trial de novo, which was scheduled to begin on September 16, 2024. However, the parties entered into a settlement on September 12th, before the trial could begin.

REFERENCE

Manouchek Bernard vs. Turtleback Zoo. Docket no. ESXL002640-22; Judge Russell J. Passamano, 10-15-24.

Attorney for plaintiff: Laura A. Rabb of Rabb Hamill, P.A. in Woodbridge, NJ. Attorney for defendant: Richard Trenk of Trenk Isabel Siddiqi & Shahdanian, P.C. in Livingston, NJ.

■ \$30,000 ARBITRATION AWARD

Premises liability – Fall down – Plaintiff slips and falls on ice in parking lot of defendant pharmacy – Back injury – Hip injury – Rib cage injury – TMJ.

Morris County, NJ

In this premises liability action, the plaintiff slipped and fell on ice in the parking lot of the defendant pharmacy causing her to become injured. The defendants generally denied all allegations of negligence.

On December 2, 2019, the plaintiff was a lawful visitor and business invitee at the defendant pharmacy, located on the premises of 387 Pompton Ave, in the Township of Cedar Grove, New Jersey. At this time, the plaintiff was traversing the parking lot on the premises, which was owned and operated by the defendants. On this day, the parking lot was covered with snow, as a result of a recent snowstorm. As such, the plaintiff could not see the blacktop underneath the snow. As the plaintiff was walking, she suddenly slipped on ice underneath the snow and fell.

The plaintiff maintained that the defendants were negligent in failing to remove ice and snow from the premises, failing to place salt or other mea-

asures to melt ice, and failing to warn of hazardous or unsafe conditions on the premises. Consequently, the plaintiff sustained injuries, including back injury, hip injury, rib cage injury, and TMJ. A doctor for the defendant opined that the plaintiff did not sustain a permanent injury in the accident.

The arbitrator in this case found the plaintiff 50% liable for the accident and the defendant 50% liable, and reported a gross award for the plaintiff in the amount of \$60,000, resulting in a net award of \$30,000. Following arbitration, the defendants' counsel requested a trial de novo, which was scheduled to take place on March 25, 2024. However, the parties entered into a settlement conference on February 9, 2024.

REFERENCE

Robin Sengstacke vs. Cedar Center, LLC. Docket no. L002535-20; Judge Rosemary E. Ramsay, 02-17-24.

Attorney for plaintiff: Adam B. Lederman, Esq. of Davis, Saperstein & Salomon, P.C. in Teaneck, NJ. Attorney for defendant: Peter J. Dahl of Travelers Insurance.

Hazardous Premises

■ \$18,000 ARBITRATION AWARD

Premises liability – Hazardous premises – Defendant’s grocery store employee improperly operates pallet jack into plaintiff business invitee causing injury to plaintiff – Failure to properly train and supervise employee – Head laceration – Staples – Disc injuries.

Union County, NJ

The plaintiff in this premises liability action alleged she was injured when the defendant’s employee struck the plaintiff with a pallet jack while the plaintiff shopped in the defendant’s grocery store. The defendant argued the actions of the plaintiff caused or contributed to the incident.

On July 14, 2020, the female plaintiff, age 76, was a business invitee shopping at the Food Bazaar Supermarket located on Elmora Avenue in the City of Elizabeth, New Jersey. The property was owned and controlled by the defendants. On or about July 14, 2020, defendant, John and/or Jane Doe #1-5, was/were acting within the scope of his/her employment with defendant, Bogopa Service Corp. d/b/a Food Bazaar Supermarket and/or Vestal Magnolia, LLC, when he or she negligently, carelessly and recklessly operated a pallet jack and/or Hi-Lo, into the plaintiff causing serious and permanent personal injuries.

The plaintiff maintained the defendants were negligent in failing to properly train the employee on the proper use of the pallet jack and being negligent. The plaintiff suffered a head laceration that required 5 staples along with disc herniations and bulges and sprains and strains. The defendants denied all allegations of negligence and injury and maintained it was the actions of the plaintiff that caused the incident and any resulting damages.

The board of arbitrators found the defendant Bogopa Services to 100% liable. The board awarded the plaintiff \$18,000. The parties later amicably settled their dispute.

REFERENCE

Marta Caballe vs. Bogopa Service Corp. d/b/a Food Bazaar Supermarket, Vestal Magnolia, LLC, John and Jane Does #1-10. Docket no. UNN-L-2021; Judge Mark P. Ciarrocca, 03-01-25.

Attorneys for plaintiff: Mohan Sreenivasan and Sean T. Carew of Ginarte Gallardo Gonzalez & Winograd, LLP in Newark, NJ. Attorney for defendant: Michael S. Goldenberg of Goetz, Schenker, Blee, Wiederhorn, LLP in Livingston, NJ.

TRANSIT AUTHORITY LIABILITY

■ \$67,410 ARBITRATION AWARD

Transit Authority liability – Bus negligence – Plaintiff bus passenger falls when defendant bus driver makes abrupt stop – Neck and back injuries – Disc bulges from C3-4 to C5-6 – Disc bulge at L5-S1.

Essex County, NJ

In this action, the plaintiff passenger fell, sustaining injury, when the defendant Transit Authority bus driver made an abrupt stop. The defendants generally denied all allegations of negligence.

On March 23, 2019, the plaintiff was a passenger on a public bus, which was operated by the defendant bus driver and owned by the defendant transportation authority. On this day, the plaintiff was a standing passenger, and the bus was traveling eastbound on Raymond Blvd near its intersection with Broad Street in Newark, New Jersey. At this time, the bus had just stopped at the subject intersection and had begun to move again. However, another vehicle entered the intersection, and the defendant bus driver stopped the bus abruptly in order to avoid a collision. When the bus made an abrupt stop, the plaintiff was thrown forward and fell, causing her to become injured.

The plaintiff maintained that the defendants were negligent in failing to safely and properly stop the bus, in failing to warn of an abrupt stop, and failing to hire competent bus drivers. Consequently, the plaintiff sustained injuries, including neck and back injuries, disc bulges from C3-4 to C5-6, as well as a disc bulge at L5-S1. The plaintiff’s injuries were treated with lumbar steroid injections. A doctor for the defendant opined that the plaintiff’s injuries were degenerative.

The arbitrator in this case found the defendants 100% liable for the accident and reported an award for the plaintiff in the amount of \$67,410. Following arbitration, the defendants’ counsel requested a trial de novo, which was scheduled to begin on January 22, 2024. However, the parties entered into a settlement on January 3, 2024.

REFERENCE

Zoila Flores vs. Emory Hall, New Jersey Transit. Docket no. ESXL000987-21; Judge Annette Scocca, 01-03-24.

Attorney for plaintiff: Anthony Fattell of Lord, Kobrin, Alvarez & Fattell, LLC in Mountainside, NJ. Attorney for defendant: Kenneth Resnick of Burke & Potenza in Parsippany, NJ.

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

Supplemental Verdict Digest

MEDICAL MALPRACTICE

\$6,350,000 VERDICT – MEDICAL MALPRACTICE – PRIMARY CARE – FAILURE TO DIAGNOSE – PLAINTIFF CONTENDS DEFENDANTS FAILED TO DIAGNOSE HER BREAST CANCER – ADVANCEMENT AND METASTASIS OF CANCER – MASTECTOMY; RADIATION; CHEMOTHERAPY.

Kings County, NY

In this medical malpractice case, the plaintiff, 46-year-old patient of the defendant, asserted that the defendant internist and his professional corporation were negligent in treatment of the plaintiff and failed to diagnose her breast cancer. In the course of discovery, all parties were dismissed with the exception of the defendant internist and the pulmonology practice. The case proceeded as to the remaining defendants. The defendants denied deviation from the standard of care and asserted that they referred her on numerous occasions for diagnostic imaging. The defendants asserted that the plaintiff failed to return to the defendants for recommended follow-up appointments to discuss her results and recommendations for treatment following testing.

As a result of the failure to diagnose breast cancer, the plaintiff claimed her cancer metastasized and she required increased treatment, suffered loss of enjoyment of life, and derivative losses by the plaintiff's husband. The plaintiff required right breast mastec-

tomy; extensive treatment with radiation and chemotherapy and suffered the side effects of those treatments.

The jury found the plaintiff 10% negligent in failing to follow the instructions and recommendations of treating physicians during the period of 2011-2014 and the defendant Amin 90% negligent in departing from good and accepted standards of practice during his care and treatment of the plaintiff during the period of 2011-2014. The jury awarded damages in the amount of \$6,350,000 broken down as follows: \$3,250,000 for past pain and suffering; \$2,000,000 for future pain and suffering; \$800,000 for past loss of consortium and \$300,000 for future loss of consortium.

REFERENCE

Ismail vs. Amin, M.D., et al. Index no. 503450/2015; Judge Patria Frias-Colon, 04-12-24.

Attorney for plaintiff: Sarah J. Green of Alan Ripka & Associates, LLP in New York, NY. Attorney for defendant: Roy S. Schuchman of Marulli, Mannarino & Erichson, LLP in New York, NY.

\$4,300,000 SETTLEMENT – MEDICAL MALPRACTICE – OB/GYN/HOSPITAL NEGLIGENCE – LABOR AND DELIVERY – DEFENDANT DOCTOR AND NURSES FAIL TO APPRECIATE FETAL MONITORING SHOWING HYPOXIA AND FAILED TO PERFORM TIMELY C-SECTION – HYPOXIC ENCEPHALOPATHY – WRONGFUL DEATH OF INFANT.

Montgomery County, PA

The plaintiffs in this medical malpractice/wrongful death labor and delivery action maintained the defendants failed to appreciate the fetal tracings which showed prolonged decelerations indicating hypoxia necessitating the urgent need for a C-section. Despite the decelerations, the plaintiff was allowed to labor and push for hours resulting in fatal injuries to the fetus. The defendant doctor maintained she was called out of the room to perform several other procedures on different patients and the plaintiff's care was primarily

rendered by the nurses and midwife who failed to escalate their concerns to the appropriate people. The nurses and midwife denied all allegations of negligence and argued the plaintiff's labor and delivery met all required medical standards.

The plaintiff maintained the defendants failed to observe and interpret the fetal monitoring tracings, failed to consistently and correctly recognize and appreciate that the baby was experiencing progressive hypoxia during the labor process and failed to perform an emergency C-section.

The parties settled for \$4,300,000.

REFERENCE

Plaintiff's obstetrics expert: Robert E. Berg, M.D. from New York, NY.

The Estate of Genevieve Bonney a minor by and through pings Michael Bonney and Jacqueline Bonney and Individually vs. Albert Einstein Healthcare, Albert Einstein Medical Center Montgomery, Dana Boyer, R.N., Jade Groff C.N.M., Grace Adofo, M.D.,

Koren Underwood, R.N. and East Norriton Women's Healthcare. Case no. 2018-25557; Judge Jeffrey Saltz, 02-18-25.

Attorney for plaintiff: Daniel Purtell of McEldrew Purtell in Philadelphia, PA. Attorney for defendant: Michael O. Pitt of O'Brien & Ryan in Plymouth Meeting, PA. Attorney for defendant: Paul C. Troy of Kane Pugh Knoell Troy & Kramer in Norristown, PA.

MOTOR VEHICLE NEGLIGENCE

\$12,000,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – LEFT TURN COLLISION – DEFENDANT MAKES NEGLIGENT LEFT HAND TURN IN FRONT OF PLAINTIFF CAUSING VIOLENT ROLL-OVER COLLISION – BACK FRACTURES – SPLEEN LACERATION – CONCUSSION – PERMANENT PAIN AND DISABILITY.

Spalding County, GA

The plaintiff in this vehicular negligence action maintained he suffered catastrophic and life-altering injuries when the defendant driver turned left in front of the plaintiff causing a violent collision that caused the plaintiff's vehicle to roll over. The plaintiff's injuries included a spleen laceration with internal bleeding, hematoma in the left kidney, compression fractures at T5-7, burst fracture at L4, pulmonary contusions, bilateral pneumothorax, scalp laceration, pars interarticularis fracture at C7, abdominal wall contusion, pelvic wall contusion, concussion and edema of lumbar spinal cord, injury to left carotid artery, epidural hematoma, severe pain and swelling at right medial and lateral malleolus ankle, acute blood loss anemia, and acute trauma pain. The defendant argued that the plaintiff caused the accident by disregarding a red light and speeding.

The plaintiff maintained that the defendant failed to yield the right-of-way, made a sudden and improper left hand turn in front of the plaintiff's vehicle, failed to maintain a proper lookout and made a negligent left

hand turn. The collision caused the plaintiff's vehicle to leave the roadway, turn upside down and crash into a ditch next to a nearby utility pole. The injuries and damages are continuing, some of which are likely to be permanent in nature. The plaintiff incurred over \$400,000 in medical expenses.

The jury found that the plaintiff was entitled to recover \$12,000,000 in damages against the defendant's insurer.

REFERENCE

Kyle Zachary Rowland vs. Kyle Trevor McGovern and State Farm Insurance. Case no. 22SV-200; Judge Josh W. Thacker, 12-20-24.

Attorneys for plaintiff: Nick Protentis and Matthew Bonham of Protentis Law in Atlanta, GA. Attorney for defendant: Naveen Ramachandrapa of Bondurant Mixson & Elmore in Atlanta, GA.

\$9,500,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – AUTO/MOTORCYCLE COLLISION – DEFENDANT EMPLOYEE DRIVER ACTING WITHIN SCOPE OF EMPLOYMENT LOST CONTROL OF VEHICLE AND COLLIDED WITH PLAINTIFF MOTORCYCLIST – DISFIGUREMENT AND PHYSICAL DISABILITY – SIGNIFICANT PAIN AND ONGOING DISCOMFORT.

Sarasota County, FL

This motor vehicle negligence action was filed by the plaintiff for serious personal injuries sustained in a motorcycle accident in Sarasota, Florida. The plaintiff's injuries led to disfigurement and physical disability and she sought damages for the significant pain and ongoing discomfort caused by the accident including mental anguish and a loss of enjoyment of life.

The plaintiff filed 3 claims for recovery: (1) negligence against driver Hector Ibarra for failure to operate the vehicle safely thus breaching his duty of care; (2) vicarious liability for Florida's Dangerous Instrumentality Doctrine against employer Vic Brick Pavers, Inc. as driver Ibarra drove the vehicle with their consent and knowledge; and (3) employer, Vic Brick Pavers, Inc. was liable under Respondent Superior for their employee driver as they had control over his actions while he worked.

A Circuit Court of Sarasota County jury reached a gross verdict of \$8,500,000, including past medical expenses of \$890,799.87; past pain and suffering, disability, mental anguish and disfigurement of \$555,914.00; future medical expenses of \$436,000.43 and future non-economic damages of \$7,118,280.00.

REFERENCE

Jessina Presha vs. Hector Marquez Ibarra et al. Case no. 2022-CA002793; Judge Stephen Walker, 08-15-24.

Attorney for plaintiff: A. Crosby Cane of Morgan & Morgan in Tampa, FL. Attorney for defendant: Sanford Topkin of Topkin Law in Deerfield Beach, FL.

\$5,501,173 JUDGMENT – MOTOR VEHICLE NEGLIGENCE – LEFT TURN COLLISION – PLAINTIFF POLICE OFFICER IN PURSUIT OF SPEEDING VEHICLE STRUCK BY THIRD-PARTY VEHICLE ATTEMPTING LEFT TURN IN INTERSECTION – SEVERE TRAUMATIC BRAIN INJURY; MULTIPLE FACIAL FRACTURES; JAW FRACTURES; BROKEN AND MISSING TEETH AND FRACTURED ORBITAL PLATE – HOSPITALIZATION AND REHABILITATION FOR NEARLY 2 MONTHS – MULTIPLE RECONSTRUCTIVE SURGERIES AND TISSUE GRAFTS.

Suffolk County, NY

In this motor vehicle negligence case, the plaintiff, a police officer, asserted that the defendant driver gave chase and, while in pursuit, the plaintiff was involved in a significant collision with a third-party defendant that left him with permanent injuries including severe traumatic brain injury; multiple facial fractures; 22 jaw fractures; broken and missing teeth; and a broken orbital plate. The plaintiff underwent multiple oral, facial reconstruction, neurological and ophthalmological surgeries including tissue grafts. The defendant pled guilty to reckless endangerment in the taking of the vehicle and fleeing across 3 towns at speeds at times in excess of 100 mph. The defendant failed to answer or appear in the civil matter and was found in default. The matter was set down for inquisition on damages.

As a result of the collision, the plaintiff was airlifted to the hospital where he was an inpatient for almost one month. The plaintiff is permanently disfigured and has permanent cognitive, speech, and memory disabilities from the subject incident.

At the inquest, the plaintiff sought \$5 million in compensatory damages and \$500,000 in punitive damages. Following the inquest, the court awarded the plaintiff \$5,501,173 in damages broken down as follows: \$5 million in compensatory damages; \$500,000 for punitive damages; and \$1,173 for costs and disbursements. The plaintiff has returned to full duty as a police officer.

REFERENCE

Sproston vs. Cowell. Index no. 606132/2022; Judge Maureen T. Liccione, 03-19-24.

Attorney for plaintiff: Cary M. Greenberg of Davis & Ferber, LLP in Islandia, NY.

PREMISES LIABILITY

\$1,250,000 VERDICT – PREMISES LIABILITY– FALLING OBJECT – INJURIES RESULTING FROM FALL OF PIECE OF ARTWORK LEADING TO CONCUSSION – NEGLIGENT INSTALLATION AND INSPECTION – PERMANENT BRAIN INJURIES AS WELL AS CONCUSSION, LOSS OF CONSCIOUSNESS; NECK AND SHOULDER PAIN – POST-CONCUSSION SYMPTOMS INCLUDING HEADACHES, LOSS OF BALANCE, EYE PAIN, REDUCED CONCENTRATION AND MEMORY LOSS.

U.S.D.C. - Eastern District of Pennsylvania

This premises liability action was filed by the plaintiff against the defendants, The Neiman Marcus Group, for injuries sustained resulting from the fall of a piece of artwork on the set at Neiman Marcus's King of Prussia" location in Pennsylvania. The plaintiff alleged permanent brain injuries as well as: (1) concussion, (2) loss of consciousness, (3) neck and shoulder pain, (4) post-concussion symptoms such as memory

issues, headaches, loss of balance, eye pain, reduced concentration and memory loss. The defendant contended the plaintiff's condition was the result of 2 car accidents the plaintiff was involved in after the King Prussia accident.

The plaintiff alleged the fall of the artwork was sudden, occurred without warning and was caused by a defective or dangerous condition on the premises resulting in severe injury and the defendant as a business invitee owed a heightened duty of care as a business invitee. Neiman Marcus contended they

were unaware of any hazardous conditions, was not negligent and denied the allegations claiming customer interference and environmental conditions contributed to the painting's fall.

A U.S. District Court for the Eastern District of Pennsylvania jury reached a verdict after a 1-week trial. Gross verdict: \$1,250,000, including \$750,000 for past and future medical expenses and \$500,000 for pain and suffering. The court determined that

Neiman Marcus owed her a duty of reasonable care and this duty was breached causing the injuries from almost 13-pound picture frame.

REFERENCE

Clark vs. The Neiman Marcus Group, LLC et al. Case no. 2:19cv4717; Judge Mitchell S. Goldberg, 12-09-24.

Attorney for plaintiff: David D. Langfitt of Locks Law Firm in Philadelphia, PA. Attorney for defendant: Frank A. Chernak of Ballard Spahr, LLP in Philadelphia, PA.

\$1,200,000 – VERDICT – PREMISES LIABILITY – MUNICIPAL LIABILITY – FALL DOWN – PLAINTIFF JOGGING PAST COMMERCIAL TRIPPED ON UNEVEN SIDEWALK SUSTAINING INJURIES – RIGHT WRIST FRACTURE REQUIRING OPEN REDUCTION AND INTERNAL FIXATION SURGERY AND SECOND OPERATION TO REMOVE HARDWARE – POST-TRAUMATIC ARTHRITIS CAUSED BY FRACTURE – FROZEN RIGHT SHOULDER AND LEFT THUMB TRIGGER FINGER.

Union County, NJ

This premises liability action was filed by the plaintiff against the defendants, The Lince Group and the Township of Scotch Plains, New Jersey, for injuries sustained from an uneven public sidewalk that abuts the Lince property while jogging on July 22, 2019. The plaintiff alleged injuries of a right wrist fracture that required open reduction and internal fixation surgery, a second operation to remove the hardware, post-traumatic arthritis caused by the fracture, frozen right shoulder and left thumb trigger finger.

The defendants contended the plaintiff was comparatively negligent, having jogged through the area on prior occasions.

The plaintiff alleged negligence and asserted the raised area of sidewalk existed for several years prior to the accident. At trial, the defendant's property

manager, testified the sidewalk was regularly inspected but not repaired as it was assumed to be the responsibility of the township to make said repairs. It was stipulated between the parties that the plaintiff had no intention to enter any commercial facility on that day.

The jury, after deliberation and 5-day trial, awarded \$1,200,000.

REFERENCE

Ellen English vs. The Lince Group, et al. Docket no. LCV20212840468; Judge John G. Hudak, 02-05-24.

Attorney for plaintiff: Patrick Flinn of Levinson Axelrod in Edison, NJ. Attorney for defendant: Robert Gunning of Morrison & Mahoney, LLP in Parsippany, NJ.

ADDITIONAL VERDICTS OF PARTICULAR INTEREST

County Liability

\$4,915,000 VERDICT – COUNTY LIABILITY – HAZARDOUS PREMISES – PLAINTIFF BICYCLIST CLAIMS DEFENDANT'S SECURITY GATE MALFUNCTIONED AS SHE WAS RIDING UNDER IT AND KNOCKED HER TO GROUND – PLAINTIFF CLAIMS DEFENDANTS ALLOWED MALFUNCTIONING GATE TO REMAIN ON PROPERTY AND FAILED TO WARN OF DANGEROUS CONDITION – FRACTURED LEFT ELBOW – 3 SURGICAL PROCEDURES.

Miami-Dade County, FL

In this case, the plaintiff asserted that she was injured by the defendant county's security gate arm that came down on her as she was riding her bike through it. The plaintiff's injuries included a fractured left elbow for which she underwent 3 surgical procedures to repair. The defendants denied negligence and argued that the gate arm

was an open and obvious condition which relieved the defendant county of its duty to warn, but even so, there were multiple signs, including pictograms and a written warning on the arm itself, warning bicyclists not to use the gate.

The plaintiff alleged that the defendant county, which operated the guard gate of the community, breached its duty by failing to warn her of a danger-

ous condition and by failing to correct a dangerous condition. The plaintiff claimed that the defendant security guard company was negligent in failing to inspect, maintain, and report that the SW 128th Street exit gate at the complex was malfunctioning. The specific malfunction at issue pertained to the activation of the gate arm when bicycles and motorcycles were traveling over the ground loop sensor and activating the mechanism to lift the exit gate arm.

At trial, the plaintiff introduced expert testimony that the defendant county failed in designing the exit lane. The plaintiff's expert testified that the defendant should have created a bicycle lane, should have installed a sidewalk and should have installed a shorter gate arm.

The jury returned a verdict finding that the defendant County was negligent and responsible for 100% of the plaintiff's damages in the amount of \$4,750,000

broken down as follows: \$4,000,000 for past pain and suffering; and \$750,000 for future pain and suffering. The jury did not find any negligence by the co-defendant security company. The jury also returned a verdict on the plaintiff husband's claim for loss of consortium in the amount of \$100,000 for past loss of consortium and \$65,000 for future loss of consortium.

REFERENCE

LaTour vs. Miami-Dade County. Case no. 2018CA-000853; Judge Spencer Eig, 01-16-25.

Attorney for plaintiff: Matthew Schwencke of Searcy Denney in West Palm Beach, FL. Attorneys for defendant Miami-Dade County: Richard Schevis and Keri Bagala of Office of the Miami-Dade County Attorney in Miami, FL. Attorney for defendant security company: Roberto Ureta of Wilson Elser Moskowitz Edelman & Dicker, LLP in Miami, FL.

Disability Discrimination

\$24,030,000 VERDICT INCLUDING \$10,000,000 PUNITIVE AWARD – DISABILITY DISCRIMINATION – WRONGFUL TERMINATION – PLAINTIFF, EMPLOYEE OF DEFENDANT, ALLEGED WHEN SHE REQUESTED ACCOMMODATION FOR MENTAL HEALTH DISABILITY SHE WAS DISCRIMINATED AGAINST AND RETALIATED AGAINST IN VIOLATION OF AMERICANS WITH DISABILITIES ACT AND MASSACHUSETTS STATE LAW CHAPTER 151B – DEFENDANT DENIED ALLEGATIONS CONTENDING THEY MADE EFFORTS TO ACCOMMODATE PLAINTIFF.

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

The plaintiff, Dr. Lisa Menninger, filed this action on June 28, 2019, and alleged disability discrimination and retaliation under the Americans with Disabilities Act (ADA) against the defendant PPD Development. The plaintiff alleged that after she disclosed her mental health disability to the defendant and requested an accommodation, the defendant failed to provide a reasonable accommodation, discriminated against her and retaliated against her with termination in 2019. The defendant made sufficiency challenges under a Rule 50(a) motion, denied all allegations and contended they made efforts to accommodate the plaintiff's disability.

The plaintiff alleged immense toll on her health and destruction of her once flourishing career. The plaintiff suffered from anxiety and panic attacks through her life and was diagnosed with Panic-Disorder with Agoraphobia, Social Anxiety Disorder, and Generalized Anxiety Disorder but alleged that despite this disability,

the plaintiff succeeded in establishing a career as a Medical Doctor and Board-Certified Clinical Pathologist.

A U.S. District Court, District of Massachusetts jury reached a verdict after deliberation and 2-week trial. The gross award was \$24,030,000 including \$7,030,000 in economic losses for back and front pay, \$7,000,000 in emotional distress damages and \$10,000,000 in punitive damages. The jury found the defendant liable under the Americans Disabilities Act and the Massachusetts Fair Employment Practices Act, Chapter 151B.

REFERENCE

Menninger vs. PPD Development. Case no. 19-11441-LTS (D. Mass); Judge Leo T. Soroki, 03-31-23.

Attorneys for plaintiff: Patrick Hannon and Hampton Watson of Hartley, Michon, Robb, Hannon, LLP in Boston, MA. Attorney for defendant: Catherine Brackett of Ogletree, Deakins, Nash, Smoak & Stewart in Los Angeles, CA.

Employer Liability

\$100,000,000 VERDICT – EMPLOYER LIABILITY – PLAINTIFF WAREHOUSE WORKER STRUCK BY PALLET WEIGHING 1300 POUNDS, FALLING 20 FEET FROM UPPER STORAGE – PLAINTIFF KNOCKED UNCONSCIOUS – FRACTURE OF BACK AND CHEST – CRUSHED ABDOMEN AND PELVIS – PERMANENT PARAPLEGIA.

Hartford County, CT

This action was filed by the plaintiffs, Juan and Emily Cruz, against Spec Personnel, LLC, Special Personnel, LLC, Jean D. Paez, Philips North America Lighting Corporation, Signify North America Corporation, et al., the defendants. The plaintiff, a worker for a lighting distributor's warehouse, alleged injuries including fractures of the back and chest, crushed pelvis, abdomen, contusion and permanent paraplegia when he was knocked unconscious as a result of the fall of a 1300-pound full pallet of lighting products. The defendant lighting company contended that the owner of the warehouse was at fault for failure to train, supervise and monitor the Paez, the pallet jack operator/employee, prior to the accident.

The plaintiff alleged that Paez was negligent in the operation of the forklift; Signify was negligent in failure to train, failure to supervise and failure to inspect; and Spec Personnel was responsible for negligent hiring, furnishment and supervision and retention. The plain-

tiff contended Signify/Philips workers did not properly secure or stretch wrap the boxes of products to the pallet, which would have prevented the pallet from falling.

The jury reached a verdict after 1 day of deliberation and a 3-week trial. The gross verdict was \$100,000,000, including non-economic damages of \$15,000,000 and an award to Emily Cruz of \$10,000,000. The jury apportioned 90 % fault to Signify/Philips and 10% to Paez.

REFERENCE

Juan Cruz and Emily Cruz vs. Spec Personnel, LLC, Special Personnel, LLC Jeanpail D. Paez, Philips North American Lighting Corporation, Signify North America Corporation, et al. Case no. HHD-CV18-5051489; Judge Stuart D. Rosen.

Attorneys for plaintiff: Andrew P. Garza and Andrew B. Ranks of Connecticut Trial Firm, LLC in Glastonbury, CT. Attorney for defendant: Christopher M. Vossler of Howd & Ludorf, LLC in Hartford, CT.

Fraud

\$40,000,000 VERDICT – FRAUD – FORMER CEO SUED BY TRUSTEE FOR FRAUDULENT FINANCIAL TRANSFERS AND BREACH OF FIDUCIARY DUTY – DEFAULT OF 2 MULTI-MILLION DOLLAR LOANS TO DETRIMENT OF CREDITORS – INTENTIONAL MISREPRESENTATION OF HEALTH OF COMPANY TO CONTINUE TO DRAW LOANS.

U.S.D.C. - Western District of Texas

This action was filed on November 16, 2021, by the plaintiff Thomas Bennett, Trustee for the MTE Litigation Trust, against certain officers of MTE Holdings, LLC and their affiliated company MDC Energy LLC, an oil and gas exploration and production company headquartered in Midland, Texas. The beneficiaries of the trust are a group of financial institutions that had lent almost half a billion dollars to MTE Holdings before MTE filed for bankruptcy in October 2019. The bankruptcy proceedings revealed allegations of fraudulent financial transfers and breaches of fiduciary duties by Mark Siffin (former CEO of MTE Holdings) and affiliated entities. Mark Siffin is accused of diverting funds to entities he controlled, potentially to the detriment of creditors.

On January 6, 2020, Bloomberg News reported that creditors of MTE Holdings accused Mark Siffin of fraud and mismanagement, leading to a call for his replacement by a court-appointed trustee during

bankruptcy proceedings which was entered after defaulting on 2 loan agreements. The group of lenders sued the individual officers of MTE for intentionally misrepresenting the financial health of the company in order to continue to draw on the loan with claims for fraud and breach of fiduciary against Siffin and others.

A U.S. District Court for the Western District of Texas jury reached a verdict after 2 hours of deliberation. The gross verdict was \$40,000,000, with Mr. Siffin and Mr. Cyphers liable for fraud.

REFERENCE

Thomas Bennett, Trustee for the MTE Litigation Trust vs. Mark Siffin, et al. Case no. 7:21-cv-00214-DC-RCG; Judge David Counts, 03-06-24.

Attorneys for plaintiff: Robert Bell, Cary Joshi, Elliott McGraw and John Turner of Bailey & Glasser, LLP in Hewitt, TX. Attorney for defendant: Marissa E. Miller of Glenn, Agre Bergman & Fuentes, LLP in New York, NY.

Landlord Negligence

\$15,000,000 VERDICT – LANDLORD NEGLIGENCE – PLAINTIFF TENANT FALLS DOWN STAIRCASE OF APARTMENT COMPLEX OWNED AND MAINTAINED BY DEFENDANTS – FAILURE TO HAVE HANDRAIL ON STAIRCASE – RIGHT FOOT AND ANKLE FRACTURES – SURGERY – COMPLICATIONS – BELOW-KNEE AMPUTATION.

Philadelphia County, PA

The plaintiff tenant in this action fell down the staircase of her apartment building which lacked a handrail, resulting in injuries that led to the amputation of her lower right leg. The defendants all denied negligence, blamed the other defendants or settled out of court.

The allegations of negligence against the defendants contained in the plaintiff's complaint were causing the property to be in a dangerous condition, allowing the property to exist in a dangerous condition, failing to ensure that a handrail(s) was installed in all stairways on the property, including the subject stairway, failing to provide adequate lighting and violating the Philadelphia Property Maintenance Code. The plaintiff was taken to a local hospital and was diagnosed with broken bones in her right foot. She required immediate surgical implantation of hardware. Following the initial treatment and surgery, the plaintiff devel-

oped an infection; despite attempts to treat the infection, the infection had spread, and amputation of her right foot and leg was necessary.

The jury awarded Thompson \$15 million, all in non-economic damages. It found that Alisha Real Estate was 75% responsible for her injury and Bay Property Management Group was 25% responsible. Jurors found that the contractor, Super Home Improvements, wasn't responsible at all.

REFERENCE

Patricia Thompson vs. Alisha Real Estate, Bay Property Management Group. Case no. 220901278; Judge Carmello Jacquinto, 12-23-24.

Attorney for plaintiff: Robert Mongeluzzi of Saltz Mongeluzzi & Barrett in Philadelphia, PA. Attorney for defendant: Joanne Rubinsohn of BBC Law in Philadelphia, PA. Attorneys for defendant: Seth J. Schwartz and Benjamin M. Goshko in Philadelphia, PA. Attorney for defendant: Francis Deasey of Deasey Mahoney & Valentini in Philadelphia.

Sexual Assault

\$14,000,000 VERDICT – 3 PLAINTIFF'S FILE SEXUAL ASSAULT LAWSUIT AGAINST INTERNIST AND MEDICAL GROUP FOR REPEATED SEXUAL ASSAULTS FOR YEARS – BATTERY AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS – PLAINTIFFS ALLEGE MULTIPLE REASONS FOR ONGOING VISITS TO DOCTOR DESPITE SEXUAL ASSAULTS INCLUDING NEEDING PAIN MEDICATION AND MEDICAL ISSUES.

Bergen County, NJ

This action was filed by the plaintiffs against a medical group for repeated sexual assaults during office visits. The plaintiff's alleged Dr. Renner rubbed his crotch against them during examinations, touched their breasts and genitals and kissed them. The defendant, Osler Medical Group, contended it was not liable because it had no knowledge of Dr. Renner's improper behavior; however, the plaintiffs' counsel, by way of a former employee filed police report alleging sexual advances refuted the defendant's no knowledge defense.

The plaintiff's alleged the assaults to the 3 women came to an end when Suzanne Brown finally reported Dr. Renner to the police, after he again assaulted her during a medical exam. The plaintiff's alleged injuries of emotional distress. As to the defendant, Carl Renner, he did not present any defenses.

The plaintiff motioned and was granted a directed verdict against him for battery and intentional infliction of emotional distress.

The jury verdict, after deliberation and 8-day trial was \$14,000,000 including \$4,500,000 for pain and suffering and loss of enjoyment in life and future medical

expenses, \$1,500,000 to Jessica Szmikowski, and \$3,000,000 to Suzanne Brown for pain and suffering and loss of enjoyment in life and \$1,000,000 for future medical expenses and \$3,500,000 to Rosemarie Safarian for pain and suffering and loss of enjoyment in life and \$500,000 to Jack Safarian for loss-of-consortium.

For the 3 women, the jury apportioned 60% of liability to Renner, 40% to Osler Medical Group for Szmikowski and Brown verdicts and 55% to Renner and 45% to Osler for Safarian. Carl Renner was ordered to pay \$8.9 million and Osler Medical Group apportioned liability is \$6.3 million after prejudgment interest. Jessica Szmikowski's damages were reduced by 15% for failure to mitigate damages.

REFERENCE

Jessica Szmikowski vs. Osler Medical Group. Docket no. L2492-21; Judge Kevin Kelly, 03-17-25.

Attorneys for plaintiff: Kate Carballo and Barry Kantrowitz of Kantrowitz, Goldhamer, Graifman in Montvale, NJ. Attorney for defendant: David J. Altieri of Galantucci & Patuto in Hackensack, NJ.