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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.

VERDICTS BY CATEGORY

FEATURED CASES

$20,149,998 COMBINED SETTLEMENT – MOTOR VEHICLE NEGLIGENCE – MUNICIPAL LIABILITY – BUS/TRUCK COLLISION – SCHOOL BUS MAKING U-TURN ON INTERSTATE STRUCK BY DUMP TRUCK – DEATH OF 10-YEAR-OLD – FRACTURED SKULL REQUIRING 3 SURGERIES TO SECOND 10-YEAR-OLD PASSENGER.

Bergen County, NJ

In this motor vehicle negligence/municipal liability action, the plaintiffs contended that the defendant municipality's school bus driver negligently opted to attempt a U-turn on a busy I-90 during a school trip. As he did so, the co-defendant driver of a dump truck negligently failed to take evasive action and broadsided the bus. A 10-year-old passenger was ejected from the bus and experienced conscious pain and suffering for several seconds before succumbing. A second child, also 10 years old, suffered a severe skull fracture, was required to have part if his skull removed and will suffer extensive losses in attempts to work in the future.

The manner in which the accident occurred was not vigorously in dispute. The dump truck driver asserted that the sole cause of the accident was the negligence of the school bus driver. The infant decedent was ejected from the bus. Passengers described movement for a brief period. The plaintiff's anesthesiologist concluded that the decedent was conscious and lived for several minutes.

The surviving passenger suffered a severe skull fracture and required a number of surgeries. Scenes from the surgery would have been tried. The plaintiff asserted that although he has made improvement, he will permanently have significant cognitive deficits and will not be able to attend college and Graduate School as planned. The plaintiff's economist projected approximately $4.5 million in losses.

The case of the surviving plaintiff initially settled with the school bus company $12,500,000. The dump truck driver then settled with this party for an additional $233,332. The death action settled with municipality for $7,000,000. This aspect then settled with the trucker for $416,666. The total combine settlement was $ $20,149,998.

REFERENCE

Vargas, et al vs. Paramus, et al. Judge John O'Dwyer, 10-23.

Attorneys for plaintiff: Bruce H. Nagel and Andrew L. O'Connor of Nagel Rice, LLP in Roseland, NJ.

COMMENTARY

As has been frequently noted, injuries that occur on a school bus often evoke a very strong jury response. Regarding the death action, the observations of students of movement for a brief period would have been buttressed by the conclusions of the plaintiff's anesthesiologist who concluded that the child was conscious during this period. Regarding the case of the surviving child, the plaintiff would have presented video evidence of the surgeries which entailed removal and replacement of portions of skull. Additionally, although significantly improved, this plaintiff stressed that he will suffer extensive difficulties with education and career because of the deficits caused by the crash. Finally, it should be noted that the dump truck driver had $2,000,000 in insurance and the amounts discussed in this article reflect the amounts received by each plaintiff with the remainder compensating the other children on the bus suffering lesser injuries.

$5,750,000 COMBINED VERDICT – MOTOR VEHICLE NEGLIGENCE – RECKLESS DRIVING – DEFENDANT DRIVER NEGLIGENTLY CUT OFF HOST VEHICLE CAUSING ACCIDENT – PLAINTIFF WIFE/PASSENGER SUFFERS SHOULDER INJURY PREVENTING MOVEMENT OF LEFT ARM DESPITE 2 SURGERIES – PLAINTIFF DRIVER/HUSBAND SUFFERS 4 BULGES AND BILATERAL MENISCAL TEARS – 2 LUMBAR EPIDURAL INJECTIONS AND CORTISONE SHOTS IN KNEES.

Essex County, NJ

This motor vehicle negligence case involved a 57-year-old plaintiff driver and his 53-year-old passenger/wife in which the plaintiffs contended that the defendant driver negligently cut the host vehicle off as he approached an exit in the GSP, causing the accident. The plaintiff passenger maintained that she suffered a severe tear of the left rotator cuff and that despite 2 surgeries, she will permanently suffer severe pain as well no significant forward, backward or sideward motion of her left arm, severely limiting her activities of daily living. The plaintiff driver asserted that he suffered a bulging disc in his cervical area, 3 bulging lumbar discs and meniscal tears in both

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knees,. This plaintiff underwent 2 lumbar epidural injections and cortisone shots in his knees and maintained that he will permanently suffer extensive difficulties with movement and everyday tasks. The defendant denied that the plaintiffs' version was accurate.

The plaintiff driver and passenger asserted that as the host was in the 2-lane exit at mile 145, the defendant suddenly cut off the host and crossed from the left to the right to exit 145. The plaintiffs contended that the host swerved to the left, but that the side and rear of his car collided with the rear of the defendant's vehicle. The defendant contended that the plaintiff was traveling in front of him when traffic suddenly stopped. The defendant maintained that the plaintiff then struck him in the rear. The defendant asserted that after the collision, they left the GSP and drove to a nearby service station with the defendant following the plaintiff.

The plaintiff maintained that because of the friction between the rear tires, a tire caught on fire several miles from the accident scene. The plaintiff elicited testimony from the defendant that at the service station, that the tire began burning at the time and place claimed by the plaintiff. The plaintiffs further contended that the jury should consider that although the plaintiffs had an estimate done at the auto garage, the defendant did not. The plaintiffs argued that in view of these discrepancies, the defendant's believability was highly suspect.

The plaintiff passenger/wife maintained that she sustained a severe tear of the left, non-dominant shoulder. An initial surgery failed. This plaintiff then had a second surgery. This operation failed as well. The plaintiff contended that she cannot effectively engage in most tasks of daily living.

The defendant's orthopedist agreed that this plaintiff suffered severe and permanent injuries to the left arm and shoulder.

The plaintiff driver contended that sustained a bulging disc in his cervical spine, three bulging discs in his lumbar spine, and meniscal tears in both knees. The plaintiff underwent injections in the neck and both knees. This plaintiff maintained that the interference in his life include the inability to bend 5 times per day in conformance with his Muslim religion. The defendant asserted that the plaintiff suffered age-related degeneration only.

The jury found the defendant 100% negligent. They then awarded $3,200,000 to the plaintiff wife and $2,500,000 to the plaintiff driver for a combined award of $5,750,000.

REFERENCE

Sharif vs. Head. 05-23-24.

Attorney for plaintiff passenger/wife: Patricia Weston Rivera for of PW Rivera, PC in South Orange, NJ. Attorney for plaintiff driver: Samuel J. Perez of Javerbaum Wurgaft Hicks Kahn Wikstrom & Sinins, PC in Springfield, NJ.

COMMENTARY

The manner in which the accident occurred was hotly disputed and it is felt that such dispute resulted in a polarization of the case, and contributed to the damages result as well. In this regard, the stark differences in the description of the events leading up to the collision included the question of whether the defendant caused the accident by cutting off the host car as they approached the exit as claimed by the plaintiffs, or whether the plaintiff driver caused a rear-end collision when the traffic in front of him stopped, The plaintiffs successfully resolved this issue and the evidence that although the defendant followed the plaintiff to a nearby service station where the plaintiffs' an estimate was done on the plaintiffs car, but not on the defendant's, was probably significant.

Additionally, the plaintiffs effectively elicited testimony from the defendant that on the way from the accident scene, his tire caught fire from the friction caused by his property damage, stressing that he initially was going to the auto body garage to pay for the plaintiff's auto damage not for his tire which did not begin to smoke and burn until he left the parkway accident scene and was on the road driving to the garage.

$160,000 ARBITRATION AWARD – PREMISES LIABILITY – FALL DOWN – PLAINTIFF TRIPS AND FALLS OVER BROKEN SECTION OF SIDEWALK – TEAR OF RIGHT ANTERIOR TALOFIBULAR LIGAMENT – SURGERY REQUIRED – SIGNIFICANT SCARRING.

Bergen County, NJ

In this premises liability action, the plaintiff was injured when she tripped and fell over a broken or uneven section of a sidewalk. The defendants generally denied all allegations of negligence.

On April 20, 2019, the plaintiff was a tenant residing at the defendant apartment complex, located on the premises of 714 Chestnut Avenue in Teaneck, New Jersey. At this time, the plaintiff was walking on a sidewalk on the property of the defendant complex. At the time of the incident, the plaintiff encountered a broken or uneven section of the sidewalk while she was walking. The plaintiff tripped over the uneven ground and fell, causing her to become injured.

The plaintiff maintained that the defendants were negligent in failing to maintain safe and adequate conditions on the premises, failing to inspect the premises, failing to repair a broken, uneven, or otherwise hazardous sidewalk, failing to repair the sidewalk in a timely manner, failing to prevent a tripping hazard, failing to prevent hazardous or unsafe conditions on the premises in general, failing to hire adequate maintenance staff, failing to provide safe passage on the premises, and failing to regard for the health and safety of visitors and tenants on the premises, including the plaintiff. Consequently, the plaintiff sustained injuries, including a tear of the right anterior talofibular ligament, which required surgery to repair. The plaintiff now has significant scarring from the injury.

The arbitrators found in favor of the plaintiff and reported an award for $160,000.

REFERENCE

Williams vs. Affiliated Management, Inc. Docket no. L001679-20; Judge Peter G. Geiger, 05-20-24.

Attorney for plaintiff: Luis L. Haquia of Davis, Saperstein & Salomon, P.C. in Teaneck, NJ. Attorney for defendant: Richard M. Tango of Tango, Dickinson, Lorenzo, McDermott & McGee in Millburn, NJ.

DEFENDANT'S VERDICT– EMPLOYMENT DISCRIMINATION – AGE AND GENDER DISCRIMINATION – RETALIATION – 60-YEAR-OLD FEMALE PLAINTIFF DISCRIMINATED AGAINST DUE TO AGE AND GENDER, WRONGFULLY FURLOUGHED, AND THEN TERMINATED BY DEFENDANT UNIVERSITY.

Atlantic County, NJ

The plaintiff in this employment discrimination action maintained that she was discriminated against, denied a promotion, for which she was qualified, was accosted by her supervisor and eventually terminated due to her age and gender. The plaintiff maintained that following her termination, the department contained 3 employees in their 20s and 30s, 2 males and 1 female, all with less qualifications than the plaintiff. The defendant argued that it was the pandemic and resulting financial situation that necessitated the restructuring of the department.

The female plaintiff began her employment with the defendants on or around May 1, 2005. The plaintiff was the Marketing Director for the Performing Arts Center ("PAC") at Stockton University and earned $105,000 per year. In 2013, the plaintiff became the Interim Executive Director, and assumed the job responsibilities related thereto, as a result of the retirement the male Executive Director. The plaintiff was placed on an 18-month probationary period with the expectation that at the end of the probationary period the plaintiff would be named the Executive Director. She also maintained the duties of her former title, Marketing Director.

The defendant Honaker, in her capacity as Dean of the School of Arts & Humanities at Stockton University, had supervisory powers over the plaintiff. The defendant began making illegitimate excuses as to why the plaintiff should not be elevated to the Executive Director position. The plaintiff was told that the position required a Master's Degree even though the prior executive director did not possess a Master's Degree. The plaintiff was then demoted to manager.

In May of 2016, the plaintiff obtained her Master's Degree, but was told by the defendant that she lacked managerial experience, even though the plaintiff had managerial experience. The plaintiff was instructed to take managerial courses, which she did, and she was still denied directorship. Shortly thereafter, the plaintiff and the defendant got into a verbal altercation about another employee and the plaintiff reported being accosted by the defendant to human resources.

A year passed without incident and the plaintiff was recommended for the Executive Director position. In February of 2020, the plaintiff was finally promoted to the position, but without any raise. On June 4, 2020, the plaintiff was informed that she was being placed on a 90-day furlough. She was advised that she would be responsible for half of her healthcare expenses and was told to turn in her Stockton computer, keys, and ID. Her access to her Stockton email address was revoked and she was prohibited from doing any work for the University.

On October 24, 2020, the 60-year-old plaintiff received a letter informing her that she was being laid off due to a reduction in the workforce. The plaintiff later learned that the University kept 2 younger males, and one female, 17 years younger than the plaintiff, to work in the office in positions held by the plaintiff.

The plaintiff maintained she was discriminated against based on her gender and age. In addition, she claimed she was retaliated against and furloughed for complaining to human resources about the behavior of the defendant. The plaintiff alleged that, as a direct result of the defendants' conduct, she has suffered damages, including ongoing lost wages (front-pay and back-pay) of over $500,000, as well as emotional distress, and requires compensation for same.

The defendants claimed they furloughed the plaintiff for legitimate reasons centering upon the Covid-19 pandemic, the operational needs of the university, and the unavailability of alternatives. The defendants further claimed they terminated the plaintiff's employment for the same reasons, and because there was no certainty as to when the plaintiff's department would reopen.

The jury found in favor of the defendants.

REFERENCE

Suze Dipietro vs. Stockton University and Lisa Honaker. Docket no. ATL-L-002063-21; Judge Ralph A. Paolone, 02-08-24.

Attorney for plaintiff: Dennis C. Schmieder of Law Offices of Eric A. Shore, P.C. in Voorhees, NJ.
Attorney for defendant: Ashley Toth of Marshall Dennehy in Mount Laurel, NJ.

Verdicts By Category

MEDICAL MALPRACTICE

Physical Therapy

$55,000 SETTLEMENT

Medical malpractice – Physical therapy negligence – Minor plaintiff falls and becomes injured while attending physical therapy session at defendant hospital – Right radial fracture.

Somerset County, NJ

In this medical malpractice action, the minor plaintiff fell and became injured while attending a physical therapy session at the defendant hospital. The defendants generally denied all allegations of negligence.

On September 24, 2019, the minor plaintiff was a lawful visitor at the defendant hospital, specifically the defendant hospital's fitness and wellness center, located on the premises of 100 Kirkpatrick Street, #201, New Brunswick, New Jersey. At this time, the minor plaintiff was attending a physical therapy session for her walking disability. While performing one of the exercises of her physical therapy regimen, the minor plaintiff suddenly tripped and fell, causing her to become injured.

The plaintiffs maintained that the defendants were negligent in failing to properly administer physical therapy care, failing to properly train physical therapists, and failing to prevent a hazardous or unsafe condition for the disabled minor plaintiff. Consequently, the minor plaintiff sustained injuries, including a right radial fracture.

Prior to arbitration, the parties entered into a friendly conference on April 15, 2024, at which time the parties reported that they had arrived at a settlement for $55,000. On April 17, 2024, the Honorable Kevin M. Shanahan ordered that the plaintiff's settlement amount be entered as a final judgment. A warrant of satisfaction was submitted on behalf of the defendants on May 29, 2024.

REFERENCE

Larissa Felder vs. RWJ Hospital New Brunswick. Docket no. SOML000258-24; Judge Robert A. Ballard, 05-29-24.

Attorney for plaintiff: Ammar S. Wasfi of The Killino Firm, P.C. in Philadelphia, PA. Attorney for defendant: Lauren M. Strollo, Esq. of Vasios, Strollo & Durán, P.A. in Union, NJ.

DAYCARE CENTER NEGLIGENCE

$50,000 SETTLEMENT

Daycare Center negligence – Minor plaintiff injured after trying to stand up while crawling under playground "bridge" apparatus at defendant daycare facility – Failure to properly supervise minor plaintiff playing on playground – Laceration below left eye – Sutures required.

Camden County, NJ

In this negligence action, the minor plaintiff was injured after trying to stand up while crawling under a playground "bridge" apparatus at the defendant daycare facility. The defendants generally denied all allegations of negligence.

On July 13, 2020, the minor plaintiff was an attendee at the defendant daycare facility, located on the premises of 263 Blackwood Barnsboro Road in Sewell, New Jersey. On this day, while under the care and custody of the defendants, the minor plaintiff was playing on a set of playground equipment at the daycare facility. While playing on the playground, the minor plaintiff crawled under a "bridge" attached to the play set, and then attempted to stand up underneath it. When the minor plaintiff stood up, a piece of metal protruding from the equipment struck him in the face, causing him to become injured.

The plaintiffs maintained that the defendants were negligent in failing to properly supervise the minor plaintiff while playing on the playground, failing to ensure the safety of the playground equipment, and failing to prevent the minor plaintiff from crawling under the "bridge". Consequently, the minor plaintiff sustained injuries, including a laceration under the left eye, which required sutures to repair.

Prior to arbitration, the parties in this case quickly entered into a friendly conference, on April 22, 2024. After the conference, the parties reported that they had arrived at a settlement amount of $50,000. On April 29, 2024, the Honorable Anthony M. Pugliese ordered that the plaintiff's settlement amount be entered as a final judgment.

REFERENCE

Gina Chapman vs. Children of America Sewell, LLC. Docket no. CAML000704-24; Judge Donald J. Stein, 04-29-24.

Attorney for plaintiff: Tara L. Magitz of Drinkwater & Goldstein, L.L.P. in Atco, NJ. Attorney for defendant: Michael S. Mikulski of Connor Weber & Oberlies in Moorestown, NJ.

DOG ATTACK

$150,000 SETTLEMENT

Dog attack – Minor plaintiff attacked and bitten by defendant's dog while walking outside restaurant – Failure to muzzle, leash, or otherwise prevent dog from attacking – Laceration from dog bite on right forearm – Sutures required.

Monmouth County, NJ

In this dog bite action, the minor plaintiff was attacked and bitten by the defendant's dog while walking outside a restaurant, causing her to become injured. The defendant generally denied all allegations of negligence.

On July 4, 2021, the minor plaintiff was lawfully walking with her family just outside a restaurant located on the premises of 425 1st Avenue in Manasquan, New Jersey. At this time, the defendant and her dog were seated at an outdoor table at the subject restaurant. As the minor plaintiff and her family were passing, the defendant's dog suddenly attacked the minor plaintiff. The dog then bit the minor plaintiff's right forearm.

The plaintiffs maintained that the defendant was negligent in failing to muzzle, leash, or otherwise prevent the dog from attacking and biting, failing to keep the violent dog away from other people, and in negligently allowing a violent dog to occupy a public space. Consequently, the minor plaintiff sustained injuries, including a laceration related to a dog bite on her right forearm, which required 6 sutures to repair.

The parties entered into a friendly conference on April 19, 2024, and reported to the court that they had arrived at a settlement for $150,000. On the same day, the honorable David A. Nitti ordered a judgment in the same amount.

REFERENCE

Mackenzie Carr vs. Andrea Notta. Docket no. MONL000571-24; Judge David A. Nitti, 04-19-24.

Attorney for plaintiff: Christopher J. Conrad of Eichen Crutchlow Zaslow, LLP in Edison, NJ.

MOTOR VEHICLE NEGLIGENCE

Auto/Bicycle Collision

$80,000 ARBITRATION AWARD

Motor vehicle negligence – Auto/bicycle collision – Plaintiff bicyclist struck by defendant's vehicle turning left while crossing street – Failure to obey crosswalk – Lumbar disc herniations and bulges – Lumbar radiculopathy – Nerve root block – Knee injury – Surgery required.

Bergen County, NJ

In this motor vehicle negligence action, the plaintiff bicyclist was struck by the defendant's vehicle turning left while crossing the street causing the plaintiff to become injured. The defendant generally denied all allegations of negligence on the grounds that it had been dark outside at the time of the accident, and that the plaintiff had been wearing dark clothing, making him impossible to see.

On October 8, 2020, the plaintiff bicyclist was riding his bicycle on Essex Street, at its intersection with Polifly Road in Hackensack, New Jersey. At this time, the plaintiff was attempting to cross Essex Street in the crosswalk at the subject intersection. At the same time, the defendant's vehicle was traveling on Polifly Road and was preparing to turn left onto Essex Street. As the defendant's vehicle turned left, it struck the plaintiff bicyclist in the crosswalk.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to obey a crosswalk, failing to observe the plaintiff bicyclist, failing to remain adequately attentive, failing to obey traffic conditions, failing to wait for clearance before making a left turn, failing to safely and properly execute a left turn, failing to yield, failing to keep the vehicle under proper and adequate control, failing to apply the brakes in a timely manner and failing to avoid striking the plaintiff bicyclist. Consequently, the plaintiff sustained injuries, including lumbar disc herniations and bulges, lumbar radiculopathy, a nerve root block, and a knee injury which required arthroscopic surgery to repair.

The arbitrators found in favor of the plaintiff and reported an award for $80,000.

REFERENCE

Velasquez vs. Mackeigan. Docket no. L002653-22; Judge Peter G. Geiger, 05-31-24.

Attorney for plaintiff: Thomas A. McCarter of Thomas A. McCarter Attorneys at Law in Hackensack, NJ. Attorney for defendant: Emily Suzanne Barnett of Liberty Mutual.

Auto/Pedestrian Collision

$11,500 ARBITRATION AWARD

Motor vehicle negligence – Auto/pedestrian collision – Plaintiff pedestrian struck by defendant's vehicle while crossing street – Neck and back injuries – Left knee injury – Left shoulder injury – Fracture of left index finger.

Camden County, NJ

In this motor vehicle negligence action, the plaintiff pedestrian was struck by the defendant's vehicle while crossing the street, causing him to become injured. The defendant generally denied all allegations of negligence.

On December 18, 2021, the plaintiff was a pedestrian walking on Maple Avenue, at or near its intersection with S Center Street in Merchantville, New Jersey. At this time, the plaintiff was attempting to cross Maple Avenue in the crosswalk at the subject intersection. At the same time, the defendant's vehicle was traveling on S. Center Street, toward the same intersection. At the time of the incident, the defendant's vehicle attempted to make a left turn onto Maple Avenue, just as the plaintiff was crossing the same roadway in the crosswalk. The defendant's vehicle then struck the plaintiff pedestrian.

The plaintiff maintained that the defendant was negligent in failing to yield the right of way, failing to safely and properly execute a left turn, and failing to obey a crosswalk. Consequently, the plaintiff sustained injuries, including neck and back injuries, left knee injury, left shoulder injury, and a fracture of the left index finger. The plaintiff received conservative treatment for his injuries, including chiropractic care. A doctor for the defendant opined that the plaintiff's injuries were not proximately caused by the accident, citing a subsequent fall that the plaintiff sustained on April 3, 2022.

The arbitrators in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $11,500. On June 26, 2024, following arbitration, the plaintiff's counsel motioned for the arbitration award to be confirmed as a judgment. On July 12, 2024, the Honorable John S. Kennedy ordered that the May 15th arbitration award be confirmed.

REFERENCE

Markeith Sturgis vs. David Ward. Docket no. CAML000154-23; Judge John S. Kennedy, 04-03-24.

Attorney for plaintiff: Marc F. Greenfield of Spear, Greenfield, Richman, Weitz & Taggart, P.C. in Marlton, NJ. Attorney for defendant: Louis W. Skinner of Romano Garubo & Argentieri Counselors at Law, LLC in Woodbury, NJ.

$7,500 ARBITRATION AWARD

Motor vehicle negligence – Auto/pedestrian collision – Plaintiff pedestrian struck by defendant's vehicle while crossing street – Failure to obey crosswalk – Soft tissue injuries to neck, lower back, left shoulder and left knee – Limited range of motion in neck.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff pedestrian sustained injuries after being struck by the defendant's vehicle while crossing the street. The defendant generally denied all allegations of negligence.

On December 27, 2019, the plaintiff was a pedestrian walking on Clifton Avenue, at its intersection with Bloomfield Avenue in Newark, New Jersey. At this time, the plaintiff pedestrian was attempting to cross Clifton Avenue in a crosswalk at the subject intersection. At the same time, the defendant's vehicle was

traveling southbound on Clifton Avenue and was preparing to make a left turn onto Bloomfield Avenue. The defendant turned left just as the plaintiff pedestrian was crossing the street, resulting in a collision between the defendant's vehicle and the plaintiff pedestrian.

The plaintiff maintained that the defendant was negligent in failing to obey a crosswalk, failing to yield to the plaintiff pedestrian, and failing to wait for clearance before making a left turn. Consequently, the plaintiff sustained injuries, including soft tissue injuries to the neck, lower back, left shoulder, and left knee, as well as a limited range of motion in the neck. The defendant maintained that any injuries or damages sustained by the plaintiff were the result of the plaintiff's own negligence, which included failing to pay attention to traffic around him and failing to stay within the crosswalk, according to the arbitrator in this case.

The arbitrator found the defendant 100% liable and reported an award for the plaintiff in the amount of $7,500. Following arbitration, the matter in difference was amicably adjusted by both parties, and the case was dismissed with prejudice and without costs in favor or against any party on June 4, 2024.

REFERENCE

William Galdamez-Saavedra vs. Natasha Oquendo-Lugo. Docket no. ESXL008781-21; Judge Robert H. Gardner, 06-04-24.

Attorney for plaintiff: Sean T. Payne of Ginarte Gallardo Gonzalez & Winograd, LLP in Newark, NJ. Attorney for defendant: Lee Scott Befeler of Sullivan and Graber in Morristown, NJ.

Driveway Exit Collision

$40,000 ARBITRATION AWARD

Motor vehicle negligence – Driveway exit collision – Plaintiff's vehicle struck by defendant's vehicle backing out of driveway – Protrusions at L4-L5 and L5-S1.

Ocean County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck by the defendant's vehicle while the defendant was backing out of her driveway, causing the plaintiff to sustain injuries. The defendant generally denied all allegations of negligence.

On July 2, 2022, the plaintiff's vehicle was traveling in a straight direction on Bellflower Court, at or near its intersection with Bamberry Lane in Toms River, New Jersey. At this time, the plaintiff's vehicle was passing the defendant's residence on Bellflower Court. At the same time, the defendant was attempting to back her vehicle out of her driveway on Bellflower Court. The defendant attempted to back out just as the plaintiff's vehicle was passing by, and the defendant's vehicle struck the plaintiff's vehicle.

The plaintiff maintained that the defendant was negligent in failing to observe the plaintiff's vehicle, failing to wait for clearance before backing out, and failing to remain adequately attentive. Consequently, the plaintiff sustained injuries, including protrusions at L4-5 and L5-S1. A doctor for the defendant opined that the plaintiff's injuries were degenerative.

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. On April 4, 2024, the parties entered into a settlement for an amount unspecified on the docket. A stipulation of dismissal was submitted by the defendant's counsel on May 16, 2024.

REFERENCE

Brian Besi vs. Barbara Kaplan. Docket no. OCNL002058-22; Judge Robert E. Brenner, 05-16-24.

Attorney for plaintiff: James R. Baez of Sacco & Fillas, LLP in Fort Lee, NJ. Attorney for defendant: Michael G. David of Law Office of Michael G. David in Marlton, NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Driveway exit collision – Defendant exits driveway into path of plaintiff's vehicle causing collision – Disc bulges – Injections and ablation.

Bergen County, NJ

The plaintiff in this motor vehicle negligence action maintained she suffered various bodily injuries specifically neck and back disc bulges when the defendant negligently exited a driveway into the path of the plaintiff causing a collision. The defendant generally denied allegations of negligence and denied that the plaintiff's injuries were related to the accident arguing they were degenerative at best.

On June 5, 2018, the plaintiff was operating a vehicle traveling on route 46 W in Ridgefield, New Jersey. At the same time and place the defendant driver, now deceased, was operating a motor vehicle exiting a driveway on Route 46 when the defendant pulled into the plaintiff's lane of travel causing a collision.

The plaintiff maintained that the defendant operated the vehicle in a careless and reckless manner, failed to yield the right-of-way and failed to maintain a proper and adequate lookout before exiting the driveway. The plaintiff sustained disc bulges at C3-4, C5-6 and L4-5. The plaintiff required injections and the lumbar radio frequency ablation on 2 occasions to address her pain.

In January of 2022 an arbitrator found in favor of the plaintiff and awarded the plaintiff $30,000. The defense submitted a request for de novo trial. In February of 2024, a jury trial took place and after deliberations the jury returned a verdict of no cause of action in favor of the defendant.

REFERENCE

Min Joo Kim vs. The Estate of Kathleen Grater. Docket no. BER-L-002921-20; Judge Nicholas Ostuni, Sr., 02-07-24.

Attorney for plaintiff: Shane Sullivan of Jae Lee Law, PC in Fort Lee, NJ. Attorney for defendant: Steven H. Daniels of Schenck Price Smith & King, LLP in Florham Park, NJ.

Intersection Collision

$60,000 ARBITRATION AWARD

Motor vehicle negligence – Intersection collision – Plaintiff's vehicle struck broadside by defendant's vehicle after defendant disregards stop sign – Lumbar disc herniations – Soft tissue injuries to neck.

Bergen County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck broadside by the defendant's vehicle after the defendant disregarded a stop sign, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On July 29, 2020, the plaintiff's vehicle was traveling on Hamilton Avenue, at or near its intersection with Sherman Street in Passaic, New Jersey. At the same time, the defendant's vehicle was traveling on Sherman Street, toward the same intersection. At the time of the incident, the plaintiff's vehicle attempted to proceed straight through the intersection on Hamilton Avenue. As the plaintiff's vehicle proceeded forward, the defendant ignored the stop sign controlling Sherman Street and also entered the intersection. As a result, the defendant's vehicle struck the plaintiff's vehicle broadside.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to obey a stop sign, failing to obey traffic signals, failing to observe traffic conditions, failing to wait, failing to yield, failing to remain adequately attentive, 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 lumbar disc herniations, as well as soft tissue injuries to the neck.

The arbitrators found in favor of the plaintiff and reported an award for $60,000.

REFERENCE

Villanueva vs. Sosa. Docket no. L001839-22; Judge Anthony R. Suarez, 04-02-24.

Attorney for plaintiff: Luis L. Haquia of Davis, Saperstein & Salomon, P.C. in Teaneck, NJ. Attorney for defendant: David L. Taylor of Geico.

Lane Change Collision

$150,000 ARBITRATION AWARD

Motor vehicle negligence – Lane change collision – Plaintiff's vehicle sideswiped and pushed into speed limit sign by defendant's vehicle attempting to change lanes – Cervical disc herniations – Lumbar disc bulges – Left shoulder full thickness tear of supraspinatus tendon – Epidural injections and nerve ablation procedure required.

Burlington County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was sideswiped and pushed into a speed limit sign by the defendant's vehicle attempting to change lanes. The plaintiff became injured as a result. The defendant generally denied all allegations of negligence.

On August 11, 2021, the plaintiff's vehicle was traveling west on Route 70, approaching the on-ramp toward Route 73 in Evesham, New Jersey. At the same time, the defendant's vehicle was also traveling west on Route 70 toward the on-ramp to Route 73. At the time of the incident, both the plaintiff's vehicle and the defendant's vehicle were attempting to enter the on-ramp toward Route 73. As the defendant's vehicle was preparing to enter the on-ramp, the defendant attempted to change lanes, into the plaintiff's lane of travel. The defendant's vehicle then sideswiped the plaintiff's vehicle, and the impact pushed the plaintiff's vehicle head-on into a speed limit sign.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to remain in the correct lane of travel, failing to safely and properly change lanes, failing to yield, failing to wait, failing to observe the plaintiff's vehicle, and failing to remain adequately attentive. Consequently, the plaintiff sustained injuries, including cervical disc herniations which required epidural injections and a cervical nerve ablation procedure to repair. In addition, the plaintiff also sustained lumbar disc bulges, as well as a left shoulder full thickness tear of the supraspinatus tendon.

The defense's independent medical exam found no objective evidence of permanent injury. Prior to the accident, the plaintiff lived independently but has since moved in with his daughter due to his limitations.

The arbitrator found in favor of the plaintiff and reported an award for $150,000. Following arbitration, trial de novo was requested by the defense attorney. An April 2024 docket entry indicates the case "Settled Prior to Hearing". A stipulation of dismissal was submitted to the court in May of 2024.

REFERENCE

Nicholas vs. Reynolds. Docket no. L002353-22; Judge Richard L. Hertzberg, 05-22-24.

Attorney for plaintiff: John D. Borbi of Borbi, Clancy & Patrizi, LLC in Marlton, NJ. Attorney for defendant: John J. Mastronardi of Liberty Mutual.

Left Turn Collision

$75,000 ARBITRATION AWARD

Motor vehicle negligence – Left turn collision – Plaintiff's vehicle struck by defendant's vehicle while stopped at stop sign – Left shoulder impingement – Left shoulder partial rotator cuff tear – Aggravation of prior 1-level cervical fusion.

Monmouth County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck by the defendant's vehicle while stopped at a stop sign, 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 his own sole, contributory, or comparative negligence.

On September 12, 2019, the plaintiff's vehicle was traveling on Southard Avenue, at its intersection with Main Street in Farmingdale, New Jersey. At this time, the plaintiff's vehicle was stopped at a stop sign at the aforementioned intersection, and was preparing to proceed straight through the intersection. At the same time, the defendant's vehicle was traveling on Main Street and was preparing to make a left turn onto Southard Avenue at the same intersection. As the defendant's vehicle turned left, it struck the front of the plaintiff's stopped vehicle.

The plaintiff maintained that the defendant was negligent in failing to safely and properly execute a left turn, in failing to remain in the correct lane of travel and in failing to yield. Consequently, the plaintiff sustained injuries, including left shoulder partial rotator cuff tear, as well as an aggravation of a prior 1-level cervical fusion. The plaintiff received 2 epidural injections to treat his injuries, and a doctor recommended surgery, but the plaintiff has not pursued it.

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 defendant's counsel requested a trial de novo. The trial was scheduled to take place on May 20, 2024; however, the parties instead entered into a settlement conference on April 26, 2024, at which time they arrived at a settlement amount not specified on the docket. A stipulation of dismissal was submitted on June 27, 2024.

REFERENCE

Robert Linico, Jr. vs. Ruth Znachko. Docket no. MONL003207-21; Judge Gregory L. Acquaviva, 06-27-24.

Attorney for plaintiff: Kathleen DiGiovanni of Levinson Axelrod in Edison, NJ. Attorney for defendant: Todd C. Landis of Hardin, Kundla, Mckeon & Foletto Counselors at Law in Springfield, NJ.

Parking Lot Collision

$99,000 ARBITRATION AWARD

Motor vehicle negligence – Parking lot collision – Plaintiff's vehicle struck in rear by defendant's vehicle in shopping center parking lot – Frozen shoulder with manipulation under anesthesia – Multiple disc herniations.

Bergen County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear by the defendant's vehicle in a shopping center parking lot. The plaintiff became injured as a result of the collision. The defendant generally denied all allegations of negligence.

On December 30, 2020, the plaintiff was lawfully operating her motor vehicle in the parking lot at 1 Bergen Town Center in Paramus, New Jersey. At the same time, the defendant's vehicle was also traveling in the parking lot at 1 Bergen Town Center, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle was suddenly struck in the rear by the defendant's vehicle at a significant rate of speed.

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 conditions, failing to observe the plaintiff's vehicle, failing to maintain a safe distance from other vehicles, failing to operate the vehicle at a reasonable rate of speed, in negligently operating the vehicle at an excessive rate of speed for a parking lot, in 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 frozen shoulder which required manipulation under anesthesia, as well as multiple disc herniations.

The arbitrators found in favor of the plaintiff and awarded $99,000.

REFERENCE

Shumpert vs. Lawal. Docket no. L007313-21; Judge Gregg A. Padovano, 05-21-24.

Attorney for plaintiff: Evan D. Baker of Davis, Saperstein & Salomon, P.C. in Teaneck, NJ. Attorney for defendant: Sandra Tavares French of Pomeroy, Heller & Ley, LLC in New Providence, NJ.

Rear End Collision

$84,000 VERDICT

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle after slowing for traffic – Left ACL tear – Left meniscus tear – Surgery required.

Camden County, NJ

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

On June 28, 2019, the plaintiff's vehicle was traveling westbound on Williamstown Road in Winslow, New Jersey. At this time, the defendant's vehicle was also traveling westbound on Williamstown Road, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle slowed down for the presence of heavy traffic ahead. 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 keep a proper lookout, failing to exercise due care, failing to remain adequately attentive, failing to observe traffic conditions, failing to maintain a safe distance from other vehicles, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including a left ACL tear, as well as a left meniscus tear, both of which required surgery to repair.

The jury found in favor of the plaintiff and awarded $84,000.

REFERENCE

Middleton Chiniqia vs. Quigley Jordyn. Docket no. L001003-21; Judge Anthony M. Pugliese, 07-22-23.

Attorney for plaintiff: Jonathan A. Fendler of the Law Office of Jared S. Zafran, LLC in Philadelphia, PA.

$52,500 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while slowing for traffic – Cervical disc herniations – Lumbar disc herniations – Aggravation of disc herniation at C6-7 – New disc herniation at C7-T1 – Cervical, lumbar, thoracic sprain/strain – Neck pain – Back pain.

Atlantic County, NJ

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

On October 3, 2017, the plaintiff's vehicle was traveling on Pitney Road in Galloway, New Jersey. At the same time, the defendant's vehicle was also traveling on Pitney Road, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle began to slow to a stop to accommodate traffic conditions. As the plaintiff's vehicle was stopping, it was suddenly 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 to observe traffic conditions, failing to observe the plaintiff's vehicle slowing down, failing to remain adequately attentive, failing to maintain a safe distance from other vehicles, 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 cervical disc herniations, lumbar disc herniations, a worsened disc herniation at C6-7, a new disc herniation at C7-T1, cervical, lumbar, and thoracic sprain/strain, neck pain, and back pain.

The arbitrators found in favor of the plaintiff and reported an award for $52,500.

REFERENCE

Llerena-Carrion vs. Butler. Docket no. L002535-19; Judge Ralph A. Paolone, 11-13-23.

Attorney for plaintiff: Joseph E. Sayegh of Goldenberg Mackler Sayegh Mintz Pfeffer Bonchi & Gill in Atlantic City, NJ. Attorney for defendant: Robert Seton Helwig of Hoagland, Longo, Moran, Dunst & Doukas, LLP in New Brunswick, NJ.

$15,000 SETTLEMENT

Motor vehicle negligence – Rear end collision – Hyperflexion-hyperextension type injury including disc herniation at L4-5 and L5-S1; lumbar disc bulge; radiculopathy; muscle spasm; segmental and somatic dysfunction of cervical, thoracic, lumbar and pelvic region and ligament sprain – Chiropractic treatment including adjustments and spinal traction.

Essex County, NJ

In this motor vehicle negligence case, the plaintiff, a 7-year-old boy, asserted that the defendant driver struck the rear of the plaintiff's vehicle with such force that it caused significant injury to the otherwise healthy minor plaintiff. The defendant agreed to settle the matter.

On June 1, 2022, the minor plaintiff was the restrained back seat passenger of a vehicle which had stopped at a traffic light Eastbound on Heller Parkway in Newark. The plaintiff contended that, while his vehicle was stopped waiting for the light to change, it was suddenly rear-ended by the defendant, throwing the plaintiff forward and back in the vehicle. The plaintiff complained of pain shortly after the accident and was taken to the E.R.

The plaintiff contended that the defendant negligently failed to observe traffic and stop behind the plaintiff's vehicle, avoiding collision. The plaintiff alleged that the force of the impact resulted in permanent injuries. As a result of the collision, the plaintiff sustained a hyperflexion-hyperextension type injury including disc herniation at L4-5 and L5-S1; lumbar disc bulge; radiculopathy; muscle spasm; segmental and somatic dysfunction of the cervical, thoracic, lumbar and pelvic region; and ligament sprain. The plaintiff treated conservatively with chiropractic treatment including adjustments and spinal traction.

The parties settled the matter prior to trial in the amount of $15,000 broken down as follows: $3,652 in attorney fees; $390 in costs and disbursements and $10,331 in net damages to the minor plaintiff.

REFERENCE

Ngoy vs. Perez. Docket no. L-000163-23; Judge Richard T. Sules, 06-17-23.

Attorney for plaintiff: Kathleen M. Reilly of Brady Reilly & Cardoso, LLC in Kearny, NJ.

PORT AUTHORITY LIABILITY

$141,634 VERDICT

Port Authority liability – Motor vehicle negligence – Left turn collision – Plaintiff contends defendant Port Authority driver made left turn across plaintiff's right-of-way, causing collision – Left ulnar fracture – Open reduction and internal fixation; permanent 5-inch scar from surgery; and potential for future surgery – Defendant denies liability and argues plaintiff failed to employ headlights and failed to take evasive action to avoid collision.

Essex County, NJ

In this motor vehicle negligence case, the plaintiff asserted that the defendant Port Authority and its defendant driver caused a collision with the plaintiff's vehicle with such force that it caused significant, permanent injury. The defendant denied negligence and contested the plaintiff's damages.

On January 21, 2019, the plaintiff was traveling eastbound on Earhart Drive at the Newark Liberty International Airport in Newark. The defendant driver was operating a vehicle in the courts and scope of his employment with the defendant port authority, traveling westbound on Earhart Drive at the airport. The plaintiff contended that the defendant negligently failed to stop for oncoming traffic and drove into the path of the plaintiff's vehicle causing a collision. The plaintiff alleged that the force of the impact resulted in permanent injuries.

As a result of the collision, the plaintiff claimed a left ulnar fracture. The plaintiff treated with open reduction and internal fixation surgery and was left with a 5-inch scar from the surgery. The plaintiff also alleged the potential for additional future surgery. The defendant contended that the plaintiff failed to employ her headlights, making her vehicle less visible to other drivers and that she failed to observe the defendant's approach which, if she had, she could have reasonably avoided so as to prevent the subject incident. The defendant also argued that the plaintiff's injuries were not permanent in nature.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 80% liability to the defendant and 20% to the plaintiff with gross damages of $300,000 reduced to $240,000 for plaintiff's comparative negligence. The arbitration was not confirmed and the matter proceeded to trial. The defendants were a no-pay and made no offers to settle the case prior to or during trial.

The jury found in favor of the plaintiff and found that defendant was 100% at fault for the collision. The jury awarded damages in the amount of $141,634 broken down as follows: $55,000 in future medical expenses; $70,000 in pain, suffering, disability, impairment and loss of enjoyment of life and $16,634 in interest.

REFERENCE

Nguyen vs. Portalatin, et al. Docket no. L-009290-19; Judge Jeffrey B. Beacham, 02-15-24.

Attorney for plaintiff: Mark W. Morris of Clark Law Firm, PC in Belmar, NJ. Attorney for defendant: Andres J. Castillo of The Port Authority of New York and New Jersey Law Department in Jersey City, NJ.

PREMISES LIABILITY

Fall Down

$90,000 ARBITRATION AWARD

Premises liability – Fall down – Plaintiff slips and falls on wet floor at defendant wholesale store – Knee tear – Surgery required.

Bergen County, NJ

In this premises liability action, the plaintiff slipped and fell on a wet floor at the defendant wholesale store, causing him to become injured. The defendants denied all allegations of negligence.

On September 26, 2019, the plaintiff was a lawful visitor and business invitee at the defendant wholesale restaurant supplies store, located on the premises of 45 E. Wesley Street in South Hackensack, New Jersey. At this time, the plaintiff was traversing inside the store when he encountered an accumulation of water on the floor. Unable to see the wet floor, the plaintiff kept walking. The plaintiff then slipped on the wet floor and fell.

The plaintiff maintained that the defendants were negligent in failing to maintain safe and adequate conditions on the premises, failing to inspect the premises, failing to properly clean the premises, failing to remove water from the floor, failing to hire adequate janitorial or maintenance staff, failing to prevent a slipping hazard, failing to warn of a slipping hazard, failing to warn of hazardous or unsafe conditions on the premises in general, failing to provide safe passage inside the store, and failing to regard for the health and safety of visitors and business invitees on the premises including the plaintiff. Consequently, the plaintiff sustained injuries, including a knee tear, which required arthroscopic surgery to repair.

The arbitrators found in favor of the plaintiff and reported an award for $90,000.

REFERENCE

Medina vs. Restaurant Depot. Docket no. L006213-21; Judge Gregg A. Padovano, 05-06-24.

Attorney for plaintiff: Frederic J. Rossi of Frederic J. Rossi, Esq. in Woodland Park, NJ.

ARBITRATION IN FAVOR OF DEFENDANT

Premises liability – Fall down – Plaintiff trips and falls over uneven sidewalk outside of defendants' property – Failure to prevent tree from uprooting sidewalk – Thoracic disc bulges – Facial abrasions – Knee abrasions – Chipped tooth.

Camden County, NJ

In this premises liability action, the plaintiff tripped and fell over an uneven area of a sidewalk adjacent to the defendants' property, causing her to become injured. The defendants generally denied negligence.

On October 31, 2020, the plaintiff was lawfully walking on a sidewalk just outside the defendants' property, located at 32 Santalina Drive in Gloucester, New

Jersey. At this time, the defendants owned the subject property, and were thus responsible for its maintenance. While the plaintiff was walking on the sidewalk, she encountered an area where the concrete had been lifted up by a large tree root, making the sidewalk uneven. The plaintiff then tripped over the uneven area of the sidewalk and fell.

The plaintiff maintained that the defendants were negligent in failing to ensure the safety of the sidewalk, failing to repair or replace a broken or uneven area of the sidewalk, negligently allowing a tree to make the sidewalk uneven, in failing to prevent a tripping hazard, and failing to warn of a tripping hazard. Consequently, the plaintiff sustained injuries, including thoracic disc bulges, facial abrasions, knee abrasions, and a chipped tooth. The defendant claimed that the plaintiff was guilty of sole and/or contributory negligence which was the proximate cause of the damages or personal injuries complained of, and therefore, the plaintiff is barred from recovery.

The arbitrators found in favor of the defendant in March of 2024. A stipulation of dismissal indicating the action was amicably adjusted was submitted by the defense attorney in April of 2024.

REFERENCE

Donna Metzger vs. Darji Jayantila. Docket no. L002728-22; Judge Steven J. Polansky, 04-29-24.

Attorney for plaintiff: Daniel K. Snyder of Aronberg, Kouser, Snyder & Lindemann, PA in Cherry Hill, NJ. Attorney for defendant: Beth M. Csontos of Farmers Insurance.

Hazardous Premises

$25,000 SETTLEMENT

Premises liability – Hazardous premises – Minor plaintiff injured at defendant hardware store after coming into contact with sharp piece of metal protruding from shelf – Laceration of volar aspect of left arm – Sutures required.

Monmouth County, NJ

In this premises liability action, the minor plaintiff was injured at the defendant hardware store after coming into contact with a sharp piece of metal protruding from a shelf. The defendants generally denied negligence.

On August 1, 2021, the minor plaintiff was a lawful visitor and business invitee at the defendant hardware store, located on the premises of 118 Highway 35 in Eatontown, New Jersey. At this time, the minor plaintiff was traversing the plumbing aisle inside the store, accompanied by his family. While walking through the plumbing aisle, the minor plaintiff's right arm came into contact with a piece of metal protruding from a shelf. The metal object had sharp edges which caused the minor plaintiff to become injured.

The plaintiffs maintained that the defendants were negligent in failing to ensure the safety of store merchandise, failing to warn of sharp objects protruding from store shelves, and failing to provide safe passage inside the store. Consequently, the minor plaintiff sustained injuries, including a linear laceration of the volar aspect of the right arm, which required 7 sutures to repair. The defendants maintained that any injuries or damages sustained by the plaintiffs were the result of the actions of third parties over which the defendants had no control.

Prior to arbitration, the parties entered into a friendly conference, which was scheduled to take place on April 10, 2024. At this time, the parties reported to the court that they had arrived at a settlement amount for $25,000. On the same day, the Honorable Stacey D. Adams ordered that the minor plaintiff's settlement amount be entered as a final judgment. A stipulation of dismissal was submitted on June 26, 2024.

REFERENCE

Aiden Catena vs. Lowes Home Improvement. Docket no. MONL002926-23; Judge Stacey D. Adams, 04-30-24.

Attorney for plaintiff: Michael J. Hanus of Hanus & Parsons, LLC in Middletown, NJ. Attorney for defendant: Lisa M. Only of Goldberg Segalla, LLP in Princeton, NJ.

TRANSIT AUTHORITY LIABILITY

DEFENDANT'S VERDICT

Transit Authority liability – Hazardous Condition – Minor plaintiff gets hand caught between door and door frame while on defendant's train platform – Failure to properly maintain, inspect and make repairs to door – Second metacarpal fracture – Right wrist sprain.

Berlin County, NJ

In this case, the minor was walking through doors on the defendant's train platform when her right hand got caught in a door causing a finger fracture. The defendant denied being negligent and maintained that the minor was improperly supervised by her family.

On December 4, 2019, the 5-year-old female was walking through a doorway from the defendant's station to the defendant's train platform at the New Jersey Transit Ramsey 17 Train Station when her right hand got caught between a door frame and the door resulting in injury. The plaintiff alleged that the defendant NJ Transit was negligent in the maintenance and inspection of the doorway in question. NJ Transit then filed a third party complaint against Allmark Door, LLC alleging that the negligence or culpable conduct of Allmark and its employees caused the accident and the plaintiff's injuries.

The minor plaintiff sustained a fracture to her second metacarpal to her right hand and right wrist sprain. The defendants denied all allegations, denying any dangerous condition existed on the premises and denying breaching any duty owed the plaintiff. In addition, the defense argued that the plaintiff's fracture healed without issue and the wrist pain is unrelated to the incident. In addition, the defendants argued that the minor's parents failed to properly hold the door open for the minor.

Arbitration took place in August of 2023, with the arbitrator finding the defendant NJ Transit 100% liable and awarded the plaintiff $60,000. NJ Transit requested a de novo trail and then motioned the court for summary judgment stating that the minor did not sustain a permanent injury, did not suffer economic damages and the plaintiffs could not show any dangerous condition existed on the premises. The court granted the motion and the case against NJ Transit was dismissed on summary judgment.

REFERENCE

Riley Goebler a minor by and through pngs Daniel and Louis Goebler vs. New Jersey Transit Corporation and Allmark Door, LLC. Docket no. BERL001416-21; Judge Gregg A. Padovano, 02-05-24.

Attorney for plaintiff: John Ronca, Jr. of Zirulnick, Sherlock & DeMille in Roseland, NJ. Attorney for defendant: Ruby Khallouf of Florio Perrucci Steinhardt Cappelli & Tipton, LLC in Easton, PA.

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

$3,088,835 VERDICT – MEDICAL MALPRACTICE – ORTHOPEDISTS' NEGLIGENCE – DEFENDANT ORTHOPEDIC DOCTORS FAIL TO DIAGNOSE DECEDENT'S NECROTIZING FASCIITIS IN TIMELY MANNER CAUSING DELAY IN SURGERY RESULTING IN CARDIAC ARRESTS THAT CAUSE DEATH – WRONGFUL DEATH OF 54-YEAR-OLD FEMALE.

Camden County, NJ

In this action for medical malpractice, the estate of the decedent maintained that the defendants' treatment of the decedent fell below standards and resulting in a delay of emergency surgery for necrotizing fasciitis. The delay allowed the infection to spread and cause severe sepsis which caused cardiac arrest and resulted in death. The defendants denied being negligent and maintained that the care provided to the decedent was in accordance with all standards.

The estate maintained that the several-hour delay in surgery allowed the infection to spread and cause severe sepsis with septic shock; acute kidney injury; metabolic acidosis and lactic acidosis; advancing necrotizing fasciitis; myositis; cardiac arrest ultimately resulting in the plaintiff's decedent's death. The estate maintained that the defendants were negligent in failing to timely consult with a general surgeon, acute-care surgeon, trauma surgeon or orthopedic surgeon the decedent's necrotizing fasciitis, and failing to contact a different general surgeon, acute-care surgeon, trauma surgeon or orthopedic surgeon when the defendant, Dr. Kovacs, was unable to attend to the decedent due to his surgical schedule.

The 54-year-old decedent is survived by her husband and 3 adult children.

The jury reached a verdict in favor of the Estate of Adrienne Nock, and against the defendants, Jeffrey Kovacs, D.O. and Reconstructive Orthopedics, P.A. in the amount of $3,088,835. The award was reduced by 35% for pre-existing condition bringing the total verdict to $2,007,742.75. The defendant hospital settled with the estate during trial for $250,000 which reduced the verdict further to $1,757,742.75. The jury found for defendant Parikh, D.O.

REFERENCE

Plaintiff's orthopedics expert: Richard Schenk, M.D. from Morristown, NJ.

Tyrone Nock, Administrator of the Estate of Adrienne Nock vs. Neelesh Parikh, D.O., Jeffrey Kovacs, D.O. and Reconstructive Orthopedics. Docket no. CAM- L-2856-18; Judge Judith S. Charny, 02-16-24.

Attorney for plaintiff: Jason Weiss of Saltz Mongeluzzi Barrett & Bendesky in Marlton, NJ.

$2,000,000 SETTLEMENT – MEDICAL MALPRACTICE – HOSPITAL AND GASTROENTEROLOGIST NEGLIGENCE – PLAINTIFF'S DECEDENT DEVELOPS CONSTIPATION IN DEFENDANT'S HOSPITAL – DESPITE NO BOWEL MOVEMENT FOR 9 DAYS, DEFENDANT DISCHARGES DECEDENT – PLAINTIFF'S DECEDENT LATER DIES FROM ASPIRATION OCCURRING DURING SURGERY TO CLEAR COLON – WRONGFUL DEATH OF 76-YEAR-OLD FEMALE.

Philadelphia County, PA

This medical malpractice case arose when on July 11, 2018, the plaintiff's decedent fell inside her home, striking her right flank on the armrest of her sofa. The following day she presented to Jefferson Torresdale Hospital, where she was assessed with fractured ribs and pneumothorax. She was admitted to the hospital, where she was treated for 9 days. Despite not having a bowel movement at any point during her admission at the defendants' facility, she was discharged to River's Edge Rehab. Upon admission, administrators at River's Edge expressed shock and dismay to the plaintiff regarding the fact that her mother was transferred without ever having a bowel movement over the course her stay at the defendant hospital.

The decedent was administered stool softeners and a suppository. She complained of "abdominal pain from her bowels" and underwent an x-ray of her ab-

domen at River's Edge. The x-ray revealed colonic ileus and the decedent was transferred back to the defendant hospital. The decedent began vomiting coffee ground like substance. She was taken to the endoscopy suite and placed under anesthesia by defendant McElroy and the procedure performed by the defendant Kalakuntla. The decedent aspirated during the procedure and was admitted to the ICU on a ventilator. Over the next week the decedent's compromised airway worsened and she died from complications of aspiration on August 9, 2018. The defendants denied all allegations of negligence.

The estate of the decedent maintained that the defendants failed to treat the decedent's gastrointestinal condition during her admission, failed to treat the decedent's complete lack of bowel movements over the course of 9 days, and performed anesthesia on a patient that was experiencing vomiting increasing the likelihood of aspiration.

The decedent is survived by 3 adult children.

The estate settled with all defendants except the gastroenterologist for $1,250,000. The case then went to trial against the defendant gastroenterologist Kalakuntla and the jury found for the plaintiff against the defendant. The jury awarded the plaintiff $750,000 bringing the total recovery to the estate to $2,000,000.

REFERENCE

Theresa M. Steinmetz, Administratrix of the Estate of Geraldine Thompson vs. Aria Health d/b/a Aria -Jefferson Health and Jefferson Torresdale Hospital, Aria Health Physician Services and Philip K. McElroy, M.D. and Radhakrishna Kalakuntla, M.D. Case no. 191103528; Judge Vincent Johnson/Sheila Woods Skipper, 01-08-24.

Attorney for plaintiff: Thomas Lynam of Villari Lentz & Lynam, LLC in Philadelphia, PA. Attorney for defendant: Donald J. Brooks of Eckert Seamans in Philadelphia, PA. Attorney for defendant: George H. Knoell, III of Kane, Pugh, Knoell, Troy & Kramer in Norristown, PA.

$1,500,000 VERDICT – MEDICAL MALPRACTICE – PRIMARY CARE NEGLIGENCE – FAILURE TO ASSESS AND TREAT RISK OF SUICIDE – PLAINTIFF CONTENDS DECEDENT, HIS SON, PRESENTED TO DEFENDANT PHYSICIAN WITH LONG-STANDING PAIN WITH RELATED DEPRESSION AND DEFENDANT FAILED TO REFER DECEDENT FOR PSYCHIATRIC CARE – DECEDENT SUBSEQUENTLY DIES OF OVERDOSE.

Nassau County, NY

In this medical malpractice case, the plaintiff, the father of the decedent, asserted that the defendant physician breached medical standards when she failed to send the plaintiff's decedent for psychological counseling after he showed signs of deep depression and decompensation. The plaintiff's son ultimately died due to opioid overdose. The defendant denied any malpractice or breach of the standards of care.

The plaintiff contended that the defendant negligently deviated from accepted standards of good medical practice in her evaluation management and monitoring of the decedent. The plaintiff claimed that the defendant failed to diagnose deep depression in her 41-year-old patient whom she was treating for atypical facial pain and throat pain and that the defendant failed to refer him for psychiatric care. The plaintiff claimed the medical malpractice occurred between June 2015, and November 30, 2015, when the decedent died from an opioid overdose, either accidental or by suicide.

The jury found in favor of the plaintiff and awarded damages in the amount of $1.5 million.

REFERENCE

Zomber vs. Forde, M.D. Index no. 605609/2016; Judge Catherine Rizzo, 06-26-23.

Attorney for plaintiff: Thomas P. Valet of Rappaport, Glass, Levine & Zullo, LLP in Islandia, NY. Attorney for defendant: Charles E. of Kutner & Friedrich, LLP in New York, NY.

PRODUCT LIABILITY

$15,000,000 VERDICT – PRODUCT LIABILITY – FAILURE TO WARN – ASBESTOS ACTION – ASBESTOS-RELATED MESOTHELIOMA FROM DEFENDANT'S TALC – DEFENDANT'S PRODUCTS UNREASONABLY DANGEROUS – WRONGFUL DEATH OF 81-YEAR-OLD MALE.

Bridgeport County, CT

In this product liability action, the decedent's estate alleged that the defendants withheld information on the dangers of their asbestos containing talc. The decedent was exposed to the defendant's dangerous product for almost 2 decades in the course of his studies and employment. This exposure caused him to suffer mesothelioma which resulted in his death.

The estate of the decedent sued the defendants for strict liability, alleging the defendant's products were and are unreasonably dangerous and unavoidably

unsafe, and failed to carry proper warnings about their hazards. In addition, the estate alleged that the defendants failed to remove their products from market upon learning of the health hazards of asbestos and failed to find reasonably safer alternatives for asbestos.

The decedent died in June of 2023 from his illness caused by his exposure to the asbestos.

The jury deliberated for 2 hours before finding Vanderbilt Minerals responsible for causing the death of 81-year-old decedent. The jury awarded compensatory damages in the amount of $15,000,000 and indicated that punitive damages should be awarded as well, which in Connecticut are determined by the court after trial.

REFERENCE

Kathryn Barone, Executrix of The Estate of Nicholas Barone vs. R.T. Vanderbilt Holding Company, Inc., Union Carbide Corporation, Vanderbilt Minerals, individually and as successor in interest to R.T. Vanderbilt Co., Gouveneur Talc Co. and International Talc, Whittaker, Clark & Daniels, Inc. Wyeth Holding, LLC, successor to American Cyanamid Corporation. Case no. FBT-CV22-6116587-S; Judge Robert W. Clark, 05-16-24.

Attorney for plaintiff: Brian P. Kenney of Early, Lucarelli, Sweeney & Meisenkothen, LLC in New Haven, CT. Attorney for defendant: Matthew J. Zamaloff, Thomas Balestracci of Cetrulo, LLP in Boston, MA.

MOTOR VEHICLE NEGLIGENCE

$55,000,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – TRACTOR TRAILER/ PEDESTRIAN COLLISION – DEFENDANT TRACTOR-TRAILER OPERATOR STRIKES PLAINTIFF STANDING ON SHOULDER OF ROAD FOLLOWING ACCIDENT – DOUBLE LOWER EXTREMITY AMPUTATIONS – 15 SURGERIES – PTSD.

Essex County, NJ

The plaintiff in this action for motor vehicle negligence suffered catastrophic and life-changing injuries when she was standing on the side of the road following an accident with a non-party vehicle and was struck by the defendant tractor-trailer operator and pinned against the tractor trailer and the guardrail. The plaintiff spent many weeks in the hospital and endured many operations. One leg was amputated below the knee and one leg was amputated at the hip level. The defendants argued that the plaintiff was comparatively negligent for standing on the side of the road in front of the guard rail instead of behind the guardrail.

The plaintiff's legs were both severely severed at the scene. She was transported to Christiana Care Hospital and was admitted for an extended stay. She underwent 15 surgeries, extensive physical therapy, home care assistance, and was confined to a wheelchair. She can now ambulate on prosthetics.

At the time of the accident, the defendant driver was in the course and scope of his employment with the defendant Jersey City Transfer. Defendant Alert Motor Freight owned the trailer operated by the driver. The plaintiff maintained that the defendant driver breached his duty of care and operated his vehicle in a negligent manner at an unsafe rate of speed in poor weather conditions. The plaintiff maintained that the defendant companies were vicariously liable for the acts of the defendant driver and the companies failed to comply with applicable standards and practices issued by the National Hwy. Traffic Administration.

Prior to trial, GE and Haier were dismissed by summary judgment. The jury found that all 3 defendants were negligent. The jury awarded the plaintiff past medicals in the amount of $559,413.13; $2,500,000 for past and future wage loss, $25,000,000 for future medicals; $3,000,000 for past pain and suffering and $23,940,587 for future pain and suffering for a total verdict of $55,000,000.13.

REFERENCE

Plaintiff's accident reconstruction expert: Stephen Benanti from Penns Park, PA. Plaintiff's life care plan expert: Alex Karras, OTR, JD, CRC, CCM, MSCC, CLCP from Jamison, PA. Plaintiff's physical medicine and rehabilitation expert: Guy W. Fried, M.D. from Philadelphia, PA.

Angel Rider vs. Paul DePass, Jersey City Transfer and Alert Motor Freight, General Electric and Haier US Appliance Solutions. Docket no. ESX-L-002221-19; Judge Thomas Vena, 04-11-24.

Attorneys for plaintiff: Kevin P. O'Brien and Kristin H. Buddle of Stampone O'Brien Dilsheimer Law in Cheltenham, PA. Attorney for plaintiff: Emeka Igwe of The Igwe Firm in Philadelphia, PA. Attorney for defendant: Charles Gayner of Ehrlich, Gayner, LLP in New York, NY. Attorney for defendant: Thomas Martin of Bond, Schoeneck & King, PLLC in Syracuse, NY.

$1,900,000 SETTLEMENT – MOTOR VEHICLE NEGLIGENCE – BUS/PEDESTRIAN COLLISION – LEFT SHOULDER PARTIAL LABRAL TEAR, ROTATOR CUFF TEAR AND BICEPS TENDON RUPTURE; 2 DISPLACED FRACTURED RIBS; DISC HERNIATIONS AND SEVERE SPINAL STENOSIS AT C5-6, C6-7, L5-S1; DISC BULGES AT C3-4, C4-5, L4-5 AND RADICULOPATHY – MULTIPLE SURGERIES AND PHYSICAL THERAPY.

Bronx County, NY

In this motor vehicle negligence case, the plaintiff pedestrian, a 57-year-old woman, asserted that the defendant bus driver struck her in the crosswalk with the bus with such force that it caused significant, permanent injury. The defendant denied negligence and the court granted plaintiff partial summary judgment on liability and serious injury, and the defendants contested the plaintiff's damages. The defendant driver testified that he was temporarily blinded by sun glare as the bus emerged from underneath elevated subway tracks and he could not see the plaintiff due to the glare.

As a result of the collision, EMS services were called to the scene and the plaintiff was transported to the hospital. The plaintiff claimed injuries to her entire left side, head, neck, left arm, upper, mid, and lower back. The plaintiff was diagnosed with left shoulder partial labral tear, rotator cuff tear and biceps tendon rupture; 2 displaced fractured ribs; disc herniations at C5-6, C6-7, L5-S1; disc bulges at C3-4, C4-5, L4-5 and radiculopathy in her left hand. The plaintiff treated with arthroscopic partial synovectomy, debridement rotator cuff reconstruction, and bursectomy of the left shoulder; a decompression of the L5 nerve root and placement of permanent fixation hardware with a fixator rod and locking screws at L5-S1 and extensive physical therapy.

In October 2021, a jury found in favor of the plaintiff and awarded damages in the amount of $300,000 broken down as follows: $110,000 for future medical expenses; $140,000 for past pain and suffering; and $50,000 for future pain and suffering.

The plaintiff appealed the verdict and the appellate court reversed the case and sent it back down to the trial court for a retrial on damages. Prior to the retrial, the parties settled the matter for $1.9 million via mediation.

REFERENCE

Basden vs. Liberty Lines Transit, Inc. et al. Index no. 22051/2013E; Judge Julia Rodriguez, 01-10-24.

Attorney for plaintiff: Michael Gunzburg of Michael Gunzburg, P.C. in New York, NY. Attorneys for defendant: Roman E. Gitnik and Kent Dolan of Lifflander & Reich, LLP in New York, NY. Attorney for defendant: Jennine Gerrard of Lewis Brisbois Bisgaard & Smith, LLP in New York, NY.

PREMISES LIABILITY

$15,000,000 VERDICT – PREMISES LIABILITY – HAZARDOUS PREMISES – NEWLYWEDS SUFFER CARBON MONOXIDE POISONING ON HONEYMOON AT DEFENDANT'S RANCH – FAILURE TO HAVE LEGALLY REQUIRED CARBON MONOXIDE DETECTOR – WRONGFUL DEATH OF HUSBAND – TRAUMATIC BRAIN INJURY AND PTSD OF WIFE.

Gallatin County, MT

In this premises liability action, the plaintiff's 59-year-old husband died and the plaintiff suffered severe emotional injuries and a brain injury when they suffered carbon monoxide at the defendant's ranch while on their honeymoon. The plaintiff claimed the carbon monoxide came from a nearby faulty spa boiler. The defense argued that they paid subcontractors/various plumbers to maintain and repair the boiler and that it was the negligence of these subcontractors that caused the plaintiff's damages.

The plaintiff maintained that the defendant failed to properly maintain a spa boiler, causing it to release carbon monoxide into the plaintiffs' room, failed to have the legally required carbon monoxide alarm in the Hudgens' room and failed to do wellness checks on the couple despite repeated calls by concerned family members.

The jury found that the ranch was negligent and awarded the plaintiff $15,000,000.

REFERENCE

Plaintiff's carbon monoxide poisoning expert: Neil B. Hampson, M.D. Plaintiff's environmental, safety and health expert: Michael N. Cooper MS, MPH, NRRPT, CIH from Eagle, ID.

Catherine Hudgens individually and as Administrator of Estate of Lew Hudgens vs. Rainbow Ranch Holdings, LLC dba Rainbow Ranch and Scott Nelson. Case no. DV-21-263A; Judge Peter Ohman, 04-10-24.

Attorneys for plaintiff: George W. "Skip" Finkbohner, III and David S. Cain, Jr. of Cunningham Bounds in Mobile, AL. Attorney for plaintiff: Justin P. Stalpes of Beck, Amsden & Stalpes in Bozeman, MT. Attorneys for defendant: John V. McCoy and Jillian L. Lukens of McCoy Leavitt Laskey, LLC in Waukesha, WI. Attorney for defendant: Alexander Roots of Planalp & Roots in Bozeman, MT.

$5,547,733 VERDICT – PREMISES LIABILITY – FALL DOWN – PLAINTIFF FALLS ON TRANSIENT SUBSTANCE ON PHARMACY FLOOR WHICH SHE CLAIMS LEAKED FROM SODA COOLER NEAR CHECKOUT AREA – TRAUMATIC BRAIN INJURY – 4 MONTHS HOSPITALIZATION – 3 SURGERIES – PERMANENT COGNITIVE IMPAIRMENT.

Miami-Dade County, FL

In this premises liability case, the plaintiff asserted that the defendant failed to maintain its premises in a safe condition, allowing a substance to exist on the floor near the checkout area where patrons were likely to encounter the hazard. The plaintiff claimed that she fell on the substance, striking her head on the floor and suffering significant permanent injury. The defendant destroyed the videotape of incident and was sanctioned via jury instruction on adverse inference. Although the defendant did not dispute the plaintiff's fall, it contested whether the fall was caused by a transitory foreign substance and, thus, governed by section 768.0755, Florida Statutes (2021), or alcohol withdrawal symptoms or syncope based on the plaintiff's history of alcoholism or other identified medical conditions.

The plaintiff alleged that when she fell, she struck her head on the floor, rendering her unconscious and resulting in permanent injuries. As a result, the plaintiff claimed traumatic brain injury and post-traumatic seizures. The plaintiff was hospitalized for 4 months and underwent 3 surgeries in that time. The plaintiff claimed permanent cognitive damage; loss of sense of taste and smell and balance issues that require her to use assistive devices to ambulate.

The jury found the defendant negligent and assigned no negligence to the plaintiff. The jury awarded damages in the amount of $5,547,733 broken down as follows: $695,733 for past medical expenses; $1,852,000 for future medical expenses; $1,500,000 for past pain and suffering and $1,500,000 for future pain and suffering.

REFERENCE

Chaux vs. Walgreens Co. Case no. 2021-023442-CA-01; Judge William Thomas, 10-27-23.

Attorney for plaintiff: Keith Chasin of Keith Chasin, P.A. in Miami, FL. Attorney for plaintiff: Gabriel M. Sanchez of The Sanchez Law Group in Miami, FL. Attorneys for defendant: David M. Perez and David M. Tarlow of Quintairos, Prieto, Wood, & Boyer, P.A. in Miami, FL.

ADDITIONAL VERDICTS OF PARTICULAR INTEREST

Construction Site Negligence

$4,500,000 GROSS VERDICT – CONSTRUCTION SITE NEGLIGENCE – PLAINTIFF IMPROPERLY INSTRUCTED TO REMOVE FREE-STANDING CINDERBLOCK WALL RESULTING IN WALL COLLAPSING AND TOPPLING ONTO PLAINTIFF – SPINE FRACTURES – RIGHT FIBULA FRACTURE – EMOTIONAL DISTRESS.

Philadelphia County, PA

The plaintiff in this negligence action alleged he suffered severe and life-altering injuries when a cinderblock wall the plaintiff was demolishing collapsed on the plaintiff and the lift the plaintiff was in, knocking both to the ground. His injuries included multiple spine fractures, severe injuries to the thoracic and lumbar regions, fibular fracture of the right leg and several fractures of the left foot. The defendants generally denied all allegations of negligence and injury.

The plaintiff maintained that the defendant Rusden failed to provide a safe place to work and allowed unsafe use of the subject lift. The plaintiff maintained that the defendant Home Depot and the defendant Terex dba Genie were negligent in designing, assembling, manufacturing, selling, supplying and distributing a product in a defective condition.

The jury found in favor of plaintiffs Michael Blake and Cheryl Blake and against defendants mark Rusden and Rusden properties, LLC in the amount of $4,500,000. The jury found plaintiffs 50% at fault and defendants Mark Rusden and Rusden Properties, LLC, 50% at fault. The plaintiffs' award was reduced by 50% to a total amount of $2,250,000. On strict liability claims, the jury found in favor ff the defendants Genie Industries, Inc. and Home Depot USA , Inc and against the plaintiffs. Delay damages were added bringing the award to 2,519,099.75.

REFERENCE

Plaintiff's pain medicine expert: Benjamin Duckles, M.D. from Marlton, NJ.

Michael Blake and Cheryl Blake vs. Home Depot USA, Inc., The Home Depot, Mark Rusden, Rusden Properties, LLC, Terex Corporation D/B/A Genie. Case no. 200900089; Judge Ann Butchart, 11-30-23.

Attorney for plaintiff: Robert Mongeluzzi in Philadelphia, PA. Attorney for defendant: William E. Remphrey in Philadelphia, PA. Attorney for defendant: Grant Stringham of Chartwell Law in Philadelphia, PA.

Defamation

$30,000,000 VERDICT – DEFAMATION –VIOLATION OF NEW YORK CITY ADMINISTRATIVE CODE §10-180 – PLAINTIFF ASSERTS DEFENDANT EX-ROMANTIC PARTNER DISTRIBUTED INTIMATE PHOTOS OF HER WITHOUT CONSENT IN VIOLATION OF NEW YORK LAW – CONSCIOUS PAIN AND SUFFERING, EMOTIONAL DISTRESS AND LOSS OF ENJOYMENT OF LIFE.

New York County, NY

The plaintiff in this defamation case was an Associate Professor at the City University of New York's School of Public Health. The plaintiff dated the defendant for a period of time, during which she sent intimate content of herself to the defendant. The plaintiff maintained that, after the parties had ended their relationship, she received anonymous messages threatening to publish intimate images of the plaintiff on the internet. The next day, images of her were uploaded to the internet. The defendant denied the plaintiff's claims and argued that she herself had broadly posted the images to pornographic and other websites and to third parties as, the defendant claimed, had been her practice. Thus, the defendant maintained, the plaintiff's claim was barred by the doctrine of unclean hands.

The plaintiff maintained that the defendant's exploits were undertaken specifically to humiliate and terrorize the plaintiff, who devoted her life to sexual health and sexual assault prevention. The plaintiff claimed that the publication of private photos caused her conscious pain and suffering, emotional distress, and loss of enjoyment of life.

T Administrative Code §10-180, New York City's Law Against Dissemination of Nonconsensual Pornography; $5,000,000 for past conscious pain and suffering, emotional distress and loss of enjoyment of life and $5,000,000 for future conscious pain and suffering, emotional distress and loss of enjoyment of life.

REFERENCE

Cooper vs. Broems, et al. Index no. 153384/2018; Judge Hasa A. Kingo, 02-16-24.

Attorney for plaintiff: Richard R. Shum in New York, NY.

Landlord Negligence

$1,000,000 VERDICT – LANDLORD NEGLIGENCE – DEFECTIVE CONDITION – PLAINTIFF ASLEEP IN BED WHEN PORTION OF APARTMENT'S CEILING FALLS ON HIM – DISC HERNIATIONS AT C3-4, C4-5, C5-6, AND C6-7; ANTERIOR WEDGE COMPRESSION DEFORMITY OF C5; L3-4, L4-5, AND L5-S1 DISC HERNIATIONS AND L5-S1 RADICULOPATHY – EXTENSIVE PHYSICAL THERAPY AND MEDICATIONS.

Bronx County, NY

In this case, the plaintiff tenant asserted that the defendant apartment building owner and its management company failed to keep the property in a safe condition for tenants and thus a ceiling fell on the plaintiff. As a result of the incident, the plaintiff claimed C3-4, C4-5, C5-6, and C6-7 disc herniations; anterior wedge compression deformity of C5; L3-4, L4-5, and L5-S1 disc herniations; and L5-S1 radiculopathy. The plaintiff required extensive physical therapy and rehabilitation, splinting and casting, as well as pain medication and claimed that future surgical intervention may be required. The defendants denied negligence and argued that the plaintiff was at least contributorily negligent in continuing to sleep under the sagging ceiling for several weeks despite the reasonable possibility that it could fall on him.

On February 14, 2023, the jury found the defendants liable and awarded damages in the amount of $1 million broken down as follows: $500,000 for past pain and suffering and $500,000 for future pain and suffering. The defendants moved for a new trial or remittitur. The motion was denied, the defendants appealed and the award was reduced to $800,000.

REFERENCE

Brown vs. Voda Realty LLC, et al. Index no. 22700/2018E; Judge Wilma J. Guzma, 06-11-24.

Attorney for plaintiff: Blake Goldfarb of Harris, Keenan & Goldfarb, PLLC in New York, NY. Attorney for defendant: Jack Babchik of Babchik & Young, LLP in White Plains, NY.

Sexual Assault

$1,025,000 VERDICT – SEXUAL ASSAULT – CIVIL ASSAULT – BATTERY UPON 2 MINOR GIRLS – GRANDFATHER ALLEGEDLY ASSAULTED 2 PRE-TEEN-AGED GIRLS IN HIS CUSTODY – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AND FALSE IMPRISONMENT.

Indian River County, FL

The plaintiff in this case claimed that the defendant battered his 2 minor granddaughters through acts of lewd and lascivious molestation or lewd and lascivious conduct while they were in his custody. The defendant denied the claims.

Evidence showed that the defendant owned a house in Sebastian, Florida, and was visited by the 2 minor plaintiffs who sometimes resided on the property. The plaintiffs claimed that between December of 2019 and March 2020, the girls were staying with the defendant when they were subjected to multiple instances of the defendant licking and kissing their necks and lips. The defendant was criminally charged, pled guilty and was adjudicated guilty of lewd or lascivious conduct. The first minor plaintiff also claimed that the defendant forced his body on top of her in such a way that she could not move or escape and he touched her genitals. As a result of that allegation, the defendant was charged with molestation. He pled guilty and was sentenced to time in prison followed by probation.

The jury awarded the first minor plaintiff $1,000,000 in damages and the second minor plaintiff $25,000 for a total verdict of $1,025,000.

REFERENCE

(Name withheld) vs. Knoth. Case no. 2020CA000559; Judge Cynthia L. Cox, 10-17-23.

Attorney for plaintiff: Philip M. Gerson of Gerson & Schwartz, P.A. in Miami, FL.