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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

$1,400,000 RECOVERY – MOTOR VEHICLE NEGLIGENCE – AUTO/MOTORCYCLE COLLISION – INTERSECTION COLLISION – RED LIGHT/GREEN LIGHT – PLAINTIFF MOTORCYCLIST PROPELLED ALMOST 40 FEET – SEVERE FRACTURES TO NON-DOMINANT FOREARM, WRIST AND HAND – TOTAL OF SOME 20 SURGERIES.

Hudson County, NJ

In this action for motor vehicle negligence, the plaintiff motorcyclist in his late 30s contended that the defendant automobile driver negligently failed to stop at a red light, causing the collision. The plaintiff was thrown almost 40 feet and suffered severe fractures to the left, non-dominant forearm, wrist and hand. The defendant asserted that the plaintiff failed to make adequate observations and was comparatively negligent.

The plaintiff contended that between the September, 2018 accident and several months before the settlement, he underwent a total of some 20 surgeries, including 8 major operations and 12 minor procedures. The plaintiff maintained that the fractures were extensive with the most severe fractures being sustained by the wrist. The plaintiff would have introduced imaging studies showing the course of his treatment.

The plaintiff contended that although improved to some extent, he will have problems with everyday activities. The plaintiff was ultimately able to return to his job in the software field and the plaintiff made no future income claims.

The defendant had $1,500,000 in coverage. The case settled prior to trial for $1,400,000.

REFERENCE

Klepper vs. Carney. 12-20-21.

Attorney for plaintiff: Joseph C. Angelo of Law Offices of Joseph C. Angelo in Nutley, NJ.

COMMENTARY

It is felt that the plaintiff commanded a very substantial settlement which was only slightly less than the available $1,500,000 coverage despite the absence of any future income claims. In this regard, the nature of the case in which the plaintiff was propelled from the motorcycle and landed almost 40 feet away would be expected to result in a vigorous jury reaction.

Additionally, the plaintiff stressed required a total of 20 procedures, including 8 major operations. It is also felt that the demonstrative evidence in the form of imaging studies provided substantial leverage to the plaintiff in obtaining this result. Finally, as has often been noted in the past, traumatic injuries involving the hand often evoke particularly strong jury responses.

$1,000,000 RECOVERY – MOTOR VEHICLE NEGLIGENCE – PARKING LOT COLLISION – PLAINTIFF DRIVER COLLIDES WITH DEFENDANT DRIVER WHO FAILS TO STOP AT STOP SIGN IN SHOPPING CENTER PARKING LOT – CERVICAL AND LUMBAR HERNIATIONS – LUMBAR FUSION WITH EXTENSIVE HARDWARE.

Bergen County, NJ

In this motor vehicle negligence action, the 52-year-old plaintiff driver contended that as she was driving in a shopping center parking lot, the defendant driver negligently failed to stop at a stop sign at the end of an aisle, causing the accident. The plaintiff maintained that as a result, she sustained 2 cervical and 2 lumbar herniations necessitating lumbar fusion surgery with extensive hardware after having had conservative care and injections. The plaintiff asserted that she will suffer permanent pain and limitations. The plaintiff had the lumbar fusion approximately one year after the injections. The defendant would have maintained that the plaintiff failed to make adequate observations and was comparatively negligent.

The plaintiff did not initially believe that she was injured and so told the investigating officer. Approximately one week later, she visited a chiropractor who provided physical therapy. The plaintiff then underwent both cervical and lumbar injections. The plaintiff asserted that although the cervical injection provided long-term improvement, the lumbar area continued to cause severe pain. The plaintiff underwent a lumbar ORIF that entailed the use of extensive hardware.

The defendant denied that the plaintiff suffered the claimed injuries in the accident or that she is as injured as claimed. The defendant pointed out that approximately 6 months earlier, the plaintiff told her primary care physician that she was suffering chronic low back pain. The plaintiff countered that she did

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not require treatment until after the accident and did not undergo an MRI until after the accident occurred. The plaintiff would have also introduced approximately $600,000 in unpaid medical bills.

The defendant would have pointed to a video taken when the plaintiff was on her feet for approximately 15 minutes as she was leading a church service. The defendant would have also pointed out that in another video taken outside showed that the plaintiff was able to lift her young grandson. The plaintiff maintained that she had not claimed that she was unable to stand for such a period or was unable to lift her grandson, pointing out that she had only lifted him for a moment before putting him on an exterior stairway railing as she held on to him. The plaintiff would have also argued that the jury should consider that the plaintiff attempted to remain as active as possible despite her injuries.

The defendant would have further pointed to the testimony of a biomechanical engineer who would have concluded that the impact to the plaintiff's vehicle was insufficient to cause the claimed injuries. The plaintiff would have countered that the jury should consider that the defendant's expert's conclusions as to the forces to which the plaintiff was subjected was much less significant than that described by the plaintiff, whom the plaintiff maintained was obviously a very believable witness. The plaintiff would have also argued that the jury should be instructed that the extent of property damage is not necessarily indicative of the extent of injury. The defendant's car was towed from the scene.

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

The defendant had a $500,000 primary policy and had a $5,000,000 umbrella. The case settled prior to trial for $1,000,000, including $497,093 paid by the primary carrier (after reduction of property damage payments) and $502,907 paid by the excess carrier.

REFERENCE

Fernandez vs. Jaroslav. Docket no. BER-2626-20, 06-22-22.

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

COMMENTARY

The defendant would have pointed to the testimony of a biomechanical engineer who denied that the impact forces to which the plaintiff was subjected were sufficient to cause such injuries. The plaintiff would have countered this position by arguing that a driver would be in a much better position to describe the forces than the theoretical conclusions of an expert. In this regard, the plaintiff, who was shown on video taken by the defendant leading a church service as a volunteer and lifting her 2-year-old grandson, made a very believable witness in discovery and such factors were undoubtedly very significant.

Additionally, although the plaintiff was able to drive her car after the accident, the defendant's vehicle needed to be towed. Further, the plaintiff anticipated that the jury would be instructed to the effect that the extent of property damage is not necessarily related to the extent of injury and visa versa. Finally, the imaging studies showing the extensive hardware also provided very substantial leverage to the plaintiff.

$840,000 RECOVERY – PREMISES LIABILITY – FALL DOWN – SIDEWALK CELLAR DOOR ABUTTING COMMERCIAL PROPERTY BENT UPWARDS, CAUSING PLAINTIFF TO TRIP AND FALL – DOMINANT ELBOW TEARS – SURGERY – AGGRAVATION OF HERNIATION THAT REQUIRED LAMINECTOMY 10 YEARS EARLIER – FUSION AND INTER-BODY CAGE AT LEVELS THAT INCLUDED PRIOR HERNIATION.

Essex County, NJ

In this action for premises liability, the 63-year-old plaintiff contended that the defendant owner of a 5-unit strip mall negligently failed to repair the sidewalk cellar door after it became bent, apparently from use. The plaintiff also named the commercial tenant directly behind the cellar door, asserting that repeated use probably caused the danger to develop. The plaintiff contended that as a result, she tripped and fell, suffering a tendon tears to the right dominant elbow, a flexor tendon tear near the right elbow, a right rotator cuff tear, right-sided carpal tunnel syndrome, an aggravation of previous lumbar herniations which prompted a 2008 laminectomy and now necessitated fusion surgery and the implantation of a cage. Finally, the plaintiff maintained that she suffered a compression fracture at T-5. The defendants contended that the plaintiff failed to pay adequate attention and was comparatively negligent.

The evidence disclosed that as the plaintiff walked over the closed sidewalk cellar door, she tripped and fell. The plaintiff's expert engineer would have maintained that based on photos showing rust, it was clear that the danger had been present for a significant period. The plaintiff further contended that the defendant commercial tenant held the key and would occasionally give it to other tenants to use the sidewalk cellar. The plaintiff's expert would have testified that it was likely that a hazard was created by repeated use of the sidewalk cellar. The defendants denied that the plaintiff's theory was accurate.

The plaintiff maintained elbow tears and underwent a medial epicondylar debridement and repair of common of a torn flexor tendon of the right elbow, an arthroscopic debridement repair and decompression of right rotator cuff tear; a carpal tunnel release of right wrist. The plaintiff asserted that she will permanently suffer pain, restriction and difficulties with everyday activities from these activities and a compression fracture at T5

The plaintiff suffered a prior herniation at L5-S1 that required a 2008 laminectomy. The plaintiff, who had been an insurance adjuster, had been declared totally disable by SSA because of her condition after the prior injury. The plaintiff contended that she suffered aggravations and after this accident, required an anterior lumbar interbody fusion with implantation of intervertebral cages at L4-L5 and L5-S. The plaintiff asserted that she will permanently suffer increased symptoms.

The husband pursued a loss of consortium claim. The Medicare lien was $65,049.

The case settled prior to trial for $840,000, including 1/2 from each defendant.

REFERENCE

Plaintiff's engineering expert: Charles Witczak, PE from Brick, NJ. Plaintiff's orthopedic surgeon expert: Steven Nehmer, M.D. from Union, NJ. Defendant's neurosurgeon expert: Robert Heary, M.D. from Newark, NJ. Defendant's orthopedic surgeon expert: Kevin Eagan, M.D. from Livingston, NJ.

York vs. Anshah, LLC, et al. Docket no. ESX-L-7671-20; Mediated before Dennis F. Carey, 08-29-22.

Attorney for plaintiff: Lawrence D. Minasian of Greenberg Minasian, LLC in West Orange, NJ.

COMMENTARY

The plaintiff stressed that the photographs of the sidewalk cellar door developed rust, arguing that it was clear that it present for a sufficient time to establish notice. Further, 1/2 of the settlement was paid by the commercial tenant in front of whose store the sidewalk cellar was situated and who, in addition to using the sidewalk cellar door, kept the keys in case the other 4 commercial tenants, who were not parties, wanted to use the sidewalk cellar door. In this regard, the plaintiff argued that in addition to having notice, this defendant should be responsible for the creating the hazard.

Regarding damages, it should be noted that the plaintiff had been declared disabled b SSA years earlier because of a herniation and 2008 laminectomy in an area that included the level subjected to a 2-level fusion, arguing that it was evident that the subject fall was causally related. Finally, the plaintiff emphasized that because of the tendon injuries to the dominant arm, and multiple surgeries, her ability to perform everyday activities has been greatly impacted.

$750,000 RECOVERY – DOG BITE – 20-YEAR-OLD PLAINTIFF BITTEN IN EAR – LOBE SEVERED – REATTACHMENT SURGERY – 3 COSMETIC SURGERIES – RESIDUAL NOTICEABLE COSMETIC DEFICIT – PTSD.

Monmouth County, NJ

In this case, the 20-year-old plaintiff, who was visiting his friend, contended that the defendant's Labrador bit him in the ear causing him to sustain serious injuries. The plaintiff brought the action under the strict liability Dog Bite Statute. The defendant maintained that the plaintiff made a good recovery.

The plaintiff maintained that he was rushed to the hospital with the ear lobe on ice and reattachment surgery was performed. The plaintiff asserted that he had a relatively poor result and that the cosmetic deficit remains visible despite a total of 3 surgeries.

The evidence reflected that a fourth cosmetic surgery has been recommended and that the plaintiff has not decided whether to undergo it. The plaintiff did not suffer a hearing loss. The plaintiff also contended that he suffered PTSD and will suffer the effects for the foreseeable future.

The plaintiff made no income claims.

The defendant had $500,000 in primary coverage and a $1,000,000 umbrella. The case settled prior to trial for $750,000, including the $500,000 underlying policy and $250,000 from the umbrella.

REFERENCE

Plaintiff's plastic and reconstructive surgery expert: Rahul Vemula, M.D. from West Long Branch, NJ.

Robertson vs. Zanghi. Docket no. MON-L-003667-20.

Attorney for plaintiff: Howard P. Lesnik of Law Offices of Howard P. Lesnik, PC in Mountainside, NJ.

$700,000 RECOVERY – INSURANCE OBLIGATION – BREACH OF CONTRACT – PLAINTIFF CONTRACTOR ARGUES DEFENDANT SUBCONTRACTOR AND ITS DEFENDANT INSURER MUST INDEMNIFY PLAINTIFF FOR CLAIMS MADE BY SUBCONTRACTOR'S WORKER INJURED ON JOB.

Middlesex County, NJ

In this matter, the plaintiff general contractor and defendant subcontractor entered into a subcontract agreement on September 12, 2011 for work to be performed at the St. Albans Community Center on Linden Boulevard in Jamaica Queens, New York. The agreement set forth specific insurance requirements. The agreement stated that the defendant subcontractor would purchase and maintain insurance of the following types of coverage and limits of liability: Commercial General Liability with limits of Insurance of not less than $1,000,000 each occurrence and $2,000,000 Annual Aggregate. On December 19, 2011 an employee of the defendant subcontractor was injured on the worksite. The plaintiff maintained that the written contract between the parties contractually indemnified the plaintiff, including for the plaintiff's own fault, as well as required the defendant subcontractor to insure the contractual indemnity obligation and name the plaintiff as an additional insured on the defendant's general liability policy on a primary and non-contributing basis. The injured worker filed a complaint in the Supreme Court of Bronx County in New York against the plaintiff making claims for bodily injury, economic loss and related damages. The defendants denied any obligation to the plaintiff.

In June 2013, the plaintiff's insurance carrier submitted a tender to the defendant's insurer seeking coverage under the policy that the insurer issued to the defendant. The defendant's insurer denied coverage to the plaintiff and to the defendant for its contractual indemnity obligations owed to the plaintiff. After signing the contract with the plaintiff, the defendant requested that its insurance broker procure the contractually required insurance coverage in favor of the defendant subcontractor and plaintiff. The plaintiff brought suit against the defendant subcontractor and its co-defendant insurer for breach of contract as to both defendant and negligence/malpractice/breach as to the defendant insurer.

The parties settled the matter prior to trial in the amount of $700,000 to be paid to the plaintiff by the defendant insurer.

REFERENCE

Seawolf Construction Corp. vs. S&M Enterprise of NJ, Inc., et al. Docket no. L-004853-17; Judge Michael V. Cresitello, Jr.

Attorney for plaintiff: William H. Mergner of Leary, Bride, Mergner & Bongiovanni, PA in Cedar Knolls, NJ. Attorney for defendant subcontractor: Kenneth R. Rush of Dilorenzo & Rush in Hackensack, NJ. Attorney for defendant insurer: Andrew L. Indeck of Weber Gallagher Simpson Stapleton Fires & Newby, LLP in Bedminster, NJ. Attorney for defendant insurer: Sean X. Kelly of Marks, O'Neill, O'Brien, Doherty & Kelly, P.C. in Cherry Hill, NJ

DEFENDANT'S VERDICT – SCHOOL LIABILITY – NEGLIGENT SUPERVISION – MINOR PLAINTIFF STRUCK IN FACE AND HEAD WITH VOLLEYBALL DURING GYM CLASS – TRAUMATIC BRAIN INJURY – CERVICAL INJURIES – MULTIPLE SURGERIES REQUIRED.

Union County, NJ

The plaintiff in this school liability action maintained that she suffered permanent and disabling brain injury when she was participating in a volleyball game in gym class and was struck in the head and face with a volleyball. The defendants denied all allegations of negligence and denied that the plaintiff's disability is related to the incident.

On December 12, 2008, the female minor was participating in her 8th grade physical education class at the New Providence Middle School located in New Providence, New Jersey. The plaintiff was playing in a game of volleyball and was in the front row. The opposing team hit the ball over the net and the ball was landing between the 1st and 2nd row of participants on the minor's team. A codefendant in the back row dove for the ball and hit it causing the ball to strike the minor plaintiff in the face causing injury.

The plaintiffs maintained that the defendant physical education teacher was negligent in failing to properly supervise and organize the class. According to the plaintiff two separate games of volleyball were occurring at the same time and the defendant gym teacher was attempting to supervise both games. In addition, the participants were not separated according to skill level and the minor novice was playing with more advanced teammates like the codefendant who dove for the ball and struck it. The plaintiff also maintained that the other school related defendants were negligent in supervising the physical education teacher.

The plaintiff also sued the codefendant classmate for negligence but settled her claim with him out of court. The plaintiff claims she sustained a traumatic brain injury with cognitive deficits including long and short-term memory difficulties, difficulties with concentration and attention which required cognitive therapy, concussion with post-concussion syndrome manifesting in severe headaches, photo sensitivity, phono sensitivity and major depression resulting in suicidal ideation requiring hospitalization.

The defendants denied all allegations of negligence and claimed that the defendant physical education teacher properly and reasonably supervised and organized the class. The defense argued that having all 24 students participating at the same time in two games advanced the objectives of teaching the sport to the children by having each member get hands-on play and maximizing each student's playing time. The defendants stressed that the 8th grade gym class was in their second year of participating in a volleyball unit because they had had the same unit in the 7th grade. Additionally, the class spent over a week before the incident learning volleyball skills including tracking the ball and keeping one's hands in the ready position. The class had played about 10 games of volleyball before the incident occurred.

The jury found in favor of the defendants.

REFERENCE

Plaintiff's education management expert: Edward F. Dragan, Ed.D. from Lambertville, NJ. Plaintiff's neurosurgery/spine surgeon expert: Duncan B. Carpenter, M.D. from Ridgewood, NJ. Defendant's educational and organizational consulting expert: Jamie P. Savedoff, Ph.D. from Allentown, NJ. Defendant's psychiatry/neurology expert: William Head, Jr. M.D. from Union, NJ.

Emma Wahlig vs. New Providence Middle School, New Providence Board of Education, Scott Murphy, Michael Sunyak. Docket no. L-2640-15; Judge John G. Hudak, 10-21-22.

COMMENTARY

The plaintiff presented medical testimony that the minor underwent about 5 surgeries involving inserting and removing nerve stimulator electrodes under her scalp and a pulse generator battery pack in her left buttock. Additionally, she underwent 2 procedures to transect the occipital nerve, dorsal spine nerve and other nerves in her scalp and head along with a cervical laminectomy and rhizotomy. She required numerous injections including ganglion blocks, trigger points, occipital nerve blocks and Botox. The plaintiff had to be home schooled following the incident because she could not tolerate crowds or noise. The plaintiff graduated 2 years later than expected and her experts claimed she was disabled from holding full time employment due to her brain injury.

The defense experts stressed that the plaintiff had no loss of consciousness, no bleeding and no bruises when she was struck by the ball. The day after the incident she presented to the E.R. and was diagnosed with a concussion without loss of consciousness and had a normal neurological exam. The defense also opined that the plaintiff's subsequent brain MRI and cervical MRI were interpreted as normal. The defense disputed that the plaintiffs numerous nerve surgeries were medically necessary and claimed that any disability was due to her surgeries and treatment and not the subject incident. In addition, the defense presented testimony that the minor's depression and headaches were pre-existing.

Verdicts By Category

FORKLIFT NEGLIGENCE

UNDISCLOSED RECOVERY

Forklift negligence – Plaintiff injured by forklift driven by employee of defendant supply company while working at co-defendant store – Right knee medial meniscus tear; lateral meniscus tear; left knee chondromalacia, medial collateral ligament sprain, partial anterior cruciate ligament tear, advanced osteoarthritis, lateral meniscus tear; left shoulder acromioclavicular joint arthritis and lumbar radiculopathy – Surgical repair to both knees – Arbitration finds defendant supply company 70% liable, defendant store 10% liable, and plaintiff 20% liable with gross damages of $180,000.

Camden County, NJ

In this motor vehicle negligence case, the plaintiff, a temporary worker, asserted that he sustained injuries when the defendant's employee struck him with a piece of machinery while he was working at the co-defendant store. The plaintiff asserted the defendant forklift driver was negligent in operation of the equipment and the defendant store was negligent in failing to maintain a safe work environment. Each co-defendant asserted that the other owed a duty of care to the plaintiff and was liable for any damages claimed by the plaintiff.

On January 13, 2016, the plaintiff was working as a laborer at the defendant clothing store in Florence. The plaintiff contended that he was struck by a hydraulic crane driven by a defendant supply company employee being operated on the premises of the co-defendant store.

As a result of the accident, the plaintiff sustained a right knee medial meniscus tear; lateral meniscus tear; left knee chondromalacia, medial collateral ligament sprain, partial anterior cruciate ligament tear, advanced osteoarthritis, lateral meniscus tear; left shoulder acromioclavicular joint arthritis; and lumbar radiculopathy. The plaintiff's knee injuries required surgical repair to both knees.

There was a worker's compensation lien of approximately $48,000 in the case. The defendants also argued that the plaintiff was negligent in failing to take care to avoid the area where the crane was being operated. The defendants also questioned causation of some of the plaintiff's injuries.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 70% liability to the defendant supply company, 10% to the defendant clothing store, and 20% to the plaintiff. The arbitrator set gross damages at $180,000 inclusive of all liens and out-of-pocket expenses reduced to $144,000 for plaintiff's comparative negligence. Following arbitration and prior to trial, the parties settled for an undisclosed sum.

REFERENCE

Morales vs. Burlington Coat Factory, et al. Docket no. L-000058-18; Judge Michael J. Kassel.

Attorney for plaintiff: Justin H. Sperling of Aronberg, Kouser, Snyder & Lindemann, P.A. in Cherry Hill, NJ. Attorney for defendant Burlington Coat Factory: Dennis M. Marconi of Law Office of Barnaba & Marconi, LLP in Trenton, NJ. Attorney for defendant Material Handling Supply, Inc.: Robert G. Devine of White and Williams, LLP in Cherry Hill, NJ.

INSURANCE OBLIGATION

$28,500+ RECOVERY

Insurance obligation – Rear end collision – Plaintiff driver suffers disc herniations at C5-6, C6-7, L4-5, L5-S1; right shoulder tendonitis; wrist and ankle sprains; disc bulges at C3-4 and C4-5 – Minor plaintiff passenger sustains unspecified injuries – Plaintiff driver treats with cervical and lumbar epidural injections, and shoulder injection – Tortfeasor and defendant insurer settle with minor plaintiff for $13,500.

Passaic County, NJ

In this insurance obligation case, the plaintiff driver, a 45-year-old woman, and the minor plaintiff passenger asserted that the defendant driver struck their vehicle from behind with such force that it caused significant, permanent injury. The plaintiffs collected the tortfeasor driver's policy limit and then filed the subject suit against

their motor vehicle insurer for underinsured motorist benefits. The defendant denied liability and contested the plaintiff's damages.

On April 7, 2018, the minor plaintiff was a passenger in a motor vehicle, driven by the plaintiff driver, traveling on McBride Avenue Bridge in Paterson. The tortfeasor driver was also traveling on McBride Avenue Bridge. The plaintiff contended that the tortfeasor negligently failed to stop behind the plaintiffs' vehicle. The tortfeasor struck the plaintiffs' vehicle from the rear. The plaintiffs alleged that the force of the impact resulted in injuries to both plaintiffs.

As a result of the collision, the minor plaintiff passenger sustained unspecified injuries and the plaintiff driver sustained disc herniations at C5-6, C6-7, L4-5, L5-S1; right shoulder tendonitis; wrist and ankle sprains; disc bulges at C3-4 and C4-5. The plaintiff driver treated with cervical and lumbar epidural injections, and shoulder injection. The plaintiff driver was still receiving treatment with injections at the time of arbitration.

The defendant asserted that the impact was so slight that it caused no property damage, as evidenced by photos of the vehicles, and could not have caused any injury, let alone permanent injury to the plaintiff driver. The defendant argued that the plaintiff driver had an extensive prior history including two prior motor vehicle accidents. The defendant's IME reported that the plaintiff driver suffered from temporary sprains and exhibited signs of disc degeneration, unrelated to the subject collision.

The parties settled the matter prior to trial, as to the minor plaintiff, in the amount of $13,500 with $12,000 being contributed by the tortfeasor driver and $1,500 from the plaintiff's insurer. The funds were broken down as follows: $3,325 in attorney fees; $199 in costs and disbursements; $125 in medical expenses and $9,851 in net damages to the minor plaintiff.

The plaintiff driver and defendant insurer submitted to non-binding arbitration prior to trial. The arbitrator assigned 100% liability to the defendant with gross damages of $65,000 less $15,000 tortfeasor insurance credit for $50,000 in net damages. Following arbitration and prior to trial, the plaintiff driver and defendant insurer settled for an unspecified sum.

REFERENCE

Khan vs. Austin, et al. Docket no. L-001254-19; Judge Frank Covello.

Attorney for plaintiff: Paul A. Garfield of Davis, Saperstein & Salomon, P.C. in Teaneck, NJ. Attorney for defendant driver: Kevin J. McGee of Tango, Dickinson, Lorenzo, McDermott & McGee, LLP in Millburn, NJ. Attorney for defendant insurer: Theodoros Ioannis Tsakalis of Law Office of Cindy Thompson in West Orange, NJ.

DEFENDANT'S VERDICT

Insurance obligation – Motor vehicle negligence – Rear end collision with uninsured motorist – Multiple cervical disc herniations; soft tissue lumbar injury – Defendant denies permanent injury – Arbitration finds defendant 100% liable with damages of $22,500.

Burlington County, NJ

In this insurance obligation case, the plaintiff asserted that the tortfeasor driver struck her vehicle from behind with such force that it caused significant, permanent injury. The plaintiff brought this claim against the defendant insurance carrier for coverage under the uninsured motorist clause of her auto policy. The defendant stipulated liability but contested the plaintiff's damages.

On February 4, 2015, the plaintiff was traveling on West Roberts Avenue in Philadelphia, Pennsylvania. The tortfeasor driver was traveling in the same direction behind the plaintiff's vehicle. While the plaintiff was stopped on the roadway due to traffic, the tortfeasor's vehicle struck her violently from behind. The plaintiff alleged that the force of the impact resulted in permanent injuries.

As a result of the collision, the plaintiff sustained multiple cervical disc herniations confirmed on MRI; and soft tissue lumbar injury. The defendant argued that the plaintiff's injuries were not permanent and not caused by the subject collision.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 100% liability to the defendant with damages of $22,500. The arbitration was not confirmed and the matter proceeded to trial.

The jury found no cause of action and returned a verdict in favor of the defendant.

REFERENCE

Minter vs. Allstate. Docket no. L-000795-18; Judge Susan Claypoole.

Attorney for plaintiff: Randolph C. Lafferty of Cooper Levenson, PA in Atlantic City, NJ. Attorney for defendant: Andrew Reiners of Law Offices of Pamela D. Hargrove in Moorestown, NJ.

MOTOR VEHICLE NEGLIGENCE

Auto/Pedestrian Collision

$130,000 RECOVERY

Motor vehicle negligence – Auto/pedestrian collision – Plaintiff crossing in unmarked crosswalk struck after car stops and waves her across – Right wrist fracture – Surgery – Recovery included UM claim.

Essex County, NJ

This plaintiff in this motor vehicle negligence case was a 63-year-old pedestrian who contended that she was crossing at an unmarked crosswalk on a roadway containing 2 lanes in each direction. The plaintiff maintained that when she reached the third lane, an unidentified driver stopped and waved to her to proceed. The plaintiff asserted that she continued to cross and was struck by the defendant driver in the fourth lane, who failed to make adequate observations and negligently passed a stopped vehicle in violation of NJSA 39:4-32(e). As a result, she sustained serious injury. The person who waved could not be identified and the plaintiff named this driver under her $100,000 UM policy. The driver had $100,000 in coverage. The defendant driver denied that he was negligent and also contended that the plaintiff failed to make appropriate observations and was comparatively negligent.

The plaintiff suffered a fracture of the right, dominant wrist and required an ORIF. The plaintiff's orthopedic surgeon would have testified that the plaintiff will permanently suffer significant pain and restriction. The plaintiff, who owned a car, exhausted her PIP and the plaintiff would have introduced approximately $42,000 in medical bills.

The plaintiff lost approximately 4 months from her job as a nursing assistant.

The case settled prior to trial for $130,000, including the $100,000 policy from the defendant driver and $30,000 from the UM policy.

REFERENCE

Plaintiff's orthopedic surgeon expert: Daniel Seigerman, M.D. from Madison, NJ.

Lambert vs. Lovo & GEICO. Docket no. ESX-L-7180-18, 10-22.

Attorney for plaintiff: William S. Greenberg of Greenberg Minasian, LLC in West Orange, NJ.

Driveway Exit Collision

$100,000 RECOVERY

Motor vehicle negligence – Driveway exit collision – Vehicle in which plaintiff is passenger backs out of driveway and collides with vehicle traveling in roadway – Plaintiff brings action against both defendant drivers – Traumatic injury to cervical, thoracic and lumbar spine, left hip, with headaches and radiculopathy – Radiofrequency ablation.

Hunterdon County, NJ

In this motor vehicle negligence case, the plaintiff passenger, a 24-year-old man, asserted that the defendant drivers were negligent in causing a collision in which she suffered significant, permanent injury. Each defendant claimed the other was responsible for the collision and the plaintiff's damages.

On June 6, 2016, the plaintiff was a passenger in a vehicle operated by the defendant which was backing out onto the westbound lane of Barley Sheaf Road in Flemington. The defendant was the operator of a vehicle traveling westbound on Barley Sheaf Road. The plaintiff argued that the defendant driver of the plaintiff's vehicle and the second vehicle were negligent in failing to observe each other's movements and avoid collision between the vehicles. The plaintiff alleged that the force of the impact resulted in permanent injuries.

As a result of the collision, the plaintiff sustained traumatic injury to the neck, thoracic and lumbar spine, left hip, with headaches and radiculopathy. The plaintiff treated with radiofrequency ablation. The defendants also disputed the permanency of the plaintiff's injuries.

The plaintiff settled the matter with the defendant driver, of the vehicle in which he was a passenger, prior to trial in the amount of the $100,000 policy limit of the defendant's insurance.

REFERENCE

Pineda vs. Gerstner, et al. Docket no. L-000382-17; Judge Michael F. O'Neill.

Attorney for plaintiff: Kelley Lavery of Levinson Axelrod, P.A. in Flemington, NJ. Attorney for defendant driver of plaintiff's vehicle: Aldo J. Russo of Lamb Kretzer, LLC in Secaucus, NJ. Attorney for defendant driver of second vehicle: Colleen M. Crocker of Zirulnik, Sherlock & Demille in Hamilton, NJ.

Intersection Collision

$330,000 VERDICT

Motor vehicle negligence – Intersection collision – Failure to stop at stop sign – Partial tear of non-dominant shoulder – Extensive restriction of use of shoulder – Damages only.

Essex County, NJ

Liability was stipulated in this motor vehicle negligence case in which the plaintiff in her mid 40s contended that the defendant driver failed to stop at a stop sign, causing the collision. The plaintiff asserted that she suffered a partial tear of supraspinatus tendon that will cause extensive restriction of use despite conservative care. The defendant denied that the plaintiff suffered a permanent injury in the accident or that she met the verbal threshold.

The plaintiff had "dollar a day" insurance which did not provide PIP, and the issue surgery was not brought up. The plaintiff maintained that she could not return to her manual laborer's position or continue to baby sit for her grandchildren. The plaintiff also contended that she has trouble with everyday activities such as dressing and brushing her hair.

The jury awarded $330,000.

REFERENCE

Plaintiff's orthopedic surgeon expert: Jay Zaretsky, M.D. from Paterson, NJ.

Ojeda vs. Gomez. Docket no. ESX-L-1214-17; Judge Thomas Vena.

Attorney for plaintiff: Corinne Mullen of Hoboken, NJ of counsel to of James W. Taylor, Jr. in Jersey City, NJ.

Lane Change Collision

$44,037 ARBITRATION CONFIRMATION

Motor vehicle negligence – Lane change collision – Possible labrum tear and cervical disc injury – Plaintiff claims $12,000 in unpaid medical expenses.

Atlantic County, NJ

In this motor vehicle negligence case, the plaintiff asserted that the defendant driver struck her vehicle from the side with such force that it caused significant, permanent injury. The defendant driver's motor vehicle insurance had lapsed at the time of the accident. The defendant title company was the lessor of the vehicle and did not provide liability insurance. The defendant lessor contended that the defendant driver was responsible for the collision and any damages resulting from the collision.

On September 10, 2016, the plaintiff was traveling westbound in the curbside lane on Pacific Avenue at the intersection with Texas Avenue in Atlantic City. The defendant was traveling westbound in the passing lane on Pacific Avenue. As a result of the collision, the plaintiff sustained a shoulder injury with possible labrum tear and cervical disc injury. The plaintiff claimed approximately $12,000 in unpaid medical expenses.

The plaintiff contended that the defendant suddenly without warning, changed lanes, failed to obey the rules of the road, failed to keep a proper look out, failed to make proper observations, failed to yield the right-of-way, and generally failed to exercise the degree of care which a reasonably prudent person would have exercised. The plaintiff asserted that the defendant's negligence resulted in her cutting off the plaintiff's vehicle and causing a collision. The plaintiff alleged that the force of the impact resulted in permanent injuries. The defendant driver failed to answer or appear.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 100% liability to the defendant driver with damages of $42,000 inclusive of outstanding medical expenses. The plaintiff made a motion to confirm the arbitration order and the motion was granted. The plaintiff recovered $42,000 plus $2,037 in interest for a total recovery of $44,037.

REFERENCE

Morales vs. Ragnetti, et al. Docket no. L-002223-18; Judge James P. Savio, 02-24-20.

Attorney for plaintiff: Steven K. Johnson of D'Arcy Johnson Day, PC in Egg Harbor Township, NJ. Attorney for defendant vehicle lessor: Frank A. LaSalvia of Campbell, Lipski & Dochney in Philadelphia, PA.

Left Turn Collision

$415,000 RECOVERY

Motor vehicle negligence – Left turn collision – Plaintiff passenger suffers aggravation of ACL and MCL tears – Aggravation of lumbar and cervical herniations – Cervical surgery – Complication of esophageal injury during surgery results in pneumonia – 2 lumbar bulges – 2 fractured teeth.

Essex County, NJ

In this action for motor vehicle negligence, the plaintiff passenger in his mid 30s contended that he sustained injuries when the defendant non-host driver, who had a $500,000 policy, failed to yield before making a left turn in the path of the defendant host driver, who had a $15,000 policy. The non-host maintained that the host driver failed to pay adequate attention and that such negligence contributed to the accident.

The plaintiff suffered a cervical herniation which initially required injections and then decompression and disc replacement surgery. The plaintiff maintained that he suffered a surgical complication which involved the esophagus and which resulted in pneumonia. The plaintiff further contended that he suffered aggravations of the ACL and MCL of the same knee that had required surgery several years earlier. The plaintiff asserted that the aggravation is permanent in nature. The plaintiff also suffered 2 tooth fractures.

The defendants denied that the plaintiff suffered the claimed injuries. The defendants pointed out in mediation that in addition to prior surgery to the same knee, the plaintiff also had been previously diagnosed with cervical and lumbar herniations which dictated injections.

The case settled prior to trial for $415,000, including the $15,000 policy from the host and $400,000 from the non-host.

REFERENCE

Plaintiff's orthopedic surgeon expert: Steven Nehmer, M.D. from Union, NJ.

Ford vs. Dewitt, et al. Docket no. ESX-L-1258-21, 06-13-22.

Attorney for plaintiff: Lawrence D. Minasian of Greenberg Minasian, LLC in West Orange, NJ.

$210,000 COMBINED RECOVERY

Motor vehicle negligence – Left turn collision – Plaintiff driver and passenger bring separate actions against defendant driver for negligence in making left turn across their lane of travel – Plaintiff driver: multiple cervical and lumbar disc herniation at L5-S1 – Plaintiff passenger: lumbar spondylosis without myelopathy and lumbar disc herniations with radiculopathy – Spinal device implant and pain management.

Ocean County, NJ

In these consolidated motor vehicle negligence cases, the plaintiff was a passenger in a vehicle driven by the first defendant, involved in a collision with the second defendant. Initially the plaintiff filed against both defendants and the first defendant filed a separate suit against the second defendant. After non-binding arbitration determined that the second defendant was 100% liable, the second defendant filed to have the cases consolidated and the motion was granted.

On April 7, 2016, the plaintiffs were the driver and passenger in a motor vehicle traveling on Hooper Avenue in Toms River. The defendant was traveling eastbound on Oak Avenue. The plaintiffs contended that the second defendant driver negligently failed to exercise caution under the then-present traffic conditions and made an unsafe left turn across Oak Avenue which resulted in a collision between the 2 vehicles. The plaintiffs alleged that the force of the impact resulted in permanent injuries.

As a result of the collision, the plaintiff passenger sustained lumbar spondylosis without myelopathy; and lumbar disc herniations with radiculopathy. The plaintiff underwent spinal device implant to treat his injuries and continues to receive pain management. The plaintiff driver suffered multiple cervical and a lumbar disc herniation at L5-S1.

The defendant denied liability and asserted that the plaintiff driver could have avoided collision if she had taken evasive action and was thus liable or contributorily negligent in causing the collision wherein the plaintiffs were injured. The defendant also maintained that both plaintiffs had prior histories of prior spinal issues/injuries unrelated to the subject collision.

The parties submitted to non-binding arbitration prior to trial. In separate arbitrations, an arbitrator assigned 100% liability to the defendant with damages of $85,000 to the plaintiff driver and $85,000 to the plaintiff passenger. Following the arbitrations and prior to trial, the parties settled for $85,000 to the plaintiff driver and $125,000 to the plaintiff passenger, for a total combined recovery of $210,000.

REFERENCE

Fleishman/Kemple vs. Kemple/Nicpon. Docket nos. L-000079-18 and L-000612-18; Judge Mark A. Trocone.

Attorney for plaintiff passenger: Michael P. Cahill of Rosenberg, Kirby, Cahill, Stankowitz & Richardson in Toms River, NJ. Attorney for plaintiff driver/first defendant: Miriam R. Rubin of Law Offices of Miriam R. Rubin in East Brunswick, NJ. Attorney for second defendant: Mary E. McLaughlin of Law Office of Debra Hart in Wall, NJ.

Multiple Vehicle Collision

DEFENDANT'S VERDICT

Motor vehicle negligence – Multi-vehicle rear end collision – C5-6 disc herniation confirmed on MRI – Ongoing difficulties with activities of daily living, sleep problems and diminished ability to participate in fitness training – Non-binding arbitration finds defendant liable with $45,000 in damages.

Camden County, NJ

In this motor vehicle negligence case, the plaintiff asserted that the defendant driver struck his vehicle from behind with such force that it caused significant, permanent injury. The defendant stipulated liability but contested the plaintiff's damages.

On August 25, 2016, the plaintiff was traveling on Berlin Road at its intersection with Browning Lane in Cherry Hill. The plaintiff alleged that the defendant was negligent in failing to observe traffic, and failing to stop behind the plaintiff. The defendant struck the plaintiff's vehicle from the rear, pushing it into the rear of the car in front of the plaintiff. The plaintiff's vehicle was sandwiched between both vehicles. The plaintiff alleged that the force of the impact resulted in permanent injuries.

As a result of the collision, the plaintiff sustained C5-6 disc herniation confirmed on MRI. The plaintiff claimed ongoing difficulties with activities of daily living, sleep problems and diminished ability to participate in fitness/strength training. The defendant argued that the plaintiff did not sustain any permanent injuries in the accident and denied that the plaintiff was entitled to an award of money damages.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 100% liability to the defendant with damages of $45,000. The arbitration was not confirmed and the matter proceeded to trial.

The jury, in a vote of 6-1, found that the plaintiff did not sustain a permanent injury caused by the subject accident and returned a verdict of no cause of action in favor of the defendant.

REFERENCE

Mendez vs. Naddeo. Docket no. L-000706-18; Judge Michael J. Kassel, 01-29-20.

Attorney for plaintiff: John L. Aris of Lowenthal & Abrams, P.C. in Cherry Hill, NJ. Attorney for defendant: Robert M. Kaplan of Margolis Edelstein in Mount Laurel, NJ.

Rear End Collision

$100,000 RECOVERY

Motor vehicle negligence – Rear end collision – Disc herniations C3-4, C4-5, C5-6, L3-4, L4-5 and L5-S1; bilateral knee tears with post traumatic chondromalacia; balance disorder – TMJ with surgery recommended.

Middlesex County, NJ

In this motor vehicle negligence case, the plaintiff asserted that the defendant driver struck her vehicle from behind with such force that it caused her vehicle to spin and strike the defendant's vehicle causing the plaintiff significant, permanent injury. The defendant denied liability and claimed that the plaintiff struck him and he did not strike the plaintiff's vehicle initially causing the spin and did not cause the resulting collision between the vehicles.

On March 27, 2018, the plaintiff was traveling on US Highway 1 in Woodbridge. The defendant was also traveling on the same roadway, driving a truck in the course of his employment. The plaintiff claimed that the defendant rear-ended her vehicle causing it to spin out of control and strike the defendant's vehicle. The plaintiff alleged that the force of the impact resulted in permanent injuries.

As a result of the collision, the plaintiff sustained disc herniations C3-4, C4-5, C5-6, L3-4, L4-5 and L5-S1; bilateral knee tears with post-traumatic chondromalacia; balance disorder and TMJ for which surgery was recommended. The defendant argued that the plaintiff's injuries were pre-existing and not caused by the subject collision.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 67% liability to the defendant and 33% to the plaintiff with gross damages of $650,000 reduced to $435,500 for plaintiff's comparative negligence.

Following arbitration and prior to trial, the parties settled for $100,000.

REFERENCE

Luk vs. Barralaga, et al. Docket no. L-002958-18; Judge Jamie D. Happas.

Attorney for plaintiff: Jonathan S. Druckman of Druckman & Hernandez, P.C. in Elizabeth, NJ. Attorney for defendant: Lisa R. Marshall of Law Offices of Viscomi & Lyons in Morristown, NJ.

$75,000 VERDICT

Motor vehicle negligence – Rear end collision – Cervical herniation and lumbar bulge – Minimal impact – Conservative care – Offer of judgment – Damages only.

Monmouth County, NJ

Liability was stipulated in this motor vehicle negligence case. The 40-year-old plaintiff contended that he suffered a cervical herniation and lumbar bulge which were confirmed by MRI. The plaintiff underwent a cervical and lumbar EMG and the tests were negative. The defendant denied that the plaintiff met the verbal threshold. The defendant pointed to very minimal property damage.

The plaintiff maintained that he continues to suffer extensive cervical pain and limitation as well as some lumbar symptoms. The plaintiff worked at a hospital maintaining hospital equipment and also worked for a ride sharing company. The plaintiff asserted that he has been forced to cut back on his hours. The plaintiff also contended that everyday activities, such as lifting his young son, who was 5 months at the time and age 4 at trial, are painful and difficult. The defendant argued that the jury should consider that the plaintiff did not undergo injections or treatment over and above chiropractic manipulations.

The plaintiff filed an Offer of Judgment for $15,000, which was denied by the defendant. The jury awarded $75,000 and Offer of Judgment sanctions will be added.

REFERENCE

Plaintiff's orthopedic surgeon expert: Martin Riss, D.O. from Brick, NJ. Plaintiff's radiology expert: Paresh Rijsinghani, M.D. from Middletown, NJ.

Laguerre vs. Pena. Docket no. MON-L-3685-18; Judge Henry P. Butehorn.

Attorney for plaintiff: Jeffrey V. Stripto of Law Offices of Roy D. Curnow in Spring Lake Heights, NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Rear end collision – Dispute as to liability with plaintiff claiming she was waiting for traffic ahead to proceed through green light when defendant struck her and defendant saying plaintiff began to move and then stopped abruptly – Lumbago; hypolordosis; severe low back spasms; lumbar facet arthropathy and myalgia, with permanent loss of function, motion and use of the lumbar spine – Pain management – 18 months of chiropractic care.

Essex County, NJ

In this motor vehicle negligence case, the plaintiff asserted that the defendant driver struck her vehicle from behind with such force that it caused significant, permanent injury. The defendant denied liability and claimed that, once the light turned green and the traffic began moving, the plaintiff suddenly, and without warning stopped abruptly leaving the defendant no time to react and causing her to collide with the plaintiff's vehicle.

On April 22, 2014, the plaintiff was stopped at a red light at the intersection of Main Street and Glenwood Avenue in East Orange. The defendant was traveling behind the plaintiff's vehicle and brought her car to a complete stop behind the plaintiff's vehicle. The light turned green and the plaintiff had not yet begun to proceed, as she was waiting for cars ahead of her to move, when the defendant struck the plaintiff's vehicle from the rear. The plaintiff alleged that the force of the impact resulted in permanent injuries, including lumbago; hypolordosis; severe low back spasms; lumbar facet arthropathy and myalgia, with permanent loss of function, motion and use of the lumbar spine. The plaintiff treated with pain management and 18 months of chiropractic care.

The defendant contested the plaintiff's damages. The defendant argued that the impact of the collision was minor since they had just begun moving from a total stop at the light and therefore had not gained enough speed for a significant impact. The defendant pointed to the lack of damage to either vehicle to bolster this argument. The defendant contested the plaintiff's claim of permanent injury. The defendant also claimed that the plaintiff had a gap in treatment of almost three years making it impossible to connect any recent complaints to the subject accident that occurred in 2014. The defendant's IME diagnosed the plaintiff with cervical and lumbar sprains from the underlying accident, noting that these conditions are "self-limited soft tissue injuries that typically resolve in 12-16 weeks."

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 100% liability to the defendant with damages of $35,000. The arbitration was not confirmed and the matter proceeded to trial.

The jury returned a 6-0 verdict in favor of the plaintiff as to liability and a 6-0 verdict in favor of the defendant as to damages finding that plaintiff failed to prove she sustained any permanent injury proximately caused from the subject accident. Therefore, judgment was entered in favor of the defendant.

REFERENCE

Haines vs. Anderson. Docket no. L-002817-16; Judge Thomas M. Moore.

Attorney for plaintiff: Ronald M. Gutwirth, Esq. in West Orange, NJ. Attorney for defendant: Moira T. Dillaway of Viscomi & Lyons in Morristown, NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Rear end collision – Alleged lumbar and cervical herniations – Chiropractic care – Plaintiff denies complaints of neck and back pain made to chiropractor approximately 10 years earlier – Damages only.

Middlesex County, NJ

Liability was stipulated in this motor vehicle negligence case. The plaintiff driver in his mid 50s contended that he sustained 2 cervical and one lumbar herniation that will cause permanent symptoms. The plaintiff's treatment was limited to chiropractic care. The defendant denied that the plaintiff suffered significant injuries in the accident or met the verbal threshold.

The defendant pointed out that in the 2000s, the plaintiff told a chiropractor who treated him that he suffered from neck and back pain. The plaintiff denied so telling the chiropractor.

The plaintiff's vehicle sustained light property damage. The plaintiff missed no time from his job as a bus driver.

The jury found for the defendant on the verbal threshold.

REFERENCE

Defendant's orthopedic surgeon expert: Robert Bercik, M.D. from Clark, NJ.

Arrington vs. Marquez. Docket no. MID-L-1371-19; Judge Christopher Rafano, 04-22.

Attorney for defendant: John A. Camassa of Law Office of John Camassa in Wall Twp. NJ.

Sideswipe Collision

UNDISCLOSED RECOVERY

Motor vehicle negligence – Sideswipe/rear end collision – Plaintiff and defendant drivers cut off on highway by 2 phantom vehicles, leading the defendant driver to collide with plaintiff's vehicle – Meniscus tear with surgery and C3-C6 disc bulges – Arbitrator assigns 100% liability to defendant with damages of $46,500.

Essex County, NJ

In this motor vehicle negligence case, the plaintiff asserted that the defendant driver struck her vehicle from behind with such force that it caused significant, permanent injury. The plaintiff brought suit against the defendant driver who struck her vehicle as well as an uninsured motorist claim due to the involvement of 2 phantom vehicles. The defendant denied liability and contested the plaintiff's damages.

On May 26, 2016, the plaintiff was traveling westbound on Interstate 78 and was stopped in traffic. The plaintiff and defendant both asserted that they were cut off by two phantom vehicles. The defendant then struck the rear left corner of the plaintiff's vehicle in a sideswipe collision. The plaintiff alleged that the force of the impact resulted in permanent injuries.

As a result of the collision, the plaintiff, who had a prior knee pathology going back six to seven years, alleged that she sustained a new meniscus tear with surgery and C3-C6 disc bulges. The plaintiff's PIP carrier cut off the plaintiff's coverage resulting in a health care lien of $21,000.

The defendant maintained that she was cut off by a phantom vehicle which caused the accident and was, therefore, not negligent, nor responsible for the plaintiff's damages. The defendant argued that the plaintiff had preexisting knee issues that could not be attributed to the subject collision and that her neck condition was degenerative and also not caused by the subject collision.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 100% liability to the defendant with damages of $46,500. Following arbitration and prior to trial, the parties settled for an undisclosed sum.

REFERENCE

Gonzalez vs. Sharma. Docket no. L-002708-17; Judge Thomas R. Vena.

Attorney for plaintiff: Brian P. McElroy of Levinson Axelrod in Hillsborough, NJ. Attorney for defendant driver: John M. Kearney of Sellar Richardson, P.C. in Livingston, NJ. Attorney for defendant insurer: Stephen D. Kessler of Connell Foley, LLP in Roseland, NJ.

Taxi Negligence

$52,500 RECOVERY

Motor vehicle negligence – Taxi negligence – Traffic circle collision – Minor plaintiff passenger injured when vehicle collides with taxi – Disc herniation at L5-S1 – 5 months of chiropractic treatment.

Union County, NJ

In this motor vehicle negligence case, the plaintiff, a 13-year-old female back-seat passenger, asserted that the defendant drivers crashed into each other in a traffic circle and the plaintiff was the passenger in one of the vehicles. The plaintiff maintained that the vehicles collided with such force that it caused her significant, permanent injury. The defendants denied liability, each claiming that the other caused the collision.

On December 26, 2015, the minor plaintiff was a passenger in a vehicle, being driven by the defendant driver, a 17-year-old probationary driver, traveling in the middle lane of Bayway Circle in Elizabeth. The defendant driver was attempting to exit the traffic circle into a gas station when her vehicle was involved in a collision with the co-defendant driver's taxi. The plaintiff contended that the defendants negligently operated their vehicles such that a collision occurred. As a result of the collision, the plaintiff sustained disc herniation at L5-S1. The plaintiff treated with five months of chiropractic treatment and physical therapy.

The defendant taxi driver argued that the defendant driver of the plaintiff's vehicle cut across lanes, causing the collision and he presented dash cam footage of the accident, which he claimed showed he was not at fault for the collision. The defendants also contested the plaintiff's damages. The defendants disputed the nature and extent of the plaintiff's injuries. The defendants' IME found a bulge at L5-S1, instead of a herniation.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 90% liability to the defendant driver of the plaintiff's vehicle and 10% to the defendant taxi driver with damages of $50,000. The arbitration was not confirmed and the matter proceeded.

Following arbitration, the plaintiff made an offer to take judgment in the amount of $50,000 against the defendant driver of the vehicle in which she was a passenger and $20,000 from the defendant taxi driver/taxi company. The defendant taxi driver/company counter-offered $5,000.

The parties settled the matter prior to trial in the amount of $52,500 with $47,500 contributed by the defendant driver of the plaintiff's vehicle and $5,000 by the defendant taxi driver/company. The funds were broken down as follows: $12,566 in attorney fees; $3,903 in costs and disbursements; $1,141 in medical expenses and $34,890 in net damages to the minor plaintiff.

REFERENCE

Montes vs. Funes et al. Docket no. L-004351-17; Judge Mark P. Ciarrocca.

Attorney for plaintiff: Jerry Eisdorfer of Eisdorfer, Eisdorfer & Eisdorfer, LLC in Elizabeth, NJ. Attorney for defendant taxi driver/taxi company: Todd A. Rossman of Rossman Law Firm, LLC in Brooklyn, NY. Attorney for defendant driver of plaintiff's vehicle: Micheal P. Kemezis of Messineo, Messineo & Messineo, LLC in Ramsey, NJ.

PERSONAL NEGLIGENCE

DEFENDANT'S VERDICT

Personal negligence – Negligent maintenance and parking – Plaintiff leases property to run vehicle repair business – Plaintiff contends defendant parked defective truck and truck caught fire, damaging plaintiff's property – Defendant denies causing fire – Non-binding arbitration assigns 0% liability to defendant with damages of $28,070.

Burlington County, NJ

In this negligence case, the plaintiffs, a motor vehicle repair business, asserted that the defendant driver negligently parked a vehicle next to the plaintiff's property whereupon the vehicle ignited and burned, causing significant damage and losses to the plaintiffs' business and property. The defendant denied liability, arguing that the truck was parked in an appropriate area and that the defendant did not know, nor could have known, that the vehicle would ignite.

On August 17, 2017, the defendant negligently parked a truck that was not in proper working condition in an area where the plaintiffs were entitled to keep their vehicles. The defendants were entitled to park in a different area. The negligently parked truck ignited several minutes after the driver parked it, causing significant damage to the plaintiffs' personal property.

As a result of the fire, the plaintiff sustained loss of personal property and loss of a security deposit on the property. The plaintiff claimed that the damage to his property amounted to $28,410 plus the security deposit of $2,400. The defendant pointed to the fact that neither the plaintiffs, nor the defendant testified that the driver was advised not to park the truck in the location where it was parked. The defendant did not cause the fire, nor were they present at the time of the fire. The defendant towed the vehicle to the lot, parked, and left it, as was customary practice. The fire erupted some time later and the defendant refuted that they were responsible for the fire or resulting damages.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 100% liability to the defendant with damages of $28,070. The arbitration was not confirmed and the matter proceeded to trial.

By a vote of 7-1, the jury found negligence and returned a verdict in favor of the defendant.

REFERENCE

Bordentown Truck and Auto, et al. vs. Seven Hill Trucking, et al. Docket no. L-002078-18; Judge Aimee R. Belgard, 02-27-20.

Attorney for plaintiff: Mark J. Molz, Esq. in Hainesport, NJ. Attorney for defendant: Donna E. Geoghan of Cooper Maren Nitsberg Voss & DeCoursey in Iselin, NJ.

PREMISES LIABILITY

Fall Down

$525,000 RECOVERY

Premises liability – Fall down – Plaintiff health care aide pushing patient's wheelchair on sidewalk outside defendant's building when wheelchair wheel gets stuck in defect in pavement causing plaintiff to fall to ground – Right ankle fracture with dislocation – Open reduction with internal fixation; repair of syndesmotic ligament; removal of hardware; removal of right ankle deep implant and right ankle medial malleolar nonunion resection with removal of hardware – Permanent scarring and limited range of motion.

Essex County, NJ

In this premises liability case, the plaintiff, a home health aide, asserted that the defendant property owner, a church and its affiliated charity organization, negligently maintained it's property such that there was a defect in a walkway in front of the building that cause the plaintiff to fall and suffer significant, permanent injury. The defendant initially denied liability but ultimately settled the matter with the plaintiff.

On March 28, 2016, the plaintiff was pushing a patient in a wheelchair on a walkway on the defendant's premises at 2201 Bergenline Avenue in Union City. The plaintiff asserted that the sidewalk was defective and, as a result, the wheel of the wheelchair dropped into a hole and the wheelchair tipped over, knocking the plaintiff and the patient to the ground.

The plaintiff argued that the defendant violated various provisions of municipal code, property maintenance codes, and the Americans with Disabilities Act by failing to maintain sidewalk abutting commercial property in a safe condition free from hazardous conditions such as raised sidewalk concrete slabs and overall disrepair. The plaintiff alleged that the force of the fall resulted in permanent injuries.

As a result of the fall, the plaintiff sustained a right ankle fracture with dislocation. The plaintiff underwent 4 surgeries including open reduction with internal fixation; repair of syndesmotic ligament; removal of hardware; removal of right ankle deep implant; and right ankle medial malleolar nonunion resection with removal of hardware. The plaintiff claimed permanent scarring; loss of mobility and function; prevention from engaging in her normal activities and pursuits; and loss of wages.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 85% liability to the defendant and 15% to the plaintiff with gross damages of $600,000 reduced to $510,000 for plaintiff's comparative negligence. Following arbitration and prior to trial, the parties settled for $525,000.

REFERENCE

Narvaez vs. Archdiocese of Newark, et al. Docket no. L-007059-17; Judge Thomas M. Moore.

Attorney for plaintiff: Michael A. Gallardo of Ginarte, Gallardo, Gonzalez, Winograd, LLP in Newark, NJ. Attorney for defendant Catholic Charities of the Archdiocese of Newark: Stephen R. Danek of Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. in Roseland, NJ.

DEFENDANT'S ARBITRATION CONFIRMATION

Premises liability – Fall down – Plaintiff claims she fell on liquid on floor of bakery section of defendant supermarket – Right hip injury; leg and buttocks injuries; chronic pain syndrome; herniated lumbar disc; bursitis; lumbar radiculopathy and myofascial pain syndrome – Defendant denies any substance on floor and presents video evidence indicating plaintiff fell due to her own carelessness and then continued shopping for more than 20 minutes.

Camden County, NJ

In this premises liability case, the plaintiff asserted that the defendant supermarket allowed a foreign substance to exist on the floor of its premises, creating a hazard for customers, and that the plaintiff fell due to the defendant's negligence and failure to warn. Consequently, she claimed that she sustained serious injuries. The defendant denied that there was any substance on the floor and that the plaintiff simply fell because she was not taking care.

On September 18, 2015, the plaintiff was a patron at the defendant supermarket, located at 100 N. Blackhorse Pike in Audubon, where she was shopping with her daughter. The plaintiff contended that she slipped and fell on liquid on the floor near the cake display case in the bakery department of the store. As a result of the fall, the plaintiff sustained right hip injury; leg and buttocks injuries; chronic pain syndrome; herniated lumbar disc; bursitis; lumbar radiculopathy and myofascial pain syndrome.

The plaintiff contended that the defendant negligently allowed a hazardous condition to exist in the store presenting a reasonable risk of injury to patrons of the store and failed to warn customers of the hazard. The plaintiff alleged that the force of the fall resulted in permanent injuries. The defendant pointed to the fact that the plaintiff did not report the alleged incident to any medical provider and failed to seek any medical treatment for over 6 months after the incident, despite numerous visits to medical providers for unrelated ailments.

The defendant pointed to store surveillance video showing the plaintiff standing and moving around without incident at the spot where she fell, as well as the plaintiff's daughter and another customer also standing and moving around without incident in the exact spot where the plaintiff fell. The video shows the plaintiff looking at the floor and her cell phone as she is walking in the area where she fell. The plaintiff testified that she saw the liquid on the floor before she fell. Further, she got up and continued to shop for at least 20 minutes after she fell. The defendant had no knowledge of the alleged liquid on the floor and no knowledge of any alleged dangerous condition.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 0% liability to the defendant and 100% to the plaintiff with no damages. The defendant made a motion to confirm the arbitration order and the motion was granted.

REFERENCE

Robertson vs. ACME Markets, Inc. Docket no. L-000691-17; Judge Morris G. Smith.

Attorney for plaintiff: Bruce M. Resnick, Esq. in Cherry Hill, NJ. Attorneys for defendant: Tracey McDevitt Hagan, Jennifer Axelrod Kallet and Ryan A. Notarangelo of Reilly, McDevitt & Henrich, P.C. in Cherry Hill, NJ.

Falling Object

$17,500 RECOVERY

Premises liability – Falling object – Hazardous premises – 13-month-old plaintiff cut by falling shelving and trips on pieces of shelving hardware on floor of defendant store – Facial laceration – Suturing and bandaging – Scarring.

Essex County, NJ

In this premises liability case, the plaintiff, a 13-month-old infant, asserted that the defendant retail store negligently allowed a dangerous condition to exist in its store and that the infant plaintiff fell on the hazard and incurred significant, permanent injury. The defendant denied liability and made a third-party complaint against the defendant mother of the plaintiff. The defendant/counter-complainant asserted that the infant plaintiff, on the day in question, was under the supervision, care and custody of his mother and that the third-party defendant mother negligently supervised her son such that it caused her son to trip and fall.

On July 27, 2016, the minor plaintiff was a business invitee on the premises owned and maintained by the defendant, located at Livingston Shopping Center on Mt. Pleasant Avenue in Livingston. The plaintiff was caused to fall on a hazardous condition which existed on the premises due to the negligence of the defendant. The plaintiff maintained that there were disassembled shelves on the shelving and floor in the aisle of the store. The plaintiff claimed that pieces of the shelving fell from the shelves and were strewn across the floor. Some pieces of shelving fell on the plaintiff and the infant plaintiff could not traverse the aisle without tripping on the hazard. As a result of the

fall, the plaintiff sustained a significant laceration to the face requiring suturing and other treatment. The infant plaintiff has a permanent facial scar as a result.

The plaintiff maintained that the defendant violated its duty and obligation to keep the premises property maintained and to not allow hazardous or dangerous conditions to exist on the premises. The plaintiff alleged that the incident resulted in permanent injuries. The plaintiff's mother asked for assistance in the store but claims she did not receive any help and drove her son to the hospital herself while her sister stayed at the store to complete an incident report. When the plaintiff mother returned to the store after taking her son to the hospital, she said the shelving and blood from her son's injury had been cleaned up and she could not take pictures of the condition as it had existed.

The parties settled the matter prior to trial in the amount of $17,500 broken down as follows: $5,226 in attorney fees and costs and $12,274 in net damages to the minor plaintiff.

REFERENCE

Rosario vs. Buy Buy Baby. Docket no. L-005406-18; Judge Thomas R. Vena.

Attorney for plaintiff: William J. Stopper of Stopper Lopez, LLC in Cherry Hill, NJ. Attorney for defendant: Brian J. Levine of Law Office of Brian J. Levine in Somerville, NJ.

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

Supplemental Verdict Digest

MEDICAL MALPRACTICE

$97,400,000 – MEDICAL MALPRACTICE – OB/GYN NEGLIGENCE – DEFENDANT DOCTOR MISMANAGES PLAINTIFF MOTHER'S LABOR AND DELIVERY AND FRACTURES FETUS'S SKULL DURING DELIVERY CAUSING PERMANENT INJURIES – INCORRECTLY USING FORCEPS AND VACUUM EXTRACTOR DURING DELIVERY – CEREBRAL PALSY – LIFELONG 24-HOUR CARE REQUIRED.

Johnson County, IA

The plaintiffs in this medical malpractice action maintained that the defendants provided negligent care during the labor and delivery of their third child causing the child to suffer a severe skull fracture resulting in cerebral palsy requiring round-the-clock care for the child for the rest of his life. The defendants generally denied all allegations of negligence and argued that the plaintiffs were provided care in accordance with all medical standards.

In August of 2018, the female plaintiff mother was admitted to the defendant hospital to deliver her third child. During the labor the fetal monitor showed signs of distress including prolonged decelerations. The defendants attempted interventions however the fetal distress worsened. Medication was administered to slow the plaintiff's labor; however, the contractions became stronger and the baby's heart rate slowed significantly. A short while later, the defendant attempted to deliver the baby using forceps and a vacuum extractor. During the delivery, the defendant fractured the infant's skull resulting in permanent injury.

The plaintiffs maintained that the defendant docter was negligent in failing to properly apply forceps, negligently using vacuum extraction after a failed forceps attempt, and failing to perform a proper and timely caesarean section for a fetus in distress. The plaintiffs asserted that the defendant doctor's group and hospital were vicariously liable for the actions of the defendant ob/gyn. The jury found in favor of the plaintiffs and awarded the plaintiffs $97,400,000 to be split evenly between the doctor's office and the hospital.

REFERENCE

Kathleen and Andrew Kromphardt and minor S.K. vs. Mercy Hospital, Dr. Jill Goodman and Ob-Gyn Associates. Case no. LACV081421; Judge Kevin McKeever, 03-22-22.

Attorney for plaintiff: Geoffrey Fieger of Fieger Law in Southfield, MI. Attorney for plaintiff: Matthew Patterson of Beam Legal Team, LLC in Chicago, IL. Attorney for plaintiff: Frederick W. James of The James Law Firm, P.C. in Des Moines, IA. Attorney for defendant: Jennifer E. Rinden of Shuttleworth & Ingersoll, P.L.C. in Cedar Rapids, IA. Attorney for defendant: Carolyn Wallace of Phelan Tucker Law, LLP in Iowa City, IA.

$42,400,000 VERDICT – MEDICAL MALPRACTICE – HOSPITAL NEGLIGENCE – WRONGFUL DEATH – HYPOXIA AND DEATH RESULTING FROM WITHDRAWAL FROM BACLOFEN WHEN PUMP STOPPED.

Cook County, IL

In this medical malpractice matter, the plaintiff alleged that the defendant hospital was negligent in failing to properly care for and treat the decedent in a timely manner and due to their negligence he suffered a hypoxic brain injury from Baclofen withdrawal which resulted in his untimely death. The defendant denied the allegations and disputed that there was any deviation from acceptable standards of care.

The plaintiff brought suit against the defendant hospital alleging negligence and maintaining that it was negligent in failing to timely replace the decedent's pump and restore his medication which caused the decedent's untimely and tragic death. The plaintiff also alleged that the nursing staff was negligent in

failing to keep the physicians aware of the decedent's deteriorating condition and withdrawal symptoms.

At the conclusion of the evidence, the jury deliberated for only 3 hours and returned its verdict in favor of the plaintiff and against the defendant. The jury awarded the total sum of $42,400,000 in damages.

REFERENCE

Plaintiff's hospitalist expert: Charles Pietrafesa, M.D. from Los Angeles, CA. Plaintiff's neurology expert: Alexander E. Merkler, M.D. from New York, NY. Plaintiff's nursing expert: Barbara Levin, BSN, RN from Hingham, MA. Defendant's hospitalist expert: John Hyde, Ph.D. from Forest, MS. Defendant's nursing expert: Laura Baratta, RN from Elmwood Park, IL.

Estate of Scott Wilcox vs. Advocate Condell Medical Center. Judge Loran E. Propes, 08-19-22.

Attorneys for plaintiff: Thomas A. Demetrio, Michael D. Ditore and David R. Barry, Jr. of Corboy & Demetrio in Chicago, IL. Attorneys for defendant: Thomas R. Hill, Timothy Dobry and Lauren Scalzo of Smith Blake Hill, LLC in Chicago, IL.

$18,000,000 VERDICT – MEDICAL MALPRACTICE – NURSE PRACTITIONER NEGLIGENCE – DEFENDANT PRACTITIONER FAILS TO INVESTIGATE PLAINTIFF'S RIGHT BREAST LUMP RESULTING IN 9-MONTH DELAY IN DIAGNOSIS OF BREAST CANCER – REDUCED LIFE EXPECTANCY.

Chester County, PA

The plaintiff in this medical malpractice action maintained that she presented to the defendant nurse practitioner with a lump in her right breast and was dismissed by the practitioner and told the lump was nothing to worry about as she was too young to worry about breast cancer. 9 months later the plaintiff was diagnosed with breast cancer. The defendants generally denied all allegations contained in the plaintiff's complaint.

diagnosed with an aggressive form of breast cancer.

The plaintiff maintained that the defendant nurse practitioner was negligent in failing to perform proper diagnostic tests, failing to perform an ultrasound specifically, failing to refer the plaintiff to a breast specialist and failing to timely diagnose and treat the plaintiff's breast cancer. The plaintiff claimed that she has lost a significant amount in terms of life expectancy.

The jury found for the plaintiff and awarded the plaintiff $18,000,000 in damages.

REFERENCE

Kerri Downes vs. Axia Women's Health and Main Line Ob/Gyn Associates. Judge Edward Griffith, 07-22-22.

Attorney for plaintiff: Matt Casey of Ross, Feller & Casey in Philadelphia, PA.

$2,716,600 VERDICT – MEDICAL MALPRACTICE – PLASTIC SURGERY – DEFENDANT PLASTIC SURGEON NEGLIGENTLY LACERATES MEDIAN NERVE DURING ENDOSCOPIC CARPAL TUNNEL RELEASE SURGERY – NEUROMA – SEVERE PAIN AND DIFFICULTIES WITH EVERYDAY ACTIVITIES – CONSTANT BURNING PAIN AND DIFFICULTY IN ACTIVITIES OF DAILY LIFE – INABILITY TO WORK.

Richmond County, NY

In this medical malpractice action, the plaintiff, a 62-year-old optician, who was undergoing an endoscopic carpal tunnel release surgery, contended that the defendant plastic surgeon negligently lacerated the median nerve during the surgery and negligently failed to realize such an injury occurred or follow up after the injury. As a result, the plaintiff sustained serious injury including RSD. The defendant denied that he lacerated the nerve. The defendant contended that it was likely that the plaintiff suffered RSD as the result of the surgery, but not due to any negligence.

The plaintiff maintained that despite some 4 subsequent surgeries by the subsequent treating surgeons at the Hospital for Special Surgery in Manhattan, including the first attempt 6-7 months after the defendant's surgery, he will permanently experience particularly severe pain and loss of use of the dominant hand.

The jury found for the plaintiff and awarded $2,716,600, including $106,600 for past medical bills, $360,000 for past lost earnings, $600,000 for past pain and suffering, and $1,650,000 for future pain and suffering.

REFERENCE

Plaintiff's orthopedic hand surgeon expert: Mark R. DeHaan, M.D. from Grand Rapids, MI.

Weiss vs. Lacqua. Index no. 150833/18; Judge Orlando Marrazzo, Jr., 06-29-22.

Attorney for plaintiff: Jack Tracy of The Law Firm of Tracy & Stilwell, PC in Staten Island, NY.

$1,000,000 (POLICY LIMIT) RECOVERY – MEDICAL MALPRACTICE – CARDIOLOGY – FAILURE OF DEFENDANT CARDIOLOGIST TO ORDER ANGIOGRAM FOLLOWING POSITIVE STRESS TEST – DEFENDANT REASSURES DECEDENT CHEST PAIN NOT CARDIAC IN NATURE – DECEDENT DOESN'T GO TO HOSPITAL – FATAL INFARCT.

Ocean County, NJ

In this action for medical malpractice, the plaintiff contended that the defendant cardiologist negligently failed to consider ischemia as a risk factor for the 40-year-old decedent's chest pain. The plaintiff further contended that the defendant negligently advised that a second test conducted approximately one week later, a stress echocardiogram, was not diagnostic, negligently failed to take the patient's blood pressure and negligently failed to order an angiogram. The plaintiff also asserted that the defendant compounded the problem by inaccurately reassuring the decedent that he was not suffering cardiac difficulties. The plaintiff claimed that 4 days later as he was visiting his mother in Florida, he developed chest pain, told a friend who suggested he visit a hospital that he had been cleared from a cardiac standpoint and suffered a fatal heart attack shortly thereafter. The defendant took the position that it was reasonable to rule out cardiac causes after the second test was read as negative.

The decedent left a wife and 4 children, ages 18, 17, 15 and 7 at the time of the death. The decedent had recently completed Rabbinical school and was interning at the time of his death.

The defendant had $1,000,000 in coverage. The case settled prior to trial for the policy.

REFERENCE

Cweiber vs. Kadosh. Docket no. OCN-L-1837-19, 06-22-22.

Attorneys for plaintiff: Matthew R. Mendelsohn and Cory J. Rothbort of Mazie Slater Katz & Freeman,LLC in Roseland, NJ.

MOTOR VEHICLE NEGLIGENCE

$2,900,000 RECOVERY – MOTOR VEHICLE NEGLIGENCE – TRUCK/AUTO COLLISION – PLAINTIFF DRIVER STRUCK IN REAR BY BOX TRUCK ON NJ TPK – LUMBAR AND CERVICAL HERNIATIONS REQUIRING FUSION SURGERIES – KNEE AND DOMINANT ROTATOR CUFF TEARS REQUIRING ARTHROSCOPIC SURGERY.

Middlesex County, NJ

This motor vehicle negligence case involved a 58-year-old plaintiff trucker who was operating his personal vehicle when he was struck in the rear by the defendant operator of a box truck as he was slowing for traffic on the NJ Turnpike. The plaintiff contended that he suffered lumbar and cervical herniations that required fusion surgeries as well as a tear of the dominant rotator cuff that prompted arthroscopic surgery. Finally, the plaintiff asserted that he sustained a knee tear that required arthroscopic surgery.

The plaintiff maintained that day-to-day activities and chores are painful and difficult. The plaintiff has a wife and 2 teenage children. The plaintiff contended that he continued to work after the accident out of economic necessity, but after a number of years, could no longer do so.

The plaintiff made a past and future lost wage claim of approximately $300,000. The plaintiff had exhausted his PIP medical payments. The plaintiff further asserted that he will require extensive therapies; home care, medication and physician visits and the plaintiff's life care plan approximated $1,500,000. The defendant contended that the plaintiff made a better recovery than claimed and that his economic claims should be rejected.

The case settled prior to trial for $2,900,000.

REFERENCE

Plaintiff's economist expert: Thomas Rooney from Dallas, TX. Plaintiff's life care planning expert: Linda Lajterman from Stockholm, NJ. Plaintiff's orthopedic surgeon (cervical & lumbar) expert: David Adin, M.D. from Woodbridge, NJ. Plaintiff's orthopedic surgeon (shoulder & knee) expert: David M. Deramo, M.D. from Englewood, NJ.

Villada vs. Cabrera-Reyes, et al., 06-27-22.

Attorney for plaintiff: Gary M. Price of Gary M. Price, LLC in South Plainfield, NJ. Attorney for plaintiff: Raymond A. Gill, Jr. of Gill & Chamas.

$1,762,161 VERDICT – MOTOR VEHICLE NEGLIGENCE – BUS NEGLIGENCE – AUTO/ PEDESTRIAN COLLISION – PLAINTIFF FALLS FROM BIKE INTO ROADWAY STRUCK BY CITY BUS – OPEN WOUND TO LEFT KNEE – OPEN WOUND TO LEFT ANKLE – INTERNAL DERANGEMENT OF LEFT LEG – LEFT FOOT FRACTURES.

New York County, NY

In this bus negligence action, the plaintiff was traveling on a bicycle when he was caused to fall from the bicycle and was struck afterwards by a city bus, sustaining serious injuries including open wounds to the left knee, leg and ankle, internal derangement of the left leg, fractures to the left foot and metatarsals, and left ankle and knee sprains. The defendants generally denied negligence.

On October 13, 2013, the plaintiff's bicycle struck an open car door, causing the plaintiff to fall from the bicycle and into the roadway. After the plaintiff fell into the roadway, his left leg was struck and run over by an approaching city bus.

The jury found in favor of the plaintiff and awarded $1,762,161.40.

REFERENCE

Jesus Moctezuma vs. New York City Transit Authority, Manhattan and Bronx Surface Transit Authority, Metropolitan Transportation Authority, Nyema Rivera, Joel Genao, Stephanie Melo. Index no. 152659/2014; Judge Frank P. Nervo.

Attorney for plaintiff: George Silva of Bisogno & Meyerson, LLP in Brooklyn, NY. Attorney for defendant: Thomas Joseph Reape of Armienti, DeBellis, Guglielmo & Rhoden, LLP in Mineola, NY.

$900,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – REAR END COLLISION – CERVICAL INJURIES REQUIRING CERVICAL SPINE SURGERY – RIGHT SHOULDER AND LUMBAR SPINE INJURIES – UNDERINSURED MOTORIST CLAIM.

New Britain County, CT

In this matter, the plaintiff driver alleged that the defendant driver was negligent in causing a collision that resulted in injuries to the plaintiff which required surgery. The defendant driver denied the allegations and maintained that the injuries sustained by the plaintiff were a result of a prior motor vehicle collision, and therefore, were not causally related.

On the day of the incident, the plaintiff was operating her vehicle and was struck from behind by the defendant's vehicle. The plaintiff sustained injuries to her cervical spine which required surgery, and right shoulder, and lumbar spine injuries. The plaintiff underwent cervical surgery for her neck injuries.

At the conclusion of the trial, the jury deliberated and returned its verdict in favor of the plaintiff and against the defendant. The jury awarded a total of $900,000 in damages consisting of $76,913 in past economic damages; $100,000 in future economic damages; $123,087 in past non-economic damages ad $600,000 in future non-economic damages. The defendant filed a motion for remittur which was granted by the court.

REFERENCE

Plaintiff's orthopedic surgery expert: Stephen Lange, M.D. from Hartford, CT. Defendant's orthopedic surgery expert: David Brown, M.D. from Bridgeport, CT.

Joy Dominguez vs. Stephen M. Arel, et al. Case no. CV18-6043484-S; Judge Kimberly Knox, 07-14-22.

Attorney for plaintiff: Blake A. Driscolli of Trantolo & Trantolo, LLC in Hartford, CT. Attorney for defendant: Grayson Colt Homes of Bartlett & Grippe, LLC in Cheshire, CT.

PREMISES LIABILITY

$19,000,000 GROSS VERDICT – PREMISES LIABILITY – HAZARDOUS PREMISES – PLAINTIFF SUSTAINS LIFE-ALTERING INJURIES WHEN STRIKING RAFT IN SWIMMING POOL ON DEFENDANTS RESIDENTIAL PROPERTY– NEGLIGENTLY PROVIDING RAFT NOT INTENDED FOR POOL USE – QUADRIPLEGIA.

Westmoreland County, PA

This action for premises liability arose when the plaintiff sustained life-altering injuries at a holiday party at the defendants' residential property and the plaintiff jumped into the defendants' pool and struck a raft that caused him to then strike his head on the bottom of the pool. The defendants denied negligence and argued that the plaintiff's actions caused the incident.

On July 6, 2013, the 21-year-old male plaintiff was an invited guest of the defendants for a holiday party. The plaintiff dove off the diving board at the defendants' swimming pool and collided with a 5-foot raft

the defendants had placed in the pool. This caused the plaintiff to twist and bang his head on the bottom of the pool sustaining life-altering injuries.

The plaintiff maintained that the defendants placed the 5-foot raft in the pool even though the raft carried a warning saying it was not designated for swimming pool use. The plaintiff suffered a high-level spinal cord injury resulting in his being confined to a wheelchair.

The jury found that the defendants were 70% responsible for the plaintiff's injuries and awarded damages to cover his past, current and future medical expenses as well as for pain and suffering, embarrassment, disfigurement and loss of life's pleasures. The plaintiff was awarded $19,000,000 which was reduced accordingly to $13.3 million. The defense has filed a filed a motion seeking a new trial or a judgment notwithstanding the verdict. This is believed to be the largest verdict in the county.

REFERENCE

Michael Fraser vs. Robert and Laura O'Black. Case no. 15CI03034; Judge Harry Smail, Jr., 03-14-22.

Attorney for plaintiff: Renee A. Metal of Rosen & Perry, P.C. in Pittsburgh, PA. Attorney for defendant: John J. Hare of Marshall Dennehey in Philadelphia, PA.

$3,600,000 RECOVERY – PREMISES LIABILITY – NEGLIGENT SECURITY – DECEDENT SHOT INSIDE JACKSONVILLE APARTMENT – WRONGFUL DEATH AT AGE 28.

Duval County, FL

This was a negligent security/wrongful death action brought against the owners and managers of Camelot Gardens, a Jacksonville Florida apartment complex where the plaintiff was shot and killed. The plaintiffs alleged that the shooting resulted from the defendants' negligence in failing to provide adequate security at the premises. The defendant's former employees testified that the police officers would often suggest to the defendant property management that it hire off-duty officers to patrol the premises in order to curb the violent crime plaguing the community. Those former employees also testified that the concerns and recommendations were conveyed to their superiors, but were entirely ignored.

At the time of the incident, the apartment complex was owned by the defendant Eagle Gardens of Jacksonville, LLC, and managed by co-defendant, Lohman Property MGMT.CO., LLC., which were related entities controlled by the same individual.

The case settled for a total of $3,600,000 2 weeks before the trial was set to begin.

REFERENCE

Plaintiff's security expert: John Villines from Cleveland, GA.

Estate of DeAngelo Dominique Tillie vs. Eagle Gardens of Jacksonville, LLC, et al. Case no. 2018-CA-5127; Judge Katie Dearing, 07-05-22.

Attorneys for plaintiff: Pedro Echarte and Michael Haggard of The Haggard Law Firm in Coral Gables, FL. Attorney for plaintiff: Millicent Daniels of Batts-Daniels Law in Orlando, FL.

$1,500,000 VERDICT – PREMISES LIABILITY – FAILURE TO MAINTAIN PARKING LOT AT MOTEL – PLAINTIFF LONG-TERM RESIDENT OF MOTEL TRIPS WHILE WEARING FLIP-FLOPS – FRACTURE/DISLOCATION TO NON-DOMINANT WRIST – INITIAL SURGERY INADEQUATE – ULNAR NERVE DAMAGE – CLAWING OF HAND.

Orange County, NY

In this action for premises liability, the plaintiff, in her mid 60s, a long-term guest at the defendant motel, contended that the defendant negligently failed to observe multiple cracks in its parking lot. The plaintiff contended that as a result, she tripped and fell while wearing flip-flops. The plaintiff initially suffered a fracture of her left, non-dominant wrist and a dislocation of her left, non-dominant forearm. The plaintiff was treated with surgery with hardware and was fitted with and a splint. Approximately 1-2 weeks later, the plaintiff required a second surgery with the implantation of additional hardware. The plaintiff maintained that she sustained ulnar damage and will permanently suffer a clawing of the hand. The defendant maintained that its parking lot was in reasonable condition.

The plaintiff asserted that she will permanently suffer difficulties with everyday tasks, including dressing. The plaintiff made no income claims.

The jury found the defendant 100% negligent and awarded $1,500,000, including $500,000 for past pain and suffering and $1,000,000 for future pain and suffering.

REFERENCE

Plaintiff's orthopedic surgeon expert: Harvey Seigel, M.D. from Cornwall, NY.

Reide vs. Motel Shobhana, Resorts, et al. Index no. EF010295-17, 08-04-22.

Attorneys for plaintiff: Melanie-Ann C. DeLancey and James Harris of Sobo & Sobo, LLP in Middletown, NY.

ADDITIONAL VERDICTS OF PARTICULAR INTEREST

Civil Rights

$8,030,000 VERDICT INCLUDING $30,000 IN PUNITIVE DAMAGES – CIVIL RIGHTS – POLICE LIABILITY – WRONGFUL CONVICTION – PLAINTIFF ALLEGED HE WAS WRONGFULLY CONVICTED AND IMPRISONED FOR ALMOST 16 YEARS FOR CRIME HE DID NOT COMMIT.

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

In this matter, the plaintiff alleged that the defendant city wrongfully convicted him and imprisoned him for almost 16 years for a crime he did not commit. The defendant denied the allegations and disputed liability and damages.

The plaintiff was charged and convicted of breaking into a woman's bedroom, attacking her with a wooden object and beating her. The plaintiff contended that the defendant's police officers fabricated evidence and testimony to charge and ultimately convict the plaintiff of the crime he did not commit. The plaintiff was arrested and charged with assault and battery with a dangerous weapon and armed burglary.

The plaintiff was convicted of the charges and sentenced to prison where he remained for almost 16 years. He was convicted in 2002 and in 2016, with the help of the Committee for Public Counsel Services Innocence Program, the plaintiff was able to overturn his conviction by DNA evidence from shorts found at the scene of the crime did not match the plaintiff's DNA.

At the conclusion of the 5-day trial, the jury deliberated and returned its verdict in favor of the plaintiff and against the defendant. The jury awarded the sum of $8,000,000 in compensatory damages and $30,000 in punitive damages.

REFERENCE

Natale Cosenza vs. City of Worcester. Case no. 4:18-10936-TSH; Judge Timothy S. Hillman, 09-30-22.

Attorneys for plaintiff: Jonathan I. Loevy, Locke E. Bowman, Megan Pierce, Steven Art and Kelly Jo Popkin of Loevy & Loevy in Chicago, IL. Attorney for plaintiff: Chauncy B. Wood of Wood & Nathanson, LLP in Boston, MA. Attorneys for defendant: Kevin M. Gould, David M. Moore and Wendy L. Quinn of Gould & Gould in Wellesley, MA.

Insurance Obligation

$7,877,492 VERDICT – INSURANCE OBLIGATION – UNDERINSURED MOTORIST BENEFITS – PLAINTIFF SUFFERS NECK AND BACK INJURIES WHEN STRUCK IN REAR BY TORTFEASOR – CERVICAL AND LUMBAR DISC HERNIATIONS – FUTURE SURGERY REQUIRED.

Seminole County, FL

The plaintiff in this insurance obligation action maintained that he suffered serious and permanent injuries to his neck and back that have dramatically impacted his life when his vehicle was struck in the rear by the defendant driver. The plaintiff sued the defendant driver and the car owner and his insurance company who did not pay the plaintiff's requested underinsured motorist benefits. The defendant denied all allegations of negligence and injury and maintained that the plaintiff exaggerated his injuries.

The plaintiff did not report being injured at the scene of the accident but presented to a doctor the following day with complaints of neck and back pain. The plaintiff treated conservatively but eventually required diagnostic testing and steroid injections. He was diagnosed with disc herniations at C6-7, L4-5 and L5-S1. The plaintiff reports daily limitations and pain as a result of the injuries. The plaintiff will require future lumbar surgery.

The jury awarded the plaintiff past medicals of $52,661.35 and past pain and suffering of $621,886.50. The jury awarded the plaintiff future medical expenses of $1,008,571.87 and future pain and suffering of $6,194,392.50.

REFERENCE

James O. Feaster vs. Julia Gray Lyon and Michael Gray Lyon and Progressive Select Insurance. Case no. 2018CA002377; Judge Charles Holcom, 05-11-22.

Attorney for plaintiff: Eric Block of Morgan & Morgan in Orlando, FL. Attorney for defendant: Thomas Unice, Jr. of Unice Salzman Jensen, P.A. in Trinity, FL.

Utility Company Negligence

$15,466,597 VERDICT – UTILITY COMPANY NEGLIGENCE – PLAINTIFF HIRED BY DEFENDANT ELECTRICAL COMPANY TO INSTALL "STEP-BOLTS" TO FACILITATE CLIMBING OF UTILITY POLE FOR WHICH IT HAD EASEMENT – 40 FT FALL – MULTIPLE FRACTURES – INABILITY TO CONTINUE PHYSICAL WORK.

Harris County, TX

This action involved a plaintiff in his late 20s, who worked for a contractor who had been hired by the defendant energy company to install a number of "step-bolts" that would facilitate the climbing of the pole. The electrical company had a utility easement where the pole at issue was located, which was not on its property. The plaintiff maintained that when one of the existing step-bolts dislodged as it was attached to his safety vest, he fell approximately 40 feet, suffering fractures to both ankles, a burst fracture from T-11 -L-3, fractures of the left distal tibia and talus; closed fractures of the right talus and calcaneus and several fractured ribs. The defendant named the employer as a responsible third party, contending that it had installed the wrong step bolts.

The plaintiff maintained that he will permanently precluded from engaging in physical work and suffered a severe diminution of earning capacity.

The jury found the defendant 51% negligent, the employer 49% negligent and awarded $15,466,597. The award was allocated as follows: $ 391,597 for past medical bills, $2,100,000 for future medical bills, $750,000 for past physical impairment, $3,500,000 for future physical impairment, $250,000 for past disfigurement, $1,500,000 for future disfigurement; $ 1,500,000 for past physical pain and mental anguish, $ 3,500,000 future physical pain and mental anguish, $ 175,000 for past loss of earning capacity and $1,800,000 for future diminution of earning capacity.

REFERENCE

Plaintiff's economics expert: Robert J. Boudousquie, CPA from Houston, TX. Plaintiff's engineering expert: George R. Ross, Ph.D., P.E. from Houston, TX. Plaintiff's life care planning expert: David J. Altman, M.D. from San Antonio, TX. Plaintiff's orthopedic surgeon expert: Michael Greaser, M.D. from Houston, TX. Plaintiff's orthopedic surgeon expert: Douglas George Smith, M.D. from Seattle, WA. Plaintiff's safety expert: Morris Mach from Austin, TX. Plaintiff's vocational rehabilitation expert: R. Brad Coffey, M.Ed. from San Antonio, TX.

Wilder vs. Centerpoint Energy, et al. Case no. 19-31428; Judge Cory Sepolio.

Attorneys for plaintiff: Matthew Matheny and Bryan Blevins of Provost Umphrey Law Firm, L.L.P. in Beaumont, TX.