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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

$37,958,096 VERDICT – MEDICAL MALPRACTICE – OB/GYN/NURSING STAFF NEGLIGENCE – DEFENDANTS ADMINISTER TOO MUCH PITOCIN TO PLAINTIFF MOTHER CAUSING FETAL DECELERATIONS WHICH THEY FAILED TO PROPERLY TRACE RESULTING IN HYPOXIC INJURY TO FETUS – LEFT-SIDED HEMIPLEGIC CEREBRAL PALSY ALONG WITH COGNITIVE DEFICITS.

Atlantic County, NJ

The plaintiffs in this birth injury/medical malpractice action maintained the defendants failed to properly appreciate the plaintiff's fetal monitor which showed decelerations following administration of Pitocin ordered by the defendant doctor, causing the infant plaintiff to sustain serious, permanent injuries. The defendants denied all liability and maintained that all labor and delivery standards were followed, and the plaintiff's brain injury was genetic and not related to the birth.

On June 10, 2008, the female mother was a patient at defendant Shore Memorial Hospital, located in Somers Point, New Jersey, for labor and delivery. The plaintiff's labor was augmented using Pitocin, a synthetic medication that is known to increase the frequency, duration and intensity of uterine contractions. The plaintiffs claimed the on-call obstetrician and the 2 nurses monitoring the mother's labor and delivery did not properly manage the Pitocin use, causing excessive uterine activity and excessive pressure on the fetal brain causing loss of blood flow to the fetus's brain.

The plaintiffs claimed that the fetal decelerations on the fetal monitor were not properly appreciated by the defendants. The plaintiffs maintained that the defendants failed to provide care in accordance with medical standards by failing to properly monitor the plaintiff's labor, failing to respond appropriately to clinical, diagnostic and laboratory signs and symptoms, failing to properly monitor the effects of Pitocin upon the mother and the fetus and failing to make appropriate changes to the administration of Pitocin. Consequently, the minor suffered ischemia, hypoxia, static encephalopathy and left-sided hemiplegic cerebral palsy affecting the minor's face, left upper extremity and left lower extremity along with cognitive deficits. The defendants denied that there were any deviations from doctor or nursing standards of care and argued that no actions or inactions by the defendants caused or contributed to any of the subject injuries. The defense contends that the plaintiff's brain injury was genetic and sustained months before labor and delivery.

The jury found in favor of the plaintiffs. The jury found the defendant nurses to be 80% liable and the defendant doctor to be 20% liable. The jury awarded the plaintiffs $3,455,923 for future lost earnings, $5,481,023 for future life care expenses; and $29,021,150 for disability, impairment, loss of enjoyment of life and pain & suffering for a total award of $37,958,096. Post-trial motions are pending on the docket.

REFERENCE

Plaintiff's economist expert: Kristin Kucsma, M.A. from Livingston, NJ. Plaintiff's labor and delivery nursing expert: Dr. Michelle Linda Moise Murray from Albuquerque, NM. Plaintiff's maternal fetal medicine expert: Barry Schifrin, M.D. from Northridge, CA. Plaintiff's pediatric neurology expert: Michael Katz, M.D. from Hackensack, NJ. Plaintiff's physiatry expert: Joseph Carfi, M.D. from Lake Success, NJ.

Amareda Markert as png of Michael Markert and Michael Markert in his own right vs. Shore Memorial Hospital, Susan Venesz, R.N., Connie Cox, R.N., Carol Daley, R.N., Asuncion Ciceron, M.D. Docket no. ATL L002298-15; Judge Danielle J. Walcoff, 08-06-24.

Attorneys for plaintiff: Thomas J. Vesper and Dara A. Quattrone of Westmoreland, Vesper & Quattrone in West Atlantic City, NJ. Attorney for plaintiff: James Wilkens (Admitted Pro Hac Vice) in Rockville Center, NY. Attorney for defendant: Timothy M. Crammer of Dughi, Hewit & Domalewski in Cranford, NJ.

COMMENTARY

The plaintiff presented expert testimony from a board-certified expert in obstetrics and gynecology. He opined that in this case, excessive uterine activity in the form of contractions that lasted too long and were too frequent caused a lack of blood flow to the infant's brain. This expert opined that it was the administration of too much Pitocin that caused the excessive uterine activity. In fact, according to the plaintiffs, the manufacturer's product warning cautioned medical professionals, such as ob/gyn doctors and labor and delivery nurses of the dangers of increasing the administration of this drug. This expert included in his testimony a rebuttal of the defendant's medical ex-

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pert's opinion that the brain injury occurred during gestation and not at birth. According to the plaintiff's expert, the fetal heart tracings would not have been as reassuring as they were, had a brain insult occurred during gestation.

The plaintiffs also presented expert reports from life-care planners, psychiatrists and physiatrists regarding the impact of the minor's condition on his quality of life, future employment and lifetime costs for care. These experts all opined that the plaintiff's physical as well as emotional limitations, in knowing he is quite different from his peers, cause the plaintiff significant issues that will prevent him from living independently, full time employment and will require extensive medical interventions for the rest of his life which at trail was estimated to be another 60-65 years.

$19,100,000 VERDICT – STATE POLICE NEGLIGENCE – DEFENDANT RESPONDING TROOPER FAILS TO APPRECIATE PLAINTIFF'S SYMPTOMS OF STROKE AND INSTEAD ARRESTS PLAINTIFF FOR SUSPICION OF DRUG INTOXICATION CAUSING SEVERAL HOURS OF DELAY IN TREATING STROKE – FAILURE TO OBTAIN EMERGENCY MEDICAL ASSISTANCE FOR STROKE VICTIM – ISCHEMIC STROKE – PERMANENT COGNITIVE AND PHYSICAL DISABILITY.

Essex County, NJ

This case arose when the plaintiff began suffering from symptoms of a stroke while driving herself to work one morning. She was able to pull to the side of the road. New Jersey State police were called to the scene of the vehicle on the side of the road and the defendant trooper arrived to investigate. During the investigation, the defendant failed to appreciate the plaintiff was suffering from signs and symptoms of a stroke and instead placed the plaintiff under arrest for suspected intoxication. The plaintiff was taken to the state trooper barracks where another trooper recognized the plaintiff's medical distress and EMS was summoned. The plaintiff maintained the defendant was negligent. The defense argued that the trooper was not a medical professional and acted appropriately given the situation.

On October 17, 2017, at approximately 8:00 a.m., the 48-year-old female plaintiff was on her way to work at BASF in Florham Park, where she worked as a senior marketing executive. She drove from her apartment in Jersey City along the NJ Turnpike extension. Several minutes after passing through the toll, she was having early onset symptoms of a stroke and pulled over on Route 78 West at Milepost 56, Newark, Essex County, New Jersey. A NJ State Police officer arrived on the scene a short while later. The plaintiff was unable to respond to the officer's commands to put her vehicle in park or turn the car off using the right side of her body so the defendant trooper turned the vehicle off.

The police report indicated that the plaintiff had slurred and weak speech, was unable to write to communicate and was unable to move in response to commands. She was also noted to have facial drooping and in particular drooping eyelids and when the defendant trooper spoke with her, she had a gaze, confusion and was unable to respond to questions. She attempted to exit the vehicle and was unable to appropriately control her body/motor functions. The trooper placed the plaintiff on the hood of the police car and the plaintiff was unable to keep herself upright. The plaintiff was then placed under arrest for suspicion of being the influence of an unknown narcotic and put into the rear of the police vehicle.

Despite the signs and symptoms set forth above and other signs and symptoms, the defendant failed to call EMS and/or failed to transport the victim to a hospital and/or failed to provide required medical evaluation,

assessment, attention or treatment. Instead, the plaintiff was transported to the police station. On the way to the station the plaintiff threw up on herself. The defendant asked the plaintiff if she was having a diabetic incident to which the plaintiff was unable to respond. At the station, the plaintiff was unable to physically get out of the car and the trooper had to call for assistance to carry her out of the car. At the police station another trooper realized that the plaintiff was in need of immediate, emergency medical attention and called EMS.

The plaintiff maintained that the defendants failed to provide appropriate and emergent medical evaluation, assessment and treatment to the plaintiff as a person in their custody and/or control and failed to act in a reasonable manner to protect and preserve the plaintiff's life, health and safety. Consequently, the plaintiff suffered an ischemic stroke with significant brain dysfunction including debilitating speech deficits, cognitive deficits and motor deficits, all of which are permanent. She will not be able to return to work and will require a life-care plan for home assistance and future medical care. She will require lifelong medical care and supervision. The defendant denied violating any duty to the plaintiff and denied the trooper was negligent. They asserted the trooper acted appropriately given the symptoms the plaintiff was experiencing during the encounter. The defense claimed over 40 affirmative defenses in their answer to the plaintiff's complaint.

The jury found the defendant negligent. The jury awarded the plaintiff $5 million for pain and suffering, disability, impairment and lost enjoyment of life, $1.6 million in lost income, $6.5 million in future medical care and $6 million for emotional distress. The jury also determined that 60% of the injury was from the trooper's negligence and 40% to the chance that an injury would have occurred even with an earlier diagnosis and treatment. The plaintiff's $19.1 million award was reduced accordingly to $11.5 million.

REFERENCE

Mary Lou Rhines as guardian ad litem of Cheryl Rhines vs. State of New Jersey and Jennifer Albuja. Docket no. ESXL000580-19; Judge Keith Lynott, 01-06-25.

Attorney for plaintiff: Dennis Donnelly of The Donnelly Law Firm in Roseland, NJ. Attorney for defendant: Gurbir S. Grewal of Attorney General of New Jersey in Trenton, NJ.

COMMENTARY

The plaintiff argued that evidence from the defendant trooper's body worn camera indicates that the trooper asked the plaintiff on several occasions if she had taken any drugs or alcohol to which the plaintiff was able to respond no. The defendant then asks the plaintiff why she can't walk, and the plaintiff answered very weakly "I don't know". After the trooper puts the plaintiff in the rear of the police car, the video shows the plaintiff experiencing facial drooping on the right side. The plaintiff argued that the defendants train their troopers in FAST to remember and recognize signs and symptoms of a stroke; F=Face drooping, A=Arm weakness, S=Speech difficulty, T=Time to call 911. Despite the plaintiff's obvious signs of a stroke, the plaintiff being dressed in professional business attire with no outstanding warrants, no contraband in her pocketbook or vehicle, and no smell or suspicion of alcohol the trooper drove the plaintiff to the police barracks instead of to a hospital. In fact, the site of the traffic stop was roughly a 5-minute ride from University Hospital in Newark, which is a Level 1 trauma center and designated emergency stroke center. The plaintiff argued that had the plaintiff been taken there after the trooper arrived on the scene, the plaintiff's medical outcome would have been better. In dealing with strokes the common phrase in the medical community is "time is brain", a phrase used to emphasize the urgency of treating a stroke.

$361,600 ARBITRATION AWARD – PREMISES LIABILITY – FALL DOWN – PLAINTIFF TRIPS AND FALLS OVER POTHOLE IN PARKING LOT AT DEFENDANT CONDOMINIUM COMPLEX – FRACTURE AND DISLOCATION OF RIGHT ELBOW – COMMINUTED FRACTURE OF RIGHT RADIAL HEAD – FRACTURED CORONOID IN RIGHT ELBOW – OPEN REDUCTION AND INTERNAL FIXATION SURGERY WITH PLACEMENT OF HARDWARE – SUBSEQUENT CARPAL TUNNEL SURGERY.

Bergen County, NJ

In this premises liability action, the plaintiff tripped and fell over a pothole in the parking lot at the defendant condominium complex, causing her to become seriously injured. The defendants generally denied all allegations of negligence.

On May 26, 2020, the plaintiff was lawfully walking in the parking lot at the defendant condominium complex, located at 98 Harmon Cove Towers, in the Town of Secaucus, New Jersey. On this day, the subject parking lot was owned, operated, and maintained by the defendants. While the plaintiff was walking in the parking lot, she encountered a large pot hole in the ground. The plaintiff then tripped on the pot hole and fell.

The plaintiff maintained that the defendants were negligent in failing to fill a pot hole, failing to prevent or repair a tripping hazard, and failing to warn of a tripping hazard on the premises. Consequently, the plaintiff sustained injuries, including fracture and dislocation of the right elbow, comminuted fracture of the right radial head, and fractured coronoid of the right elbow. The plaintiff's injuries were treated with open reduction and internal fixation surgery with the placement of hardware, as well as a subsequent carpal tunnel surgery.

The arbitrator in this case found the defendants 70% liable for the accident and the plaintiff 20% liable. The arbitrator reported a net award for the plaintiff in the amount of $361,600. Following arbitration, the

plaintiff's counsel requested a trial de novo, which was scheduled to take place on September 30, 2024. However, the parties entered into a settlement conference on July 24, 2024, at which time they arrived at a settlement for an unspecified amount. A stipulation of dismissal was submitted on August 15, 2024.

REFERENCE

Jennifer Barbo vs. Harmon Cove Towers I Condo. Docket no. BERL000972-22; Judge Nicholas Ostuni, 08-15-24.

Attorney for plaintiff: Lisa A. Lehrer of Davis, Saperstein & Salomon, P.C. in Teaneck, NJ. Attorney for defendant: Michael S. Chuvin of Kinney Lisovicz Reilly & Wolff, PC in Parsippany, NJ.

$225,000 ARBITRATION AWARD – MOTOR VEHICLE NEGLIGENCE – INTERSECTION COLLISION – PLAINTIFF'S VEHICLE STRUCK BY DEFENDANT'S VEHICLE MAKING IMPROPER LEFT TURN AT INTERSECTION WHEN PLAINTIFF HAD RIGHT-OF-WAY – CERVICAL DISC HERNIATION AT C4-5 – CERVICAL DISC BULGE AT C5-6 – LUMBAR DISC HERNIATION AT L4-5 – LUMBAR DISC BULGE AT L4-5 – EPIDURAL STEROID INJECTIONS AS WELL AS LUMBAR DISCECTOMY SURGICAL PROCEDURE AT L4-5.

Ocean County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck by the defendant's vehicle, which made an improper left turn in an intersection when the plaintiff had the right-of-way. As a result, the plaintiff sustained injuries which required surgery. The defendant generally denied all allegations of negligence.

On June 20, 2019, the plaintiff's vehicle was traveling southbound on New Hampshire Avenue, at or near its intersection with Chestnut Street in Lakewood, New Jersey. At this time, the plaintiff was attempting to proceed straight through the aforementioned intersection, with the right-of-way. At the same time, the defendant's vehicle was traveling eastbound on Chestnut Street toward the same intersection, and was preparing to make a left turn onto New Hampshire Avenue. As the plaintiff was attempting to proceed through the intersection, the defendant's vehicle made an abrupt left turn in front of the plaintiff's vehicle, causing a collision.

The plaintiff maintained that the defendant was negligent in failing to yield the right-of-way, failing to properly and safely execute a left turn, and failing to wait for clearance before executing a left turn. Consequently, the plaintiff sustained injuries, including cervical disc herniation at C4-5, cervical disc bulge at C5-6, lumbar disc herniation at L4-5, and lumbar disc bulge at L4-5. The plaintiff's injuries were treated with epidural steroid injections as well as a lumbar discectomy surgical procedure at L4-5.

The arbitrator in this case fund the defendant 90% liable for the accident and the plaintiff 10% liable. The arbitrator reported an award for the plaintiff in the amount of $225,000.

Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on July 24, 2023. However, on July 7, 2023, the parties entered into a settlement for an amount not specified on the docket. On the same day, the Honorable Craig L. Wellerson ordered that the case be dismissed. A stipulation of dismissal was submitted on September 13, 2023.

REFERENCE

Cestle Santiago-Garcia vs. Kayla Dias. Docket no. L001330-21; Judge Craig L. Wellerson, 09-13-23.

Attorney for plaintiff: Jerry Eisdorfer of Eisdorfer, Eisdorfer & Eisdorfer, LLC in Elizabeth, NJ.

Verdicts By Category

MOTOR VEHICLE NEGLIGENCE

Broadside Collision

$50,000 ARBITRATION AWARD

Motor vehicle negligence – Broadside collision – Plaintiff injured after vehicle strikes side of defendant's vehicle attempting to make right turn across several lanes of traffic – Aggravation of prior cervical and lumbar spine injuries – Lumbar disc herniations – Cervical disc bulges.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff was injured after his vehicle struck the side of the defendant's vehicle, which attempted to make a right turn into a parking lot across several lanes of traffic. The defendant generally denied all allegations of negligence.

On July 16, 2020, the plaintiff's vehicle was traveling eastbound in the right lane of Route 46, in the vicinity of 530 Route 46, in Wayne, New Jersey. At the same time, the defendant's vehicle was traveling in the left most lane of Route 46, in the same vicinity. At the time of the incident, the defendant's vehicle made a sudden sharp right turn in an attempt to enter the parking lot at 530 Route 46. The defendant's vehicle cut across several lanes of traffic, directly in front of the plaintiff's vehicle. The plaintiff's vehicle, unable to stop in time, then struck the defendant's vehicle broadside.

The plaintiff maintained that the defendant was negligent in failing to remain in the correct lane of travel, failing to properly merge into the correct lane to make a turn, and failing to obey traffic conditions. Consequently, the plaintiff sustained injuries, including aggravation of prior cervical and lumbar spine injuries, including lumbar disc herniations and cervical disc bulges. The plaintiff's injuries were treated with epidural steroid injections.

The arbitrator in this case found the defendant 90% liable for the accident and the plaintiff 10% liable. The arbitrator reported a net award for the plaintiff in the amount of $57,000. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on July 22, 2024. However, the matter was settled between the parties prior to the initial trial hearing. A stipulation of dismissal was submitted on August 8, 2024.

REFERENCE

Ryan Dunkerley vs. Anna Spiewak. Docket no. ESXL002769-22; Judge L. Grace Spencer, 08-08-24.

Attorney for plaintiff: Damon A. Vespi of The Vespi Law Firm, LLC in Totowa, NJ. Attorney for defendant: Dina Younes of Law Office of Frank A. Viscomi in Scranton, PA.

Intersection Collision

$250,000 ARBITRATION AWARD

Motor vehicle negligence – Intersection collision – Plaintiff's vehicle struck broadside in intersection by defendant's vehicle which ran red light – Lumbar disc herniations – Cervical disc bulges – Left lumbosacral radiculopathy – Bilateral cervical radiculopathy.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck broadside in an intersection by the defendant's vehicle which ran a red light, causing injury to the plaintiff. The defendant generally denied all allegations of negligence.

On May 11, 2019, the plaintiff's vehicle was traveling southbound on South 12th Street in Newark, New Jersey. At this time, the plaintiff's vehicle was attempting to proceed through an intersection at South 12th Street and 14th Avenue. At the same time, the defendant's vehicle was traveling westbound on 14th Avenue, toward the same intersection. At the time of the incident, the plaintiff's vehicle was attempting to proceed straight through the subject intersection when the defendant's vehicle ran a red light and struck the plaintiff's vehicle broadside.

The plaintiff maintained that the defendant was negligent in failing to obey a red light, failing to obey traffic conditions, and failing to remain adequately attentive. Consequently, the plaintiff sustained injuries, including lumbar disc herniations, cervical disc bulges, left lumbosacral radiculopathy, and bilateral cervical radiculopathy. The plaintiff's injuries were

treated with 2 lumbar epidurals and 3 trigger point injections. The plaintiff also underwent carpal tunnel release in both hands.

The arbitrator in this case found the defendant 100% liable and reported an award for the plaintiff in the amount of $250,000. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on July 29, 2024. However, the parties entered into a settlement on the same day. A stipulation of dismissal was submitted on August 22, 2024.

REFERENCE

Duwan Vickers vs. Gareth Edwards. Docket no. ESXL003594-20; Judge Damian V. Santomauro, 08-22-24.

Attorney for plaintiff: Ethan Sheffet of Sheffet & Dvorin, P.C. in Verona, NJ. Attorney for defendant: Michael F. Benanato of Law Offices of Pamela D. Hargrove in Cranford, NJ.

$135,000 ARBITRATION AWARD

Motor vehicle negligence – Intersection collision – Plaintiff's vehicle struck by defendant's vehicle after defendant ran red light – Right shoulder SLAP tear – Cervical disc herniations at C3-4, C4-5 and C6-7 – Lumbar disc herniations at L4-5 and L5-S1 – Right elbow ligament tears.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff sustained injures as a result of being struck by the defendant's vehicle after the defendant ran a red light. The defendant generally denied all allegations of negligence.

On January 26, 2022, the plaintiff's vehicle was traveling south on Irvine Turner Blvd, at or near its intersection with Clinton Avenue, in Newark, New Jersey. At the same time, the defendant's vehicle was traveling east on Clinton Avenue, toward the same intersection. At the time of the incident, the plaintiff attempted to proceed straight through the intersection with a green light. As the plaintiff was proceeding forward, the defendant's vehicle ran the red light at Clinton Avenue and entered the intersection, striking the plaintiff's vehicle.

The plaintiff maintained that the defendant was negligent in failing to obey a red light, failing to remain adequately attentive, and failing to observe traffic conditions. Consequently, the plaintiff sustained injuries, including a right shoulder SLAP tear, cervical disc herniations at C3-4, C4-5, and C6-7, lumbar disc herniations at L4-5 and L5-S1, and right elbow ligament tears. The plaintiff's shoulder injuries were treated with surgery. A doctor for the defendant disputed causation and permanency.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $135,000. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on July 22, 2024. However, the matter was settled between the parties prior to the initial trial hearing. A stipulation of dismissal was submitted on August 2, 2024.

REFERENCE

Julio Olivo II vs. Latisha Green, State Farm Indemnity Company. Docket no. ESXL004678-22; Judge Russell J. Passamano, 08-02-24.

Attorney for plaintiff: Christopher Mussmano of Einhorn, Harris, Ascher, Barbarito & Frost, P.C. in Denville, NJ. Attorney for defendant: Thomas Matthews of Bennett, Bricklin & Saltzburg, LLC in Livingston, NJ.

$30,000 ARBITRATION AWARD

Motor vehicle negligence – Intersection collision – Plaintiff's vehicle struck in left side by defendant's vehicle after defendant ran stop sign – Cervical disc bulges – Lumbar disc bulge – Dislocated left acromion with impingement of rotator cuff – Partial tears of left supraspinatus and subscapularis tendons.

Essex County, NJ

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

On January 31, 2020, the plaintiff's vehicle was traveling on Vernon Avenue, at or near its intersection with E 1st Street in Clifton, New Jersey. At this time, the plaintiff was proceeding through the subject intersection with the right of way. At the same time, the defendant's vehicle was traveling on E 1st Street, toward the stop sign at the same intersection. At the time of the incident, the defendant's vehicle ran the stop sign and entered the intersection at the same time as the plaintiff. The defendant's vehicle then struck the plaintiff's vehicle on the left side.

The plaintiff maintained that the defendant was negligent in failing to obey a stop sign, failing to yield, and failing to remain adequately attentive. Consequently, the plaintiff sustained injuries, including cervical disc bulges, lumbar disc bulges, dislocated left acromion with impingement of rotator cuff, and partial tears of

the left supraspinatus and subscapularis tendons. A doctor for the defendant opined that the plaintiff's injuries were not permanent.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $30,000. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to begin on July 22, 2024. However, on July 17, 2024, the parties entered into a settlement prior to the initial trial hearing. A stipulation of dismissal was submitted on November 19, 2024.

REFERENCE

Jeannette Torres vs. Susan McFarlane. Docket no. ESXL009779-21; Judge Kevin P. Barry, 11-19-24.

Attorney for plaintiff: Sean Payne of Ginarte, Gallardo, Gonzalez & Winograd, LLP in Newark, NJ. Attorney for defendant: Thomas McGuane of McElroy Deutsch Mulvaney & Carpenter, LLP in Tinton Falls, NJ.

$1,500 ARBITRATION AWARD

Motor vehicle negligence – Intersection collision – Plaintiff driver and plaintiff passenger injured when defendant's vehicle strikes plaintiff's vehicle broadside after running red light –Soft tissue injuries to neck, back, shoulder and knee – Headaches.

Camden County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck broadside by the defendant's vehicle after the defendant ran a red light, causing both the plaintiff driver and plaintiff passenger to sustain injuries. The defendant generally denied all allegations of negligence.

On July 24, 2020, the 2 plaintiffs were traveling in the primary plaintiff's vehicle in an eastbound direction on Pacific Avenue, at or near its intersection with Michigan Avenue in Atlantic City, New Jersey. At the same time, the defendant's vehicle was traveling northbound on Pacific Avenue, toward the same intersection. At the time of the incident, the plaintiff's vehicle attempted to proceed forward through the intersection. As the plaintiff's vehicle proceeded forward, it was suddenly struck broadside by the defendant's vehicle which disregarded a red light.

The plaintiff driver settled her own case against the defendant prior to arbitration. The secondary plaintiff, however, maintained that the defendant was negligent in failing to obey traffic signals, failing to remain adequately attentive, and failing to keep the vehicle under proper and adequate control. Consequently, the secondary plaintiff sustained injuries, including soft tissue injuries to the neck, back, shoulder, and knee, as well as headaches. The plaintiff's injuries were treated conservatively, with a series of chiropractic appointments. A doctor for the defendant opined that the plaintiff did not sustain a permanent injury in the accident.

The arbitrators in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $1,500. Following arbitration, the plaintiff's counsel requested a trial de novo. However, on February 7, 2024, the parties entered into a settlement for an unspecified amount.

REFERENCE

Lisandra Morton, Pablo Jacobo vs. Mohammed Faruque. Docket no. CAML001427-22; Judge Steven J. Polansky, 02-10-24.

Attorney for plaintiff: Robert I. Segal of Robert I. Segal, PA in Medford, NJ. Attorney for defendant: Harry L. Starrett of Harry L. Starrett, PC in West Orange, NJ.

Left Turn Collision

$75,000 ARBITRATION AWARD

Motor vehicle negligence – Left turn collision – Plaintiff and defendant traveling in opposite directions when defendant attempts left turn in front of plaintiff causing plaintiff to strike defendant's vehicle – Cervical and lumbar disc herniations.

Ocean County, NJ

The plaintiff in this vehicular negligence action maintained the defendant driver made an improper left-hand turn causing the plaintiff to strike the defendant's vehicle and sustain injuries. The defendant denied being negligent and argued it was the actions of the plaintiff that caused the collision.

On January 24, 2020, the male plaintiff was operating his vehicle traveling northbound on Route 72 at its intersection with Mermaid Drive in Stafford, New Jersey. The defendant was traveling southbound on Route 72 approaching the same intersection. Suddenly and without warning the defendant attempted a left turn onto Mermaid Drive cutting off the plaintiff and causing a collision.

The plaintiff maintained that the defendant failed to yield the right-of-way, made an improper left hand turn and failed to make proper observations of traffic. Consequently, the 22-year- old plaintiff suffered disc herniations at C6-7 and L4-5 herniations. He underwent physical therapy. The plaintiff's expert opined that the plaintiff's injuries are permanent and that he will require interventional pain management including epidural injections, facet blocks, medial branch blocks and an RFA, along with cervical and lumbar fusion procedures. The defendant denied liability and argued that the plaintiff was contributorily or comparatively negligent. In addition, the defendant argued that the plaintiff's future treatment is speculative, and that plaintiff has not had invasive treatment.

The arbitrator found that the defendant was 85% negligent and the plaintiff 15% negligent. The arbitrator awarded the plaintiff $75,000 which was reduced accordingly to $63,750. Following arbitration, the defense requested trial de novo. The parties then settled their dispute out of court.

REFERENCE

Mardirosian Patterson vs. John Clegg. Docket no. OCNL000023-22; Judge Craig L. Wellerson, 01-11-24.

Attorney for plaintiff: Brian W. McAlindin of Bathgate, Wegener & Wolf, P.C. in Lakewood, NJ. Attorney for defendant: Robert P. Stein of Goldberg Miller & Rubin in Cherry Hill, NJ.

Multiple Vehicle Collision

$50,000 ARBITRATION AWARD

Motor vehicle negligence – Multi-vehicle rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle, resulting in collision with third vehicle – Disc herniations in neck and back – Right knee medial meniscus tear – Surgery required.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear by the defendant's vehicle, causing a collision with a third vehicle. Consequently, the plaintiff sustained injuries. The defendant generally denied all allegations of negligence.

On October 24, 2019, the plaintiff's vehicle was traveling northbound on Pleasant Valley Way, at its intersection with Wessman Drive in West Orange, New Jersey. At this time, the defendant's vehicle was also traveling northbound on Pleasant Valley Way, directly behind the plaintiff's vehicle. At the time of the incident, the defendant's vehicle suddenly struck the plaintiff's vehicle in the rear. The plaintiff's vehicle was then pushed forward by the impact, causing it to strike a third vehicle.

The plaintiff maintained that the defendant was negligent in failing to maintain a safe distance from other vehicles, failing to remain adequately attentive, and failing to obey traffic conditions. The plaintiff's injuries included disc herniations in the neck and back, as well as a right knee medial meniscus tear. The plaintiff's meniscus tear was treated with arthroscopic surgery, but not until 3 years after the accident. A doctor for the defendant disputed the nature, permanency, and causation of all injuries.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $50,000. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on July 15, 2024. However, the matter was settled between the parties while scheduled for trial. A stipulation of dismissal was submitted on August 23, 2024.

REFERENCE

Nelson Marcial vs. Matthew Shubitz. Docket no. ESXL003273-21; Judge Kevin P. Barry, 07-15-24.

Attorney for plaintiff: Jean-Claude Labady of Garces Grabler & LeBrocq, PC in Newark, NJ. Attorney for defendant: Harry D. McEnroe of Tompkins, McGuire, Wachenfeld & Barry, LLP in Roseland, NJ.

Rear End Collision

$175,000 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while yielding to pedestrian – Right shoulder tear – Multiple cervical disc herniations – Lumbar aggravation.

Bergen County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear by the defendant's vehicle while the plaintiff yielded to a pedestrian. The defendant generally denied all allegations of negligence.

On May 23, 2020, the plaintiff's vehicle was traveling on Route 35 North, at or near its intersection with First Avenue in Toms River, New Jersey. At this time, the defendant's vehicle was also traveling on Route 35

North, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle stopped short to accommodate pedestrians crossing the street at the subject intersection. As the plaintiff yielded, her vehicle was struck in the rear by the defendant's vehicle, causing her to become injured.

The plaintiff maintained that the defendant was negligent in failing to maintain a safe distance from other vehicles, failing to remain adequately attentive, and failing to observe traffic conditions. Consequently, the plaintiff sustained injuries, including a right shoulder tear, multiple cervical disc herniations, and lumbar aggravation. The plaintiff's injuries were treated with a surgical procedure for the right shoulder, as well as injections for her spinal injuries. A doctor for the defendant opined that the plaintiff's injuries were degenerative.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $175,000. Following arbitration, the plaintiff's counsel requested a trial de novo, which was meant to take place on October 7, 2024. However, the parties entered into a settlement for an unspecified amount on July 25, 2024. A stipulation of dismissal was submitted on July 27, 2024.

REFERENCE

Carolyn Danna vs. Kathleen Ryan. Docket no. BERL001564-21; Judge William C. Soukas, 07-25-24.

Attorney for plaintiff: Adam B. Lederman of Davis, Saperstein, & Salomon, P.C. in Teaneck, NJ. Attorney for defendant: Steven H. Daniels of Schenck, Price, Smith & King, LLP in Florham Park, NJ.

$100,000 JUDGMENT

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while slowing for traffic – Cervical disc bulges at C3-4 and C4-5 – Lumbar disc bulges at L4-5 and L5-S1.

Essex County, NJ

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

On May 31, 2019, the plaintiff's vehicle was traveling southbound on the Garden State Parkway, at or near mile marker 141.4 in Union, New Jersey. At this time, the defendant's vehicle was also traveling on the Garden State Parkway, directly behind the plaintiff's vehicle and in the same travel lane. At the time of the incident, the plaintiff noticed heavy traffic ahead, and began to slow down to accommodate it. As the plaintiff was slowing down, his vehicle was suddenly struck in the rear by the defendant's vehicle.

The plaintiff maintained that the defendant was negligent in failing to remain adequately attentive, failing to maintain a safe distance from other vehicles, and failing to obey traffic conditions. Consequently, the plaintiff sustained injuries, including cervical disc bulges at C3-4 and C4-5, as well as lumbar disc bulges at L4-5 and L5-S1. The plaintiff underwent a cervical branch block procedure as well as an ablation procedure to treat his injuries. A doctor for the defendant opined that the plaintiff did not sustain permanent injuries to the cervical or lumbar spine.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $138,536.76. Following arbitration, the defendant's counsel requested a trial de novo. However, on February 15, 2023, prior to the trial, the defendant's counsel offered to allow a judgment against the defendant and in favor of the plaintiff in the amount of $100,000. A stipulation of dismissal was submitted on April 6, 2023.

REFERENCE

Claudio Torres vs. Eric Mannes. Docket no. ESX003344-20; Judge Russell J. Passamano, 04-08-23.

Attorney for plaintiff: Michael Maggiano of Maggiano, DiGirolamo & Lizzi, P.C. in Fort Lee, NJ. Attorney for defendant: Regina Danielle Geise of Law Offices Pamela D. Hargrove in Cranford, NJ.

$65,000 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while stopped for traffic light – Cervical disc herniations at C5-6 and C6-7 – Cervical disc bulge at C4-5 – Lumbar disc herniation at L4-5 – Lumbar disc bulges at L4-5 and L5-S1 – TMJ – 3 avulsed teeth.

Essex County, NJ

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

On November 16, 2017, the plaintiff's vehicle was traveling in a northbound direction on Interstate 295 North in Mount Laurel Township, New Jersey. At this time, the defendant's vehicle was also traveling northbound on Interstate 295, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle was stopped for a red traffic light.

The defendant's vehicle approached the same intersection and suddenly struck the plaintiff's vehicle in the rear.

The plaintiff maintained that the defendant was negligent in failing to remain adequately attentive, failing to maintain a safe distance from other vehicles, and failing to obey traffic signals. Consequently, the plaintiff sustained injuries, including cervical disc herniations at C5-6 and C6-7, cervical disc bulge at C4-5, lumbar disc herniation at L4-5, lumbar disc bulges at L4-5 and L5-S1, TMJ, and 3 avulsed teeth. A doctor for the defendant maintained that the plaintiff's neck injuries were degenerative.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $65,000. Following arbitration, the defendant's counsel requested a trial de novo. However, on May 30, 2023, a stipulation of dismissal was submitted which indicated that the matter had been amicably adjusted between the parties before the trial could take place.

REFERENCE

Antoinese Woodard vs. Marietta Woods. Docket no. ESXL008014-19; Judge Thomas M. Moore.

Attorney for plaintiff: Rosemarie Arnold of Law Offices of Rosemarie Arnold in Fort Lee, NJ. Attorney for defendant: Kathleen Drew of Barone Mooney Newman & Drew in Edison, NJ.

$55,000 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while slowing down – Cervical, thoracic and lumbar disc herniations.

Bergen County, NJ

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

On October 12, 2019, the plaintiff's vehicle was traveling southbound on New York Avenue, near its intersection with Ridge Road in Lyndhurst, New Jersey. At the same time, the defendant's vehicle was also traveling southbound on New York Avenue, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle began to slow down to accommodate traffic. As the plaintiff's vehicle slowed down, it was suddenly struck in the rear by the defendant's vehicle.

The plaintiff maintained that the defendant was negligent in failing to remain adequately attentive, failing to maintain a safe distance from other vehicles, and failing to obey traffic conditions. Consequently, the plaintiff sustained injuries, including cervical, thoracic, and lumbar disc herniations. The plaintiff's injuries were treated with epidural steroid injections to the cervical spine. A doctor for the defendant opined that the plaintiff only sustained soft tissue injuries in the accident, and disputed permanency.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $55,000. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on February 5, 2024. However, on February 2, 2024, a notice of settlement was submitted, indicating that the parties had entered into a settlement for an unspecified amount before the trial could begin. A stipulation of dismissal was submitted on May 30, 2024.

REFERENCE

Brent Jackson vs. Diane Lammer. Docket no. BERL002725-21; Judge David V. Nasta, 02-02-24.

Attorney for plaintiff: Jean-Claude Labady of Garces, Grabler & Lebrocq, P.C. in Newark, NJ. Attorney for defendant: Julie H. Robinson of Ibrahim and Jackson in Scranton, PA.

$22,500 VERDICT

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle after slowing for traffic – Lumbar disc bulge at L5-S1 – Cervical disc herniation at C6-7 – Lumbar annular tear.

Camden County, NJ

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

On May 9, 2019, the plaintiff's vehicle was traveling southbound on Interstate 295 at mile point 35.2 in Cherry Hill, New Jersey. At this time, the defendant's vehicle was also traveling on Interstate 295, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle slowed to a stop due to the presence of heavy traffic on the interstate. While the plaintiff's vehicle was stopped, it was suddenly struck in the rear by the defendant's vehicle.

The plaintiff maintained that the defendant was negligent in failing to remain adequately attentive, failing to observe traffic conditions, and failing to maintain a safe distance from other vehicles. Consequently, the plaintiff sustained injuries, including lumbar disc bulge at L5-S1, cervical disc herniation at C6-7, and a lumbar annular tear. A doctor for the defendant opined that the plaintiff had only aggravated degenerative disc injuries in the neck and lower back.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $22,500. Following arbitration, neither party moved for confirmation of the arbitration award, consented to an entry of judgment, or requested a trial de novo within 30 days. As such, the case was dismissed on April 11, 2023.

REFERENCE

Breshay Wigglesworth vs. Brian Hart. Docket no. CAML001092-21; Judge Judith S. Charny, 04-11-23.

Attorney for plaintiff: Gary J. Brascetta of Lowenthal & Abrams, P.C. in Cherry Hill, NJ.

JUDGMENT IN FAVOR OF DEFENDANT

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while stopped at red traffic light – Disc bulges at C5-6 and C6-7 – L5-S1 disc herniation – Right wrist partial tendon tear with tendonitis – Right elbow partial thickness tear with edema – Surgery required.

Bergen County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear by the defendant's vehicle while stopped for a red light, causing the plaintiff to become injured. The defendant generally denied negligence.

On January 7, 2019, the plaintiff's vehicle was traveling westbound on Rutherford Avenue, at its intersection with Park Avenue in Rutherford, New Jerseys. At this time, the plaintiff was stopped at a red light in the left turning lane of the subject intersection. At the same time, the defendant, operating a dump truck, was approaching the same intersection, directly behind the plaintiff's vehicle. As the defendant's vehicle approached the intersection, it veered left and began "scraping" against the guardrail, suggesting that the defendant may have lost control of the truck. The defendant's truck then struck the plaintiff's stopped vehicle in the rear.

The plaintiff maintained that the defendant was negligent in failing to obey traffic signals including an oncoming red light, failing to maintain a safe distance from other vehicles, and failing to slow or stop the vehicle in a timely manner. Consequently, the plaintiff sustained injuries, including disc bulges at C5-C6, a disc herniation at L5-S1, right wrist partial tendon tear with tendonitis, and a right elbow partial thickness tear with edema. The plaintiff's injuries required surgery to repair, including a nerve root ablation procedure at L5-S1, a decompression at the L5 disc, a cervical facet block injection procedure, and the excision of a foreign body. The defendant testified in a trial de novo that his vehicle did not in fact strike the plaintiff's vehicle at all.

The arbitrator in this case found the defendant 100% liable and reported an award for the plaintiff in the amount of $600,000. Following arbitration, the defendant's counsel requested a trial de novo. The trial took place from April 22, 2024, to April 25, 2024, during which time the defendant testified and maintained that his vehicle did not make any contact with the plaintiff's vehicle. On April 25, 2024, a jury returned with a unanimous verdict of No Cause for Action in favor of the defendant. The Honorable Michael N. Beukas entered a judgment in favor of the defendant on April 25, 2024. On May 15, 2024, the plaintiff's counsel motioned for a new trial, which was denied by the Honorable Michael N. Beukas on June 7, 2024.

REFERENCE

Juan Navia vs. Kyle Brown. Docket no. BERL004290-20; Judge Kelly A. Conlon, 04-25-24.

Attorney for plaintiff: Raffi Toros Khorozian of Law Offices of Raffi T Khorozian, PC in Fort Lee, NJ.
Attorney for defendant: Matthew Moroney of Goldberg, Miller & Rubin, P.C. in Fairfield, NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle at intersection – Cervical disc herniations at C5-6 and C6-7 – Lumbar disc herniation at L4-5 – Disc bulge at C7-T1 – Disc bulge at L3-4 with radiculopathy – Cervical radiculopathy.

Bergen County, NJ

This case of motor vehicle negligence arose on July 25, 2020 when the plaintiff's vehicle was traveling southbound on Valley Boulevard, at or near its intersection with Highland Avenue in Wood-Ridge, New Jersey. At this time, the defendant's vehicle was also traveling southbound on Valley Boulevard, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle slowed to a stop at the

subject intersection to accommodate traffic signals. While stopped, the plaintiff's vehicle was suddenly struck in the rear by the defendant's vehicle, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

The plaintiff maintained that the defendant was negligent in failing to maintain a safe distance from other vehicles, failing to obey traffic signals, and failing to remain adequately attentive. Consequently, the plaintiff sustained injuries, including cervical disc herniations at C5-6 and C6-7, lumbar disc herniation at L4-5, disc bulge at L3-4 with radiculopathy, and cervical radiculopathy. The plaintiff's injuries were treated conservatively with epidurals and a nerve root block. A doctor for the defendant maintained that the plaintiff's neck and back injuries were pre-existing and not proximately related to the accident.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $65,000. Following arbitration, the plaintiff's counsel requested a trial de novo. The trial took place from July 22 to July 25, 2024, at which point the jury reported a verdict of no cause for action in favor of the defendant. On July 31, 2024, the Honorable Anthony J. Suarez ordered that the defendant's verdict be entered as a final judgment.

REFERENCE

Joseph Altieri vs. Oscar Miqueli. Docket no. BERL007889-21; Judge Kelly A. Conlon, 07-25-24.

Attorney for plaintiff: Cory A. Deitz of Brach Eichler, LLC in Roseland, NJ. Attorney for defendant: Steven H. Daniels of Schenck Price Smith & King, LLP in Florham Park, NJ.

POLICE LIABILITY

$95,000 AWARD

Police liability – Motor vehicle negligence – Defendant police officer pulls to shoulder of road and attempts U-turn striking plaintiff's vehicle – Disc herniations – Epidural injections.

Atlantic County, NJ

In this action, the plaintiff claims she suffered significant disc injuries when the defendant state police officer negligently attempted a U-turn and struck the plaintiff's vehicle. The defendant denied all allegations of negligence and injury.

On January 25, 2021, the female plaintiff was operating her vehicle eastbound on route 40 in Hamilton Township, New Jersey. At the same time and place, the defendant police officer was working in the course and scope of his employment with the New Jersey State police and was also traveling eastbound on Route 40. The defendant pulled on to the shoulder of route 40 and then attempted to make a U-turn to travel westbound on Route 40 and struck the plaintiff's vehicle.

The plaintiff maintained that the defendant operated the vehicle in a negligent, careless and reckless manner, failed to make proper observations of traffic and failed to keep his vehicle under proper control. The plaintiff maintained the state police was liable for the actions of the defendant. The maintained she suffered 2 cervical herniations and a lumbar disc herniation as a result of a motor vehicle accident. The plaintiff had 4 cervical epidural injections and continues to receive treatment for her injuries. The defendants denied all liability and argued that the plaintiff was contributorily and or comparatively negligent and that she failed to wear a seat belt. The defense also denied all allegations of injury and denies that the plaintiff's claim meets the Title 59 injury threshold.

The arbitrator found that the defendants were 100% responsible for the accident. The arbitrator found that the Title 59 injury threshold was met, and the gross/net award was $95,000. Following the defense's request for trial de novo, the parties settled their dispute.

REFERENCE

Stephanie Bowser vs. Dustin Renelt, Treasury Department of NJ and NJ State Police. Docket no. ATLL000009-23; Judge Danielle J. Walcoff, 07-31-24.

Attorney for plaintiff: Patrick C. Joyce of Hyberg, White & Mann in Northfield, NJ. Attorney for defendant: Christine Barris of Attorney General Law in Trenton, NJ.

PREMISES LIABILITY

Fall Down

$150,000 ARBITRATION AWARD

Premises liability – Fall down – Plaintiff slips and falls on wet floor at wholesale retail store – Right shoulder rotator cuff tear – Cervical disc herniation at C6-7 – Cervical disc bulges from C3-6 – Surgery required.

Essex County, NJ

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

On January 6, 2019, the plaintiff was a lawful visitor and business invitee at the defendant wholesale retail store, located on the premises of 1055 Hudson Street in Union, New Jersey. At this time, the plaintiff was traversing inside the store near the food court area. While walking in this area, the plaintiff encountered a wet floor near the self-serve soda machine. The plaintiff then slipped on the wet floor and fell.

The plaintiff maintained that the defendants were negligent in failing to remove water or other fluids from the floor, failing to prevent a slipping hazard inside the store, and failing to provide safe passage inside the store. Consequently, the plaintiff sustained injuries, including a rotator cuff tear in the right shoulder, as well as a cervical disc herniation at C6-7, and cervical disc bulges from C3-6. The plaintiff's right shoulder injury was treated with steroid injections as well as arthroscopic surgery. A doctor for the defendants disputed causation and permanency.

The arbitrator in this case found the defendants 100% liable for the accident, and reported an award for the plaintiff in the amount of $150,000. Following arbitration, the defendants' counsel requested a trial de novo, which was scheduled to take place on July 29, 2024. However, the matter was settled between the parties prior to the initial trial hearing. A stipulation of dismissal was submitted on August 1, 2024.

REFERENCE

Dawn Bibbo vs. Costco Wholesale Corporation. Docket no. ESXL008527-20; Judge Joshua D. Sanders, 08-01-24.

Attorney for plaintiff: Frank Zazzaro of Law Offices of Frank J. Zazzaro in Montclair, NJ. Attorney for defendant: Lawrence Berkeley of Fishman McIntyre Berkeley Levine Samansky, P.C. in East Hanover, NJ.

$125,000 GROSS ARBITRATION AWARD

Premises liability – Fall down – Plaintiff trips and falls over pothole in commercial plaza parking lot – Posterior malleolus fracture – Left ankle sprains of deltoid and anterior talofibular ligaments.

Essex County, NJ

In this premises liability action, the plaintiff tripped and fell over a pothole in a commercial plaza parking lot, causing her to become injured. The defendants generally denied all allegations of negligence.

On June 16, 2020, the plaintiff was lawfully traversing the parking lot at the defendant commercial plaza, located at the corner of Eagle Rock Avenue and Prospect Avenue in West Orange, New Jersey. While the plaintiff was traversing the parking lot, she encountered a pothole. The plaintiff then tripped and fell on the pothole.

The plaintiff maintained that the defendants were negligent in failing to fill the pothole, failing to prevent a tripping hazard, and failing to provide safe passage on the premises. Consequently, the plaintiff sustained injuries, including a right posterior malleolus fracture, as well as left ankle sprains of the deltoid and anterior talofibular ligaments. The plaintiff's injuries were treated with physical therapy, a cortisone injection, and the wearing of a CAM boot. A doctor for the defense disputed causation and permanency due to the plaintiff having sustained ankle injuries in the past.

The arbitrator in this case found the defendant 90% liable for the accident and the plaintiff 10% liable. The arbitrator reported a net award for the plaintiff in the amount of $112,500. Following arbitration, the defendants' counsel requested a trial de novo, but the parties entered into a settlement prior to the initial hearing. A stipulation of dismissal was submitted on July 22, 2024.

REFERENCE

Crystal Farmer vs. West Orange Plaza. Docket no. ESXL002650-22; Judge Cynthia D. Santomauro C, 07-22-24.

Attorney for plaintiff: Lawrence D. Minasian of Greenberg Minasian, LLC in West Orange, NJ. Attorney for defendant: M.J. Huntowski, Esquire of Mintzer Sarowitz Zeris Ledva & Meyers, LLP in Cherry Hill, NJ.

$25,000 ARBITRATION AWARD

Premises liability – Fall down – Plaintiff slips and falls on ice in parking lot of defendant home goods store – Neck sprain and strain – Shoulder contusion.

Essex County, NJ

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

On December 12, 2019, the plaintiff was a lawful visitor and business invitee at the defendant home goods store, which was located on the premises of 1728 US Route 46 in Woodland Park, New Jersey. At this time, the plaintiff was preparing to enter the store and was traversing the parking lot on the premises. While walking in the parking lot, the plaintiff encountered a patch of ice. The plaintiff then slipped and fell in the parking lot.

The plaintiff maintained that the defendant was negligent in failing to place salt or otherwise melt ice on the premises, failing to prevent a slipping hazard on the premises, and failing to provide safe passage. Consequently, the plaintiff sustained injuries, including neck sprain and strain, as well as a shoulder contusion. The plaintiff's injuries were treated with physical therapy, electric stimulation, and an ultrasound.

The arbitrator in this case found the defendant 80% liable for the accident and found the plaintiff 20% liable. The arbitrator reported an award for the plaintiff in the amount of $25,000. Following arbitration, neither party pursued a trial de novo within 30 days, so the case was dismissed. A stipulation of dismissal indicating that the matter was amicably adjusted between the parties was submitted on July 29, 2024.

REFERENCE

Margie Barilari vs. Ddrm West Falls Plaza, LLC. Docket no. ESXL008035-21; Judge Roselyn Holmes-Grant, 07-29-24.

Attorney for plaintiff: Damon A. Vespi of The Vespi Law Firm in Totowa, NJ. Attorney for defendant: Christopher O'Connell of Sweeney & Sheehan, P.C. in Westmont, NJ.

Hazardous Premises

$270,000 ARBITRATION AWARD

Premises liability – Hazardous premises – Plaintiff trips and falls on set of stairs at defendant apartment building – Right ankle posterior malleolar fracture – Medial malleolus fracture.

Essex County, NJ

In this premises liability action, the plaintiff tripped and fell on a set of stairs at the defendant apartment building, causing the plaintiff to sustain injuries. The defendants generally denied all allegations of negligence.

On May 4, 2021, the plaintiff was a lawful visitor on the premises of an apartment building located at 1 Greenwood Avenue in Montclair, New Jersey. On this day, the premises was owned, operated, and maintained by the defendants. While visiting the premises, the plaintiff attempted to use a set of brick stairs at the apartment building. While using the stairs, the plaintiff tripped and fell due to the stairs' "sloped upper landing" and defective stair treads.

The plaintiff maintained that the defendants were negligent in failing to ensure the safety of the subject staircase, failing to prevent a tripping hazard on the premises, and failing to provide safe passage on the premises. Consequently, the plaintiff sustained injuries to the right ankle, including a posterior malleolar fracture, as well as a medial malleolus fracture. The plaintiff's injuries were treated with open reduction and internal fixation surgery.

The arbitrator in this case found the defendants 70% liable for the accident and the plaintiff 30% liable. The arbitrator reported an award for the plaintiff in the amount of $270,000. Following arbitration, the parties entered into a settlement conference, which took place on June 14, 2024. Here, the parties entered into a settlement for an amount not specified on the docket. A stipulation of dismissal was submitted on July 23, 2024.

REFERENCE

Barrington McDermott vs. One Greenwood, LLC. Docket no. ESXL007209-21; Judge Jeffrey B. Beacham, 07-23-24.

Attorney for plaintiff: Steven Benvenisti of Davis, Saperstein & Salomon, P.C. in Teaneck, NJ. Attorney for defendant: John J. Ronca of Zirulnik, Demille & Flynn in Roseland, NJ.

TRANSIT AUTHORITY LIABILITY

$60,000 ARBITRATION AWARD

Transit Authority liability – Bus negligence – Plaintiff driver injured when stopped vehicle struck by public NJ Transit bus – Failure to properly train bus drivers – Failure to obey traffic signals – Left shoulder rotator cuff tear and bicep dislocation – Cervical disc herniation at C3-4 – Lumbar disc herniations at L2-3, L3-4 and L5-S1 – Cervical disc bulges at C2-3 and C4-7.

Essex County, NJ

In this negligence action, the plaintiff driver was injured when his stopped vehicle was struck by a public New Jersey Transit bus. The defendants generally denied negligence.

On July 24, 2019, the plaintiff's vehicle was traveling on Bloomfield Avenue in Caldwell, New Jersey. At this time, the plaintiff's vehicle was stopped at a red traffic light in this location. While the plaintiff was stopped at the traffic light, a public NJ Transit bus also approached the same intersection. On this day, the subject bus was owned, operated, and maintained by the defendants. At the time of the incident, the bus suddenly struck the plaintiff's stopped vehicle, causing the plaintiff to become injured.

The plaintiff maintained that the defendants were negligent in failing to properly train bus drivers and transit corporation employees, failing to observe traffic conditions, and failing to obey traffic signals at the intersection. Consequently, the plaintiff sustained injuries, including left shoulder rotator cuff tear and bicep dislocation, cervical disc herniation at C3-4, lumbar disc herniations at L2-3, L3-4, and L5-1, and cervical disc bulges at C2-3 and C4-7. The plaintiff underwent surgery for his shoulder injuries, which were partially sustained in the accident and partially sustained in an earlier fall. A doctor for the defendants opined that the plaintiff's injuries were degenerative or unrelated to the accident, and therefore, not permanent.

The arbitrator in this case found the defendants 100% liable for the accident and reported an award for the plaintiff in the amount of $60,000. Following arbitration, the defendants' counsel requested a trial de novo, which was scheduled to begin on July 22, 2024. However, the matter was settled between the parties while scheduled for trial.

REFERENCE

Benjamin Del Vento, Jr. vs. Latoya Jefferies, NJ Transit Corporation. Docket no. ESXL005129-21; Judge Joshua D. Sanders, 07-22-24.

Attorney for plaintiff: Matthew D. Del Vento of Benjamin Del Vento, A Professional Association in Livingston, NJ. Attorney for defendant: Matthew J. Platkin, Acting Attorney General Of New Jersey in Trenton, NJ.

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

Supplemental Verdict Digest

MEDICAL MALPRACTICE

$10,000,000 VERDICT INCLUDING $6,000,000 IN PUNITIVE DAMAGES – MEDICAL MALPRACTICE – SKILLED NURSING FACILITY NEGLIGENCE – DEFENDANTS FAIL TO PROPERLY MONITOR DISABLED DECEDENT OVERNIGHT TO ENSURE DECEDENT GETTING BENEFITS OF BIPAP MACHINE FOR MODERATE OBSTRUCTIVE SLEEP APNEA – DECEDENT FOUND UNRESPONSIVE IN BED – WRONGFUL DEATH OF 50-YEAR-OLD.

Waterbury County, CT

The estate of the decedent in this medical malpractice/wrongful death action maintained that the defendant facility failed to follow the prescribed protocol for checking on the decedent every half hour each night. The decedent suffered from obstructive sleep apnea and due to his disabilities, required routine checks to make sure his bipap was secure and functioning properly. The decedent was found unresponsive in his bed and could not be resuscitated. The defendants argued that it could not be completely determined what caused the decedent's death and that the death was natural and not caused by negligence.

The decedent's estate maintained that the defendant Oak Hill failed to properly train staff the decedent's bipap use including how to operate and understand the functioning of the machine, failed to perform required bed checks, and failed to advocate for the highest level of care for the decedent as it related to coordinating with co-defendant Lincare, who negligently allowed the decedent to continue using a defective and broken bipap machine. The defense denied the estate's allegations. The defense maintained that the decedent's cause of death could not be definitely determined therefore negligence could not be proven.

The jury found that the defendants were negligent. The jury determined that the defendant Oak Hill's negligence was the only one that caused the decedent's death. The jury awarded the decedent's estate $4,000,000 in compensatory damages and $6,000,000 in punitive damages.

REFERENCE

The Estate of Scott Case by Kathleen Case vs. Connecticut Institute for the Blind dba Oak Hill and Lincare. Case no. UWY-CV-18-6040435; Judge W. Glen Pierson, 03-20-24.

Attorney for plaintiff: John Mills of Mills Law Firm, LLC in New Haven, CT. Attorney for defendant: David G. Hill of David G. Hill & Associates, LLC in Glastonbury, CT. Attorney for defendant: Eric Niederer of Wilson Elser Moskowitz Edelman in Stamford, CT.

$1,110,000 SETTLEMENT – MEDICAL MALPRACTICE – PRIMARY CARE – DEFENDANT PRIMARY CARE DOCTOR AND DEFENDANT ENDOCRINOLOGIST FAIL TO APPRECIATE DECEDENT'S SEVERE SHORTNESS OF BREATH – MYOCARDIAL INFARCTION/ PULMONARY EMBOLISM – WRONGFUL DEATH OF 52-YEAR-OLD FEMALE.

Allegheny County, PA

This action for medical malpractice arose when several weeks after undergoing brain surgery performed by a non-party doctor, the decedent began to experience severe shortness of breath. She presented to her primary doctor and endocrinologist reporting her symptoms. The defendants failed to adequately address the decedent's symptoms, and the decedent died at home after passing out. The defendants denied all allegations of negligence.

The estate maintained that the defendant primary care doctor was negligent in failing to entertain the possibility of a cardiac condition or pulmonary embolism based on the patient's recent history, failing to order appropriate diagnostic tests, and failing to instruct the decedent to go to the emergency room. The estate maintained that the defendant endocrinologist was negligent in failing to send the decedent to the emergency room on March 13th, 2017, failing to order appropriate diagnostic tests, failing to appreciate the decedents tachycardia and hypertension.

The parties settled for $1,110,000 with the defendant Dr. Naguit contributing $100,000 and defendant Gordon contributing $1,000,000. Additionally, $1,000,000 was ordered for the wrongful death claim and $100,000 was ordered for the survival claim.

REFERENCE

Plaintiff's pulmonary disease, internal medicine and critical care medicine expert: Ian H. Newmark, M.D. from Syosset, NY.

William Taylor as Administrator of the Estate of Linda R. Taylor vs. Mary Naguit, M.D.; Medical Practice Network d/b/a Primary Care Professionals; Murray B. Gordon, M.D.; Allegheny Endocrinology Associates, P.C. and Allegheny Health Network. Case no. GD19-001871; Judge Patrick Connelly, 03-16-23.

Attorney for plaintiff: Regis McClelland of The McClelland Law Group, PC in Pittsburgh, PA. Attorneys for defendant: Thomas Chairs, Lauren Kelly of Gordon & Rees, LLP in Pittsburgh, PA. Attorneys for defendant: Alan S. Baum and Michael Weiseman of Matis Baum O'Connor in Pittsburgh, PA.

$450,000 SETTLEMENT – MEDICAL MALPRACTICE – HOSPITAL NEGLIGENCE – DEFENDANT DOCTORS FAIL TO RECOGNIZE PLAINTIFF'S DECEDENT'S RISKS FOR ABDOMINAL ARTERY RUPTURE WHEN DECEDENT ADMITTED FOR DIABETIC KETOACIDOSIS – FAILURE TO PERFORM PROPER DIAGNOSTIC TESTS – WRONGFUL DEATH OF 47-YEAR-OLD FEMALE.

Allegheny County, PA

In this action for medical malpractice, the estate of the decedent maintained that the defendant doctors and hospital failed to appreciate the decedent's medical history and current complaints of severe abdominal pain resulting in a ruptured iliac artery which caused a significant hemorrhage and cardiac arrest resulting in death several months later. The defendants denied being negligent and argued the decedent suffered an unexpected catastrophic iliac aneurysm which was properly addressed but unfortunately still caused her eventual death.

The plaintiff maintained that the defendants failed to order proper diagnostic testing, failed to appreciate the decedent's severe abdominal pain in light of her complex medical history, failed to appreciate the decedent's severe hypertension, failed to timely diagnose a ruptured iliac artery and failed to properly and timely perform surgical intervention of the hemorrhage. The defendants argued that the decedent's altered mental status made it difficult to confirm which symptoms were true and which were part of her delirium.

The parties settled their dispute for $450,000.

REFERENCE

The Estate of Bridgette Bohr by Nicholas Bohr vs. Hernando Gomez Danies, M.D., Numan Ellahi, M.D. Ryan Lapointe, M.D. UPMC Mercy and University of Pittsburgh Physicians. Case no. GD-20-002562; Judge Patrick Connelly, 02-28-24.

Attorney for plaintiff: Kevin Lomupo in Pittsburgh, PA. Attorney for defendant: Frederick Bode, III of Dickie, McCamey & Chilcote in Pittsburgh, PA.

PRODUCT LIABILITY

$4,250,000 GROSS VERDICT – PRODUCT LIABILITY – DEFECTIVE DESIGN/FAILURE TO WARN – PLAINTIFF USING LADDER MANUFACTURED BY DEFENDANT MANUFACTURER AND SOLD BY DEFENDANT HOME IMPROVEMENT STORE INJURED WHEN FEET OF LADDER SLIPPED OUT AND PLAINTIFF FELL – FRACTURE OF RIGHT ANKLE; LUMBAR BURST FRACTURE; MILD LEFT SCAPULAR WINGING; INJURY TO BRACHIAL PLEXUS – RIGHT ANKLE SURGERY; LUMBAR SURGERY.

Bronx County, NY

In this product liability case, arising from a defective ladder, the plaintiff fell due to the product's defective design. The plaintiff brought suit against the defendant manufacturer of the ladder and the defendant retailer of the ladder on 3 causes of action as to strict product liability: defective design, failure to warn, and negligent design. As a result of his fall, the plaintiff suffered severe and permanent injuries and is permanently disabled. The defendants denied any defect in the ladder and asserted that the plaintiff must have fallen due to other causes such as losing his balance, standing too high on the ladder causing it to slip out, or that the ladder feet were placed on a surface that was not slip resistant.

The plaintiff asserted that he exercised reasonable care in the utilization of the ladder and was using it for its intended purpose at the time of its failure. The plaintiff claimed that the subject ladder was defective and unreasonably dangerous when the defendants placed it into the stream of commerce because the design of the ladder feet was inadequate to hold the ladder in place while in foreseeable use.

The jury assigned 50% liability to the defendant manufacturer, 35% liability to the defendant retailer, and 15% liability to the plaintiff with gross damages of $4,250,000 reduced to $3,612,500 for plaintiff's comparative negligence. Gross damages were broken down as follows: $3,250,000 for past pain and suffering and $1,000,000 for future pain and suffering.

REFERENCE

Alicea vs. Gorilla Ladder Company, et al. Index no. 304567/2015E; Judge Alicia M. Gerez, 03-22-24.

Attorneys for plaintiff: Terrence E. McCartney, Austin Osborn and Rhett Wallace of McCartney Stucky, LLC in Rye, NY. Attorneys for defendant: Michael N. Giacopelli, Steven Klaczynski of Parsky & Galloway, LLC in Chatham, NJ.

MOTOR VEHICLE NEGLIGENCE

$12,820,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – AUTO/MOTORCYCLE COLLISION – DEFENDANT DRIVER EXITS PARKING GARAGE INTO PLAINTIFF'S MOTORCYCLE – BELOW-THE-KNEE AMPUTATION – EMOTIONAL DISTRESS.

Middlesex County, MA

The plaintiff in this action for motor vehicle negligence maintained he was lawfully proceeding with the right-of-way on his motorcycle on a roadway in Massachusetts when the defendant exited a parking garage into the plaintiff, causing him to sustain life-altering injuries. The plaintiff suffered a fractured lower left tibial shaft and fibula, significant degloving, loss of 2 of the 3 arteries in his left leg, and a torn Achilles. After numerous failed surgeries, these injuries led to the eventual amputation of the plaintiff's left leg. The defendants generally denied all allegations of negligence.

On May 22, 2019, the male plaintiff was operating a motorcycle on City Hall Mall in Medford, Massachusetts. As he approached the intersection with a parking garage, a vehicle being operated by the defendant suddenly and without warning pulled out from the parking garage, negligently striking the plaintiff. The plaintiff claimed that a second defendant, who was an employee of the defendant company, had stopped his vehicle in the middle of the road and negligently gestured for the defendant driver to pull out of the parking garage. The plaintiff claimed that all defendants were negligent in causing the accident because both defendant vehicle operators failed to observe the plaintiff approaching the parking garage.

The jury found that the defendant driver, who had testified prior to trial that she had an unimpeded view of traffic prior to striking the plaintiff's motorcycle, was the only party liable to the plaintiff. The jury awarded the plaintiff $500,000 in past medical expenses, $320,000 in future medical expenses, $4 million in past pain and suffering and $8 million in future pain and suffering for a total of $12,820,000.

REFERENCE

Christopher Ciampa vs. Briana Durham, Jesus Landaverde, Sysco Corporation and Sysco Boston, LLC. Case no. 1981CV03013; Judge Christopher K. Barry-Smith, 05-17-24.

Attorney for plaintiff: Dillon Brozyna of Morgan & Morgan in Boston, MA. Attorney for defendant: Kerry Allison Adams of Harding Gurley, LLP in Deham, MA. Attorney for defendant: Mark Lavoie of McDonough Hacking & Lavoie, LLC in Salem, MA.

$750,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – REAR END COLLISION – DISC HERNIATIONS AND BULGES IN NECK AND LOWER BACK – TREATED CONSERVATIVELY AND WITH EPIDURAL INJECTIONS.

Middlesex County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear by the defendant's vehicle in traffic. Consequently, the plaintiff sustained injuries, including disc herniations and bulges of the neck and lower back, which were treated conservatively, and then with epidural injections. The defendant generally denied all allegations of negligence.

The plaintiff maintained that the defendant was negligent in failing to remain adequately attentive, failing to maintain a safe distance from other vehicles, and failing to stop the vehicle in a timely manner. A doctor for the defendant alleged that the plaintiff only suffered soft tissue injuries and aggravation of pre-existing degeneration, and that the plaintiff recovered without permanency.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $57,500. Following arbitration, the defendant's counsel requested a trial de novo. The trial took place on July 8, 2024, at which time the jury returned a verdict in favor of the plaintiff for $750,000.

REFERENCE

Chrisonda Branham vs. Arvindbha Patel. Docket no. MIDL005182-20; Judge Christoph Rafano, 07-16-24.

Attorney for plaintiff: Lawrence A. LeBrocq of Garces, Grabler & Lebrocq, PC in New Brunswick, NJ. Attorney for defendant: Eric Kuper of Martin Kane & Kuper in East Brunswick, NJ.

PREMISES LIABILITY

$7,809,765 VERDICT – PREMISES LIABILITY – PLAINTIFF FALLS ON GREASY SUBSTANCE ON RESTROOM FLOOR OF DEFENDANT RESTAURANT – DISC HERNIATION AT L4-5 AND L5-S1 – MULTIPLE INJECTIONS AND SURGERIES.

Broward County, FL

In this premises liability case, the plaintiff, a 45-year-old man, asserted that the defendant restaurant failed to maintain its premises in a safe condition for patrons resulting in a fall from a greasy substance. Later in the day, the plaintiff presented to the emergency room with complaints of headache, neck pain and low back pain. The plaintiff was released with medication and order to rest. His condition did not improve and he began a course of physical therapy which improved his neck condition but not his lumbar complaints. The plaintiff was ultimately diagnosed with disc herniation at L4-5 and L5-S1. The plaintiff treated with epidural steroid injections; discogram; discectomy and ultimately an anterior lumbar decompression with total disc arthroplasty at L5-SI. The defendant denied negligence and argued that they inspected and cleaned the bathroom on a regular schedule per company policy and that the restroom floor had been cleaned just before the plaintiff used it and purportedly fell.

At trial, the plaintiff presented a safety expert who examined the floor of the restroom and found it greasy even on a different day than the accident, and when the defendant knew the plaintiff's expert was coming to examine the premises. The plaintiff's expert also opined that the lighting in the restroom was inadequate and that the floor was slippery and unsafe, even when dry.

The plaintiff suffered complications of the surgery which resulted in the need for bowel resection and a colostomy bag for 4 months. The plaintiff also claimed he was left with extensive scarring from all the surgeries and will require future treatment and possible future surgery.

The jury found in favor of the plaintiff and awarded damages in the amount of $7,809,765 broken down as follows: $350,000 for past lost earnings; $3,000,000 for future lost earning; $693,345 for past medical expenses; $2,500 for future medical expenses; $995,760 for past pain and suffering and $2,768,160 for future pain and suffering.

REFERENCE

Tulecki, Jr. vs. Seven Restaurants, LLC. Case no. CACE21001669; Judge Michael Robinson, 05-11-23.

Attorneys for plaintiff: H. Ross Zelnick and Miguel Amador of Ginnis, Krathen and Zelnick, P.A. in Fort Lauderdale, FL.

$1,637,500 VERDICT – PREMISES LIABILITY – FALL DOWN – PLAINTIFF CONTENDS DEFENDANT GAS STATION/CONVENIENCE STORE FAILED TO ADEQUATELY REMOVE SNOW AND ICE FROM PARKING AREA – PLAINTIFF FALLS WALKING FROM CAR – MULTIPLE LIGAMENT TEARS IN RIGHT ANKLE; L4-5 DISC HERNIATION; L3-4, L2-3 – PHYSICAL THERAPY; RIGHT ANKLE ARTHROSCOPY WITH EXTENSIVE DEBRIDEMENT.

Westchester County, NY

In this premises liability case, the plaintiff truck driver asserted that the defendant gas station failed to remove snow and ice from its premises and that the plaintiff fell on accumulated snow or ice. As a result of the fall, the plaintiff suffered multiple ligament tears in the right ankle and a L4-5 disc herniation. The plaintiff treated with physical therapy for his back and underwent right ankle arthroscopy with extensive debridement and repair of the collateral lateral ankle ligament and syndesmosis. The defendant denied negligence and contested the plaintiff's damages.

The plaintiff presented the testimony of a former employee who was working on the day in question and who stated that rain would run down gutters to the sidewalk and, if it was cold, the rain would freeze. The plaintiff's witness also stated that he had informed the manager of the defendant store that more rock salt was needed and that there was no salt available to put on the sidewalk or parking lot on the morning of the plaintiff's fall.

The jury found in favor of the plaintiff and awarded damages in the amount of $1,637,500 broken down as follows: $115,000 for past lost earnings; $250,000 for future lost earnings; $72,500 for past medical expenses; $200,000 for future medical expenses; $400,000 for past pain and suffering and $600,000 for future pain and suffering.

REFERENCE

Turner vs. Harjas NY, Inc. Index no. 54920/2021; Judge Alexandra D. Murphy, 03-19-24.

Attorney for plaintiff: Jason Lesnevec of Michael S. Lamonsoff, PLLC in New York, NY. Attorney for defendant: Christopher Walsh of Marin Goodman, LLP in Harrison, NY.

ADDITIONAL VERDICTS OF PARTICULAR INTEREST

Contract

$2,200,000 VERDICT – BREACH OF CONTRACT – PLAINTIFFS CONTEND PARTIES ENTERED INTO EXCLUSIVE AGREEMENT FOR PLAINTIFF TO PRODUCE AND MANUFACTURE NATURAL PRODUCTS TO BE MARKETED AND SOLD BY DEFENDANTS – PLAINTIFFS CLAIM DEFENDANTS BREACHED AGREEMENT AND ENTERED INTO AGREEMENTS WITH THIRD PARTIES TO USE PLAINTIFFS' EXPERTISE TO BENEFIT DEFENDANTS ALONE – DEFENDANTS DENY EXCLUSIVITY AGREEMENT AND DENY BREACHING ANY TERMS OF AGREEMENT.

Miami-Dade County, FL

In this breach of contract case, the plaintiff partner asserted that the defendant partner and company schemed to elicit product information from the plaintiff and then use it to benefit and enrich themselves and to keep the fruits of that knowledge from the plaintiff. The plaintiff claimed breach of fiduciary duty, breach of contract, negligent misrepresentation, and breach of implied covenant of good faith and fair dealing, unjust enrichment and demanded accounting from the defendants as to the defendant company. The defendant agreed that the parties had entered into a partnership agreement but denied any breach of that agreement and asserted that the terms of the operating agreement limited the defendant individual's liability.

The defendants also denied that they engaged in an agreement or business arrangement with a third party for the manufacturing of supplements or any additional products in the defendant's product line. The defendants refuted that they entered into an exclusivity agreement with the plaintiffs and that they stopped making payments to the plaintiff for the manufacturing of dietary supplements.

The court determined that, per the terms of their written agreement, the defendants were liable to the plaintiffs for breach of the agreement. The matter was set down for jury trial as to damages only.

The jury awarded damages in the amount of $2,200,000.

REFERENCE

Alvarez, et al. vs. Rosalia Beauty, LLC, et al. Case no. 2022009224CA01; Judge Migna Sanchez- Llorens, 01-16-24.

Attorney for plaintiff: Ricardo Corona of Corona Law Firm, P.A. in Miami, FL. Attorney for defendant: Keith R. Gaudioso of Cohen Law in Coral Gables, FL.

Defamation

$1,450,000 VERDICT – DEFAMATION AND SLANDER – PLAINTIFF CONTENDS DEFENDANTS INTENTIONALLY SLANDERED HIM ON SOCIAL MEDIA PLATFORMS VIEWED BY THOUSANDS OF PEOPLE – EMOTIONAL DISTRESS TO HIMSELF AND FAMILY AND LOSS OF BUSINESS DUE TO DEFENDANTS' ACTIONS.

Palm Beach County, FL

In this action for libel and slander, the plaintiff claimed that the defendants, individually and collectively, posted defamatory videos and comments about the plaintiff on social media. The defendants denied the plaintiff's claims and argued that the plaintiff could not prove the statements false and therefore they were not slanderous.

As a result of the defendants' behavior and actions, individually and collectively, the plaintiff's business incurred damages leading to loss of customers and becoming less attractive to potential new clients. The plaintiff testified about being emotionally distraught over the defendant's defamatory conduct which was posted online and received thousands of views. The plaintiff claimed hundreds of thousands of dollars in compensatory damages.

After a 4-day jury trial, a verdict was returned which awarded the plaintiff a total of $1,450,000 in damages broken down as follows: $125,000 in compensatory damages from the first defendant and $225,000 in compensatory damages from the second defendant; $525,000 in punitive damages from the first defendant and $575,000 in punitive damages from the second defendant.

REFERENCE

Lima vs. Fanani and Filho. Case no. 2020CA011301; Judge G. Joseph Curley, 10-20-23.

Attorneys for plaintiff: Cody German and Erika Agosto of Cole, Scott & Kissane, P.A. in Miami, FL. Attorney for defendant Filho: Matthew Estevez of Matthew Estevez, P.A. in Doral, FL. Attorneys for defendant Fanani: J. Timothy Schulte and Ava M. Sigman of Zimmerman, Kiser & Sutcliffe, P.A. in Orlando, FL.

Municipal Liability

$2,850,000 RECOVERY – MUNICIPAL LIABILITY – POLICE LIABILITY – OFFICER DRIVING RECKLESSLY TO MALL/SCENE OF CARJACKING AFTER NUMBER OF OFFICERS ALREADY ARRIVED LOSES CONTROL AND FATALLY STRIKES SIDEWALK PEDESTRIAN – WRONGFUL DEATH OF 65-YEAR-OLD FEMALE FROM SEVERE BLUNT FORCE TRAUMA.

Passaic County, NJ

In this case, the plaintiff contended that the defendant police officer on duty with the defendant municipality acted in a reckless manner after an attempted carjacking at a mall situated approximately 20 minutes away, and at which a number of police officers had already arrived. The plaintiff maintained that defendant traveled at a high rate of speed on a roadway containing 2 lanes in each direction, drove into the on-coming lane where he lost control and struck the 65-year-old pedestrian who was walking on the sidewalk, causing her to sustain fatal injuries. The decedent left a husband and 2 adult children. The defendant denied that the plaintiff's claims were accurate.

The defendant asserted that he lost control because an unidentified driver in the right lane cut him off while attempting to make a left turn from the right lane as the officer was in the left lane. The plaintiff countered that a video from a nearby business was inconsistent with the defendant's position and supported the plaintiff's version.

The plaintiff's anesthesiologist would have maintained that the cause of death was severe blunt force trauma. The plaintiff contended that the decedent had several minutes of conscious pain and suffering.

The case settled before motions for $2,850,000.

REFERENCE

Plaintiff's anesthesiologist expert: Peter Salgo, M.D. from New York, NY. Plaintiff's economist expert: Kristen Kuzma from Livingston, NJ.

Lee vs. City of Clifton, et al. Docket no. PAS-L-1872-21, 10-24.

Attorney for plaintiff: Andrew O'Connor of Nagel Rice, LLP in Roseland, NJ.

Utility Company Negligence

$5,000,000 SETTLEMENT – UTILITY COMPANY NEGLIGENCE – PLAINTIFF TELEPHONE COMPANY WORKER CLAIMS DEFENDANT UTILITY COMPANY'S ELECTRICAL LINE FELL ON HIM WHEN BEING REPAIRED AFTER SNAGGED BY DEFENDANT CITY'S DOT TRUCK – HIGH IMPACT FORCE AND TRAUMA; ELECTRIC SHOCK; CERVICAL DISC HERNIATIONS; INJURIES TO NECK, LEFT SHOULDER, ARM AND HAND – ANTERIOR CERVICAL FUSION, AND STRUCTURAL ALLOGRAFT PLACEMENT; CERVICAL MEDIAL BRANCH BLOCK AT C3-6; CERVICAL EPIDURAL STEROID INJECTION.

Kings County, NY

In this negligence case, the plaintiff, a 32-year-old telephone and communications worker, asserted that the defendants, utility company and city, were negligent such that they caused the plaintiff significant, permanent injury. As a result of the heavy wire falling on the plaintiff, he claimed high-impact force and trauma, as well as electric shock, all applied to the left side of his neck, left shoulder, arm and hand. Also as a result of being struck by the electrical utility line, the plaintiff suffered post-traumatic concussion; bulging discs at C2-3 through C5-6; disc herniation at C6-7 with radiculopathy which he underwent anterior cervical disc fusion, and structural allograft placement; cervical medial branch block at C3-6; cervical epidural steroid injection; and radio frequency ablation of cervical spine. The plaintiff brought suit against the defendant city, and the defendant utility company. A bifurcated trial was held as to liability only. The defendants denied all allegations of negligence.

The plaintiff claimed the defendant utility company allowed a defective condition to come into, and remain in, existence at the subject work site and its vicinity in the form of a dislodged, electrified utility line that struck the plaintiff without warning and with great force. The plaintiff claimed permanent, disabling injuries including a determination of 100% disability for workmen's compensation purposes due to, inter alia, cervical radiculopathy and post-traumatic concussion.

The jury found that the plaintiff and defendant city were not negligent at all and that the defendant utility company was 100% liable. The case was thereafter settled against the utility company for $5,000,000.

REFERENCE

Bartnick vs. Consolidated Edison Company of New York, Inc., et al. Index no. 9086/2012; Judge Peter P. Sweeney, 04-04-23.

Attorneys for plaintiff: Scott W. Epstein and Edward Bithorn (of counsel) to Antin, Ehrlich & Epstein, LLP in New York, NY. Attorney for plaintiff: Anthony V. Gentile of Law Office of Anthony V. Gentile in Brooklyn, NY. Attorney for defendant utility company: Lauren A. Jones by Grant C. Wright of Consolidated Edison Company of New York, Inc. in New York, NY.