NEW JERSEY
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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

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

Essex County, NJ

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

On December 21, 2018, at approximately 3:40 a.m., the 21-year-old female plaintiff was operating her vehicle on an on-ramp onto Interstate State 1-95 Southbound near the 107.0 mile marker in Maryland. Shortly after taking the on-ramp, the plaintiff struck a disabled vehicle that was in her lane. The disabled vehicle had been sideswiped by a vehicle that did not stop. After impacting the disabled car, the plaintiff got out of her car and went to the shoulder of the highway next to the guardrail. She placed an emergency call to 911 while standing on the shoulder.

As the plaintiff was speaking to the 911 operator, she was struck by a jackknifed tractor trailer operated by the defendant driver, DePass, who is now deceased from causes unrelated to this lawsuit. The plaintiff was pinned between the truck and the guardrail. The plaintiff's legs were both severely severed at the scene. She was transported to Christiana Care Hospital and was admitted for an extended stay. She underwent 15 surgeries, extensive physical therapy, home care assistance, and was confined to a wheelchair. She can now ambulate on prosthetics.

At the time of the accident, the defendant driver was in the course and scope of his employment with the defendant Jersey City Transfer. Defendant Alert Motor Freight owned the trailer operated by the driver. The plaintiff maintained that the defendant driver breached his duty of care and operated his vehicle in a negligent manner at an unsafe rate of speed in poor weather conditions and failed to pay proper attention to the roadway. The plaintiff maintained that the defendant companies were vicariously liable for the acts of the defendant driver and the companies failed to comply with applicable standards and practices issued by the National Hwy. Traffic Administration, US Department of Transportation, Federal Motor Carrier Regulations, The Vehicle Safety Commission, The American Standards Institute, and The Society of Automotive Engineers.

In addition, the plaintiff maintained that the defendants failed to properly train the defendant driver and maintained a poor or below average carrier safety rating. The truck that hit the plaintiff was under contract to deliver defendant General Electric's appliances through the defendant subsidiary, Haier U.S. Appliance Solutions. The plaintiff argued that these companies were negligent for using the trucking company despite their poor safety records.

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

REFERENCE

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

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

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

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COMMENTARY

The plaintiff's accident reconstruction expert testified about the standards and regulations that apply to commercial drivers. According to this expert, tractor-trailer operators are required to reduce their speed by 1/3 when road conditions are wet and dark. It was determined that the defendant driver was operating the tractor trailer at 58 mph. Given the conditions of the wet roadway and limited visibility, the defendant driver was required to operate his vehicle no faster than 44 mph as the speed limit was 65 mph. This expert opined with a reasonable degree of scientific and accident reconstruction certainty that had the driver been doing the proper speed limit, he would have had enough time and distance to avoid the collision. The driver's supervisor agreed that commercial drivers should reduce their speed when roadways are wet and visibility is reduced so that they can safely stop their vehicle within the distance that they can see ahead of their own vehicles. In fact, the supervisor agreed that the accident was preventable, and that the defendant driver was traveling too fast for the cold, wet, rainy and dark conditions.

The plaintiff also presented expert testimony about her limitations with activities of daily living. At the time of trial, the plaintiff was unable to drive and depends on her boyfriend for food shopping and meal prep. She can assist with activities but has difficulty reaching into an oven or refrigerator. The plaintiff is able to self-care and dress independently but does require assistance often for mobility and longs for her independence. The plaintiff wears 2 prosthetic legs that the plaintiff's experts opined would have to be replaced approximately every 3 years.

$212,500 ARBITRATION AWARD – MOTOR VEHICLE NEGLIGENCE – INTERSECTION COLLISION – PLAINTIFF'S VEHICLE STRUCK BY DEFENDANT'S VEHICLE IN INTERSECTION AFTER DEFENDANT RUNS RED LIGHT – LUMBAR SPINE INJURY – SURGERY REQUIRED, INCLUDING 2-LEVEL LUMBAR FUSION AT L4-5 AND L5-S1, AS WELL AS LUMBAR FUSION AT L2-L3.

Bergen County, NJ

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

On January 7, 2020, the plaintiff's vehicle was traveling on New Jersey Route 4 & Broadway, at or near its intersection with Fair Lawn Parkway in Fair Lawn, New Jersey. At the same time, the defendant's vehicle was traveling on Fair Lawn Parkway, toward the same intersection. At the time of the incident, the plaintiff was attempting to proceed straight through the intersection, with a green light in his favor. As the plaintiff's vehicle was proceeding through the intersection, it was suddenly struck by the defendant's vehicle after the defendant disregarded a red light.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to obey a red light, failing to obey traffic signals, failing to observe traffic conditions, failing to remain adequately attentive, failing to wait, failing to yield, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including lumbar spine injuries. The plaintiff's spine injuries required surgery to repair, including a 2-level lumbar fusion at L4-5 and L5-S1, as well as a lumbar fusion at L2-L3.

The arbitrators found in favor of the plaintiff and reported an award for $212,500.

REFERENCE

Lai vs. Velasquez. Docket no. L001540-21; Judge William C. Soukas, 05-20-24.

Attorney for plaintiff: Brandon J. Broderick of Brandon J. Broderick, LLC in River Edge, NJ. Attorney for defendant: Peter L. Aragona of Allstate.

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

Camden County, NJ

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

On February 28, 2017, the plaintiff's decedent, presented to the defendant, Kennedy Memorial Hospital – Washington Township, New Jersey. She presented with complaints of right lower back pain that was radiating into her right leg. Tests were run and the plaintiff was differentially diagnosed with musculoskeletal back pain. She was given an injection of orphenadrine citrate, a muscle relaxer, in her left upper extremity and an oral dose of Vicodin and was discharged. The plaintiff returned to the defendant hospital on March 2, 2017, with buttock pain, nausea and vomiting and pain at the injection site in her left upper arm. She was tachycardic, her blood pressure was high, and her body temperature was low. Her liver functions were elevated and nursing notes indicated a sepsis warning.

She was differentially diagnosed with necrotizing fasciitis and/or compartment syndrome due to noticeable discoloration around the left bicep and tricep. Necrotizing fasciitis is a surgical emergency. Instead of performing emergency surgery, the defendants delayed the surgery by sending the plaintiff to radiology for an MRI. The decedent was unable to tolerate the MRI. Shortly thereafter, CT-scans of the left humerus and right lower extremity were performed. Intramuscular edema was seen throughout. The decedent was taken to the ICU and then to surgery. She suffered a cardiac arrest before the surgery and was resuscitated. The procedure took place, and the left upper arm was drained, debrided and fasciectomies were performed. The following morning, the decedent suffered another cardiac arrest and could not be resuscitated.

The estate maintained that the several-hour delay in surgery allowed the infection to spread and cause severe sepsis with septic shock; acute kidney injury; metabolic acidosis and lactic acidosis; advancing necrotizing fasciitis; myositis; cardiac arrest; and other damages ultimately resulting in the plaintiff's decedent's death. The estate maintained that the defendants were negligent in failing to timely consult with a general surgeon, acute-care surgeon, trauma surgeon or orthopedic surgeon the decedent's necrotizing fasciitis, failing to contact a different general surgeon, acute-care surgeon, trauma surgeon or orthopedic surgeon when the defendant, Dr. Kovacs, was unable to attend to the decedent due to his surgical schedule, failing to recognize the urgency of the decedent's condition, failing to convey the severity of the decedent's sepsis to the defendant, Kovacs, and his staff, delaying surgical treatment of the decedent, failing to obtain proper medical consultation and ordering an abdominal and pelvic CT-scan for the decedent, delaying surgical treatment.

The estate also made claims against the doctors who treated the decedent at her first presentation when she was administered the shot where the necrotizing fasciitis developed; however, those claims and defendants were dismissed prior to trial. The 54-year-old decedent is survived by her husband and 3 adult children. The defendants denied that they were negligent and that they caused the patient's injuries. The defendants maintained that their care of the patient was in accordance with accepted standards of medical care at all times.

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

REFERENCE

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

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

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

COMMENTARY

This complicated medical malpractice action included testimony from many treating doctors and many experts. One such expert, a board-certified orthopedic surgeon, opined that the MRI/CT of the left upper extremity was not medically necessary. This expert stated that the 2 diagnoses listed in the different diagnoses for the decedent, compartment syndrome and abscess formation were erroneous due to the clinical presentation of the decedent. This ordering of the MRI/CT was a deviation in the standard of care and caused a delay in the surgery for necrotizing fasciitis. This expert also opined that the communication between the orthopedic defendants was poor and alarming and also a deviation in the standard of care. A simple picture of the decedent's arm shared between the defendants would have confirmed the emergency department's differential diagnose of necrotizing fasciitis and surgery to treat such would have occurred earlier.

$204,000 ARBITRATION AWARD – PREMISES LIABILITY – FALL DOWN – PLAINTIFF TRIPS AND FALLS OVER MERCHANDISE DISPLAY AT DEFENDANT CONVENIENCE STORE – BILATERAL MEDIAL MENISCUS TEARS – BILATERAL LOWER LIMB COMPLEX REGIONAL PAIN SYNDROME.

Ocean County, NJ

In this premises liability action, the plaintiff tripped and fell over a merchandise display at the defendant convenience store sustaining serious injuries. The defendants generally denied all allegations of negligence.

On January 1, 2021, the plaintiff was a lawful visitor and business invitee at the defendant convenience store, located on the premises of 3001 Ridgeway Road in Manchester, New Jersey. At this time, the plaintiff was preparing to exit the convenience store through the main entrance. As the plaintiff was walking toward the door, she suddenly tripped over a merchandise display that was placed just adjacent to the entrance/exit. The plaintiff then fell, causing her to be injured.

The plaintiff maintained that the defendants were negligent in failing to maintain safe and adequate conditions on the premises, failing to remove or replace a hazardous merchandise display, failing to prevent a tripping hazard, failing to prevent hazardous or unsafe conditions in general, in failing to move the merchandise display, in negligently allowing the display to obstruct a path to the store entrance/exit, in failing to warn of hazardous or unsafe conditions on the premises, failing to provide safe passage inside the convenience store, and failing to regard for the health and safety of visitors and business invitees on the premises including the plaintiff. Consequently, the plaintiff sustained injuries, including bilateral medial meniscus tears, as well as bilateral lower limb complex regional pain syndrome. The plaintiff will need to undergo surgery for her injuries in the future.

The arbitrators found in favor of the plaintiff and reported an award for $204,000.

REFERENCE

Cilone vs. Quickchek Corporation. Docket no. L003114-21; Judge Valter H. Must, 02-17-24.

Attorney for plaintiff: Lisa A. Lehrer of Davis, Saperstein & Salomon, P.C. in Teaneck, NJ. Attorney for defendant: Maxwell Leonard Billek of Wilson Elser Moskowitz Edelman & Dicker, LLP in Madison, NJ.

Verdicts By Category

PRODUCT LIABILITY

Defective Design

$10,500 SETTLEMENT

Product liability – Defective design – Minor plaintiff sustains laceration injuries on right hand after coming into contact with oven door handle manufactured by defendant – 1.5 cm laceration to right middle finger – 1 cm laceration to right index finger – Sutures required.

Burlington County, NJ

In this product liability action, the minor plaintiff sustained laceration injuries after coming into contact with an oven door handle in his home, which was manufactured and sold by the defendant company. The defendants generally denied all allegations of negligence.

On January 29, 2021, the minor plaintiff was lawfully inside his family's residence, located at 202 Cinnaminson Avenue in Palmyra, New Jersey. At this time, the plaintiff mother was standing by the stove in the kitchen, while the minor plaintiff stood beside her. The stove was attached to the subject oven, which was manufactured by the defendant company and sold to the plaintiffs on September 8, 2020. At the time of the incident, the minor plaintiff reached up to grab the oven door handle, when his hand came into contact with sharp metal vents just behind the handle. The minor plaintiff became injured as a result.

The plaintiffs maintained that the defendants were negligent in failing to properly manufacture the subject oven and oven door handle, in negligently allowing oven vents near the door handle to be excessively sharp, in failing to inspect the subject oven for hazardous conditions, failing to inspect the oven before sale, failing to warn of sharp edges located near the oven door handle, failing to ensure the safety of the oven, and failing to regard for the health and safety of product users including the plaintiffs. Consequently, the minor plaintiff sustained injuries, including a 1.5 centimeter laceration to the right middle finger, as well as a 1 centimeter laceration to the right index finger. Both injuries required wound irrigation and closure with 5-0 Prolene sutures.

The parties entered into a settlement for $10,500.

REFERENCE

Moffett vs. Electrolux North America. Docket no. L000023-23; Judge Richard L. Hertzberg, 02-15-24.

Attorney for plaintiff: Joseph Lukomski of Rovner, Allen, Rovner, Zimmerman, Lukomski & Wolf in Cherry Hill, NJ. Attorney for defendant: David S. Osterman of Goldberg Segalla, LLP in Philadelphia, PA.

BREACH OF FIDUCIARY DUTY

$24,814 JUDGMENT

Will and estate – Breach of fiduciary duty – Plaintiff father of decedent argues defendant brother of decedent wrongfully had himself named administrator of decedent's estate and took assets and funds from estate that should have gone to plaintiff.

Gloucester County, NJ

In this wills and estates case, the decedent was survived by his parents and one brother. The plaintiff father asserted that the defendant brother took funds belonging to the estate. The defendant denied the plaintiff's claims and asserted that he did not raise an estate but was appointed administrator of the estate.

On May 15, 2020, the plaintiff's son died without a will in Franklinville and an estate was established with the Gloucester County Surrogate. The estate was raised for the deceased by the defendant, brother of the deceased, and the defendant was appointed administrator of the estate. The plaintiff father paid the funeral costs for the estate. The plaintiff asserted that any person dying intestate would have their estate assets pass to their surviving parents equally if there was no surviving spouse or domestic partner, as was the case with the decedent.

The plaintiff maintained that the estate should have passed to the surviving parents equally; however, the defendant brother collected proceeds from certain

life insurance funds and other benefits payable to his brother's estate including pension benefits. The plaintiff argued that the defendant had a fiduciary duty to distribute proceeds of the pension funds and other assets to the parent heirs of the estate. The plaintiff claimed that the defendant breached his duty to his parents, the heirs of the estate, and caused them financial damage and loss.

The plaintiff asserted that the defendant seized, stole, or retained for his own the pension funds and other assets of the estate and converted, sold or disposed of the estate's assets for his own use and benefit to the great detriment and financial loss of the plaintiff. The plaintiff contended that the defendant fraudulently, intentionally, and purposefully withheld assets from the heirs and that the plaintiff was thus entitled to compensatory and punitive damages.

The defendant asserted that certain accounts were left to the defendant as beneficiary of the decedent and thus were not intended for the estate or the plaintiff as heir, including the decedent's life insurance policy and pension benefits. The defendant argued that those assets were released to him directly, not to the estate. Further, the defendant asserted that the plaintiff withdrew funds from the decedent's bank account, sold his vehicles and tools and did not split the proceeds with the mother of the decedent. The defendant also argued that the plaintiff made unilateral decisions regarding cremation of the deceased and wording on his headstone, without the consent or input of the defendant or the mother of the decedent.

The court found in favor of the plaintiff and against the defendant and awarded damages in the amount of $24,814 broken down as follows: $1,550 in commission for services as administrator of the estate; $9,912 to the plaintiff, $10,662 to the mother of the decedent and $2,690 to the funeral home for outstanding funeral charges.

REFERENCE

Wilcox vs. Wilcox. Docket no. L-000124-22; Judge Samuel J. Ragonese, 02-05-23.

Attorney for plaintiff: Stephen Altamuro of Stephen Altamuro, PC in Turnersville, NJ. Attorney for defendant: pro se.

CONTRACT

$165,000 VERDICT

Breach of employment contract – Plaintiff contends he was hired by defendants and integral in turning business around to point defendants made promise in writing to pay plaintiff one month's salary for each year he worked if defendants no longer owned business – Based on promise, plaintiff remained with defendants and did not seek other employment – Defendants sell business, and fail to honor agreement – Defendants deny any contract with plaintiff.

Gloucester County, NJ

In this breach of contract case, the plaintiff employee asserted that the defendant employer reneged on compensation it promised to the plaintiff (in the form of a letter) in exchange for his ongoing service to the defendant business. The plaintiff sought monetary damages; punitive damages and attorneys' fees, interest, and costs. The defendant denied the existence of any contractual or promissory obligation to the plaintiff and maintained that the letter referred to by the plaintiff did not constitute a contract.

The plaintiff was a skilled manager of large-scale commercial nurseries which grow plants for retail nurseries, landscape contractors, wholesalers, garden centers, and home and garden stores. The plaintiff held bachelor's degrees in both business management and plant science. The defendant individual founded and was the president and principal owner of the defendant plant nursery business. In 2007, the defendant's business, including its perennial plant program, was in decline due to poor management and operation. The defendant offered the plaintiff a job in an attempt to turn around the decline of the business. The plaintiff accepted the defendant's offer of employment, dated February 20, 2007.

The plaintiff proved to be a valued employee of and leader within the business, helping to reverse the decline in the defendant's business. Notwithstanding his success with the company, the plaintiff had concerns about his future with the company in the event that its founder, president, and owner, were to sell or otherwise leave the business. In addition, other commercial nurseries began to take notice of the plaintiff and sought to recruit him. To retain the plaintiff and assuage his concerns about his future with the business, the defendant principal wrote the plaintiff a letter, dated November 1, 2010, in which he commended the plaintiff stated that if the plaintiff remained for one year after he was no longer with the company, the plaintiff would receive a month's salary for every year he had been with the company.

In reliance on the defendants' commitment to him, the plaintiff chose to remain with the defendant and further invest himself in the company's growth and success. The plaintiff accepted the defendants' offer and remained with the business for years thereafter, contributing to the growth and success of the business which ultimately netted the defendants millions of dollars in sale proceeds. The changes the plaintiff

brought to the defendant's operations revived the defendant's reputation in the commercial nursery market and increased the overall sales of the company.

In late 2020, the defendant agreed to sell the business to Central Garden & Pet, a market leader in the garden and pet industries. The defendant Ench assured the plaintiff that he would continue to have a place with the business. In anticipation of closing of the sale transaction, the purchaser offered the plaintiff continued employment with the new owner. The plaintiff accepted the offer of continued employment with the nursery business following its sale to Central Garden & Pet, as the defendant had encouraged him to do. Following closing of the sale transaction, the plaintiff shared with the new owners of the defendant's business and nursery operations the commitments made to him by the defendants in the November 1, 2010 letter.

The new owner informed the plaintiff that the defendants never disclosed this commitment during the due diligence process or in any of their transaction documents related to the sale of the business. Shortly after the plaintiff discussed with the new owner the commitments made to him by defendants, the plaintiff received a letter from the defendant, dated April 23, 2021, wherein the defendant denied that either he or the defendant company owed the plaintiff any money whatsoever. The plaintiff contended that, following the defendants' sale of the business, they failed to perform their obligation to compensate the plaintiff as promised in their November 1, 2010 letter.

The defendants argued that the plaintiff was directly compensated for the work he actually performed for the defendant. The defendant maintained that the plaintiff's salary more than doubled between the time the defendant issued the November 1, 2010 letter and when the defendant sold its assets. The defendants asserted that the plaintiff's salary grew from $96,058 in 2010 to $201,634 in 2020. The defendants asserted that, once the new owners took over, they had the option to retain the plaintiff or not, that they were not compelled to keep any employees on staff, and that the defendants were no longer under any obligation to the plaintiff.

The jury found in favor of the plaintiff and awarded damages in the amount of $165,000.

REFERENCE

Rudolph vs. Hopewell Nursery, Inc. et al. Docket no. L-000232-22; Judge Samuel J. Ragonese, 02-15-23.

Attorney for plaintiff: William R. Cruse of Blank Rome, LLP in Princeton, NJ. Attorney for defendant: Peter E. Lembesis of Dunn Lambert, L.L.C. in Paramus, NJ.

DOG BITE

$5,000 ARBITRATION AWARD

Dog bite – Plaintiff bitten by defendant's dog while visiting defendant's home – Failure to leash or restrain dog – Ecchymosis and abrasion of upper left thigh – Puncture wound and scar related to dog bite.

Morris County, NJ

In this dog bite action, the plaintiff was bitten by the defendant's dog while visiting the defendant's home, causing him to become injured. The defendant generally denied negligence.

On February 11, 2022, the plaintiff was lawfully visiting the defendant's home, located on the premises of 45 Citadel Drive in Jackson, New Jersey. At this time, the plaintiff was entering the residence with the defendant. As he was entering the residence, the plaintiff was approached by the defendant's dog. Suddenly and without warning, the dog lunged at the plaintiff and bit his left hip.

The plaintiff maintained that the defendant was negligent in failing to properly train the dog, failing to leash or restrain the dog, failing to keep the dog away from visitors, failing to keep the dog in a separate room, failing to prevent the dog from attacking or biting, failing to warn of the dog's violent tendencies, failing to properly supervise the dog, failing to remove the dog from the area before it bit the plaintiff, failing to keep the dog outside, failing to muzzle the dog, and failing to regard for the safety of the plaintiff while he was visiting the defendant's home. Consequently, the plaintiff sustained injuries, including ecchymosis and abrasion of the upper left thigh, as well as a puncture wound and scar related to a dog bite. The defendant denied all allegations of negligence on the grounds that the dog had not acted violently before; making him unable to anticipate that the dog would bite.

The arbitrators found in favor of the plaintiff and reported and award for $5,000.

REFERENCE

Crisafulli vs. Mastrianni. Docket no. L001417-22; Judge Craig L. Wellerson, 02-09-24.

Attorney for plaintiff: Brian J. Trembley of Bramnick Rodriguez Grabas Arnold & Mangan, LLC in Scotch Plains, NJ. Attorney for defendant: John C. Prindiville of Barry & Prindiville, P.A. in Sea Girt, NJ.

MOTOR VEHICLE NEGLIGENCE

Auto/Bicycle Collision

$75,000 ARBITRATION AWARD

Motor vehicle negligence – Auto/bicycle collision – Plaintiff bicyclist struck by defendant's vehicle turning right into parking lot – Cervical disc herniations – Cervical radiculopathy – Lumbar disc herniations – Left knee meniscal tear – Subacute fracture of the left proximal fibula.

Bergen County, NJ

In this motor vehicle negligence action, the plaintiff bicyclist sustained injuries when he struck the defendant's vehicle turning right into a parking lot. The defendant generally denied all allegations of negligence.

On September 17, 2020, the plaintiff was riding his bicycle on the sidewalk on Kinderkamack Road, at or near its intersection with Main Street in River Edge, New Jersey. At this time, the defendant's vehicle was traveling on Kinderkamack road, in the vicinity of the plaintiff bicyclist. At the time of the incident, the defendant's vehicle attempted to make a right turn into a parking lot on Kinderkamack Road. As the defendant's vehicle turned right, it cut off the plaintiff bicyclist, causing the plaintiff's bicycle to collide with the rear of the defendant's vehicle.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to wait before turning into the parking lot, failing to yield to the plaintiff bicyclist, in negligently obstructing the sidewalk, in failing to observe the plaintiff bicyclist, failing to obey traffic conditions, failing to remain adequately attentive, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff bicyclist. Consequently, the plaintiff sustained injuries, including cervical disc herniations, cervical radiculopathy, lumbar disc herniations, left knee meniscal tear, and a subacute fracture of the left proximal fibula.

The arbitrators found in favor of the plaintiff and reported an award for $75,000.

REFERENCE

Jones vs. Aufrichtig. Docket no. L008317-21; Judge David V. Nasta, 04-03-24.

Attorney for plaintiff: Kate Carballo of Davis, Saperstein & Salomon, P.C. in Teaneck, NJ. Attorney for defendant: Carl A. Mazzie of Foster & Mazzie, LLC in Totowa, NJ.

Auto/Pedestrian Collision

$120,000 ARBITRATION AWARD

Motor vehicle negligence – Auto/pedestrian collision – Plaintiff pedestrian struck by defendant's vehicle in convenience store parking lot – Occipital neuralgia – Cervical disc bulges – Radiculopathy at C6-7 – Right shoulder labral tear – Right shoulder pain.

Camden County, NJ

In this motor vehicle negligence action, the plaintiff pedestrian was struck by the defendant's vehicle while walking in a convenience store parking lot, causing her to become injured. The defendant generally denied all allegations of negligence.

On November 17, 2019, the plaintiff was a pedestrian lawfully traversing a convenience store parking lot on the premises of 71 S. Lakeview Drive in Gibbsboro, New Jersey. At this time, the defendant's vehicle was traveling in the same parking lot, toward the plaintiff's location. At the time of the incident, the plaintiff was walking in a very dark and dimly lit area of the parking lot, causing the defendant driver to be unable to see her. The defendant's vehicle then struck the plaintiff pedestrian.

The plaintiff maintained that the defendant driver was negligent in failing to keep a proper lookout, failing to exercise due care, failing to observe the plaintiff pedestrian, failing to yield to the plaintiff pedestrian, failing to remain adequately attentive, failing to operate the vehicle at a reasonable rate of speed for a parking lot, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff pedestrian. Consequently, the plaintiff sustained injuries, including occipital neuralgia, cervical disc bulges, radiculopathy at C6-7, right shoulder labral tear, and right shoulder pain.

The arbitrators found in favor of the plaintiff and reported an award for $120,000.

REFERENCE

Pschunder-Haaf Deborah vs. Williams Raymond, Wawa Inc. Docket no. L003522-21; Judge Steven J. Polansky, 03-23-24.

Attorney for plaintiff: Richard Astorino of Kotlar, Hernandez & Cohen, LLC in Mount Laurel, NJ. Attorney for defendant: Melissa Bishop of USAA.

Head-on Collision

$175,000 ARBITRATION AWARD

Motor vehicle negligence – Head-on collision – Plaintiff's vehicle struck head-on by defendant's vehicle after intoxicated defendant driver enters wrong travel lane – Neck and back injuries.

Bergen County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck head-on by the defendant's vehicle after the intoxicated defendant driver entered the wrong travel lane, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On May 14, 2021, the plaintiff's vehicle was traveling southbound on Ewing Avenue, near its intersection with Waterview Drive in Franklin Lakes, New Jersey. At the same time, the defendant's vehicle was traveling northbound on Ewing Avenue, toward the plaintiff's location. At the time of the incident, the defendant driver, believed to be intoxicated at the time, lost control of her vehicle and crossed the double-yellow line into the southbound traffic lane on Ewing Avenue. As a result, the defendant's vehicle struck the plaintiff's vehicle head-on.

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

The arbitrators found in favor of the plaintiff and reported an award for $175,000.

REFERENCE

Aydogan Ali vs. Delguidice Carol. Docket no. L001187-22; Judge Kevin P. Kelly, 04-22-24.

Attorney for plaintiff: Richard LaBarbiera of LaBarbiera & Martinez in North Bergen, NJ. Attorney for defendant: Kenneth Francis D'Amato of Atkins, Tafuri, Minassian, D'Amato, Beane & Miller, P.A. in River Edge, NJ.

$150,000 ARBITRATION AWARD

Motor vehicle negligence – Head-on collision – Plaintiff's vehicle struck by defendant's vehicle entering opposite travel lane on highway off ramp – Abdominal bruising – Cervical disc bulges – Cervical and lumbar disc herniations – Lumbar radiculopathy – Left shoulder bursitis.

Passaic County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck head-on by the defendant's vehicle, which entered the wrong travel lane on a highway off ramp, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On August 25, 2022, the plaintiff's vehicle was traveling on Route 46 West, at or near its intersection with Paterson Avenue in Little Falls, New Jersey. Specifically, the plaintiff's vehicle was traveling on a highway off-ramp at the subject intersection. At this time, the defendant's vehicle was also traveling on Route 46 in the opposite direction, toward the plaintiff's location on the Paterson Avenue off-ramp. At the time of the incident, as the plaintiff's vehicle and defendant's vehicle were about to pass one another, the defendant's vehicle suddenly crossed the double-yellow line and veered into the plaintiff's travel lane. The defendant's vehicle then struck the plaintiff's vehicle head-on.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to remain in the correct lane of travel, failing to remain adequately attentive, failing to keep the vehicle under proper and adequate control, failing to observe the plaintiff's vehicle, failing to obey traffic conditions, failing to obey traffic signals, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including abdominal bruising, cervical disc bulges, cervical and lumbar disc herniations, lumbar radiculopathy, and left shoulder bursitis.

The arbitrators found in favor of the plaintiff and reported an award for $150,000.

REFERENCE

Cardoza vs. Glasser. Docket no. L002475-22; Judge Bruno Mongiardo, 02-27-24.

Attorney for plaintiff: Nicholas Martino, Jr. of Nicholas Martino, Jr., Esq. in Long Branch, NJ. Attorney for defendant: Laura Lynn Meny of Farmers Insurance.

Intersection Collision

$80,000 ARBITRATION AWARD

Motor vehicle negligence – Intersection collision – Plaintiff's vehicle struck broadside by defendant's vehicle after defendant disregards stop sign – Left shoulder impingement and rotator cuff tendonitis – Suspected left rotator cuff tear or labral tear – Suspected left knee meniscus tear – Cervical disc bulges – Lumbar disc bulges.

Cumberland County, NJ

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

On February 1, 2018, the plaintiff's vehicle was traveling southbound on South Third Street, near its intersection with West Grape Street in Vineland, New Jersey. At this time, the defendant's vehicle was traveling westbound on West Grape Street, toward the same intersection, which was controlled by a 4-way stop sign. After stopping at her designated stop sign, the plaintiff attempted to proceed straight through the intersection. As the plaintiff's vehicle was proceeding forward, the defendant's vehicle entered the intersection without stopping at the stop sign. The defendant's vehicle then struck the plaintiff's vehicle in the driver's side.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to obey a stop sign, failing to obey traffic signals, failing to observe traffic conditions, failing to observe the plaintiff's vehicle, failing to remain adequately attentive, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including left shoulder impingement and rotator cuff tendonitis, suspected left rotator cuff tear or labral tear, suspected left knee meniscus tear, cervical disc bulges, and lumbar disc bulges.

The arbitrators found in favor of the plaintiff and awarded $80,000.

REFERENCE

Carrasco Leocadia vs. Callavini Nina. Docket no. L000043-20; Judge Niki Arbittier, 03-04-24.

Attorney for plaintiff: Daniel Epstein of Epstein Ostrove, LLC in Edison, NJ. Attorney for defendant: Michael J. Lewis of Progressive.

$60,000 ARBITRATION AWARD

Motor vehicle negligence – Intersection collision – Plaintiff's vehicle struck by defendant's vehicle in intersection after defendant runs red light – Bilateral meniscal tears.

Atlantic County, NJ

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

On October 8, 2020, the plaintiff's vehicle was traveling in the center lane on Mill Road, at or near its intersection with White Horse Pike in Absecon, New Jersey. At this time, the plaintiff was preparing to proceed straight through the subject intersection, with a green light in his favor. At the same time, the defendant's vehicle was traveling on White Horse Pike, toward the same intersection. As the plaintiff's vehicle was proceeding with a green light, the defendant's vehicle suddenly maneuvered around stopped traffic on White Horse Pike and entered the intersection, disregarding the red light in his favor. The defendant's vehicle then struck the plaintiff's vehicle.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to obey a red light, failing to obey traffic signals, failing to obey traffic conditions, failing to wait, failing to yield, failing to operate the vehicle at a reasonable rate of speed, failing to keep the vehicle under proper and adequate control, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including bilateral meniscal tears.

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

REFERENCE

Brown vs. Felz. Docket no. L002716-22; Judge Danielle J. Walcoff, 04-12-24.

Attorney for plaintiff: Anthony Granato of Jarve Kaplan Granato Starr, LLC in Marlton, NJ. Attorney for defendant: David Justin Sideman of Geico.

$55,000 ARBITRATION AWARD

Motor vehicle negligence – Intersection collision – Plaintiff's vehicle struck by defendant's vehicle in intersection after defendant disregards stop sign – Post-traumatic headaches – Cervical/thoracic sprain/strain – Right elbow sprain/strain – Lumbar disc herniations and disc bulge.

Camden County, NJ

In this motor vehicle negligence action, the plaintiff sustained injuries when her vehicle was struck by the defendant's vehicle in an intersection after the defendant disregarded a stop sign. The defendant generally denied all allegations of negligence.

On June 5, 2021, the plaintiff's vehicle was traveling southbound on Louis Street, at or near its intersection with Atlantic Avenue in Camden, New Jersey. At the same time, the defendant's vehicle was traveling westbound on Atlantic Avenue, toward the same intersection, which was controlled by a 4-way stop sign. At the time of the incident, the plaintiff had stopped at his designated stop sign and began to proceed forward through the intersection in a straight direction. As the plaintiff's vehicle proceeded forward, it was suddenly struck by the defendant's vehicle after the defendant disregarded his own stop sign.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to obey a stop sign, failing to obey traffic signals, failing to remain adequately attentive, failing to observe traffic conditions, failing to observe the plaintiff's vehicle, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including post-traumatic headaches, cervical/thoracic sprain/strain, right elbow sprain/strain, and lumbar disc herniations and disc bulge.

The arbitrators found in favor of the plaintiff and awarded $55,000.

REFERENCE

Fortuna-Fernandez Nelfi vs. Everett, Jr. Santerla. Docket no. L000612-22; Judge Anthony M. Pugliese, 02-02-24.

Attorney for plaintiff: Steven M. Petrillo of Petrillo & Goldberg, P.C. in Pennsauken, NJ. Attorney for defendant: Jesse Elder of Wilson Elser Moskowitz Edelman & Dicker, LLP in Madison, NJ.

Left Turn Collision

$100,000 ARBITRATION AWARD

Motor vehicle negligence – Left turn collision – Plaintiff passenger injured when defendant driver makes abrupt left turn, striking another vehicle – Head injury with brief loss of consciousness – Lumbar disc herniations with radiculopathy.

Ocean County, NJ

In this motor vehicle negligence action, the plaintiff passenger was injured when the defendant driver made an abrupt left turn, striking another vehicle. The defendant generally denied all allegations of negligence.

On December 4, 2020, the plaintiff was a restrained, front-seat passenger in the defendant driver's vehicle, which was traveling northbound on Brick Boulevard, at or near its intersection with Chambers Bridge Road in Brick, New Jersey. At this time, the defendant driver's vehicle was preparing to make a left turn onto Chambers Bridge Road. At the same time, the secondary defendant's vehicle was traveling southbound on Brick Road toward the same intersection, and was preparing to proceed straight through the intersection. At the time of the incident, the defendant driver attempted to make an abrupt left turn onto Chambers Bridge Road. The defendant driver's vehicle then struck the secondary defendant's vehicle proceeding through the intersection, causing the plaintiff passenger to become injured.

The plaintiff maintained that the defendant driver was negligent in failing to keep a proper lookout, failing to exercise due care, failing to wait for clearance before making a left turn, failing to safely and properly execute a left turn, failing to yield the right-of-way, failing to observe traffic conditions, failing to obey traffic signals, failing to remain adequately attentive, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the secondary defendant's vehicle. Consequently, the plaintiff passenger sustained injuries, including head injury with brief loss of consciousness, as well as lumbar disc herniations with radiculopathy.

The arbitrators found in favor of the plaintiff and reported an award for $100,000.

REFERENCE

Garcia Taina vs. Cuiffo Daniel. Docket no. L000847-22; Judge Robert E. Brenner, 03-02-24.

Attorney for plaintiff: Jeffrey V. Stripto of Law Offices of Roy D. Curnow in Spring Lake Heights, NJ. Attorney for defendant: Kevin F. Sheehy of Leyden, Capotorto, Ritacco, Corrigan & Sheehy, PC in Toms River, NJ.

$30,000 ARBITRATION AWARD

Motor vehicle negligence – Left turn collision – Plaintiff's vehicle struck by defendant's vehicle making left turn at intersection – Neck injury – Back injury – Cervical disc bulge – Lumbar disc bulge.

Middlesex County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck by the defendant's vehicle making a left turn at an intersection, causing the plaintiff to sustain injuries. The defendant generally denied all allegations of negligence.

On November 9, 2020, the plaintiff's vehicle was traveling eastbound on Milltown Road, at or near its intersection with Georges Road in North Brunswick, New Jersey. At the same time, the defendant's vehicle was traveling westbound on Milltown Road toward the same intersection, and was preparing to turn left onto Georges Road. At the time of the incident, the plaintiff's vehicle proceeded straight through the intersection with a green light. As the plaintiff's vehicle proceeded, the defendant's vehicle abruptly turned left in front of the plaintiff's vehicle, causing a collision.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to wait for clearance before making a left turn, failing to safely and properly execute a left turn, failing to yield the right-of-way, failing to obey traffic conditions, failing to observe the plaintiff's vehicle, failing to remain adequately attentive, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including neck injury, back injury, cervical disc bulge, and lumbar disc bulge.

The arbitrators found in favor of the plaintiff and reported an award for $30,000.

REFERENCE

Marte Bryan vs. Basanoo Thakurdya. Docket no. L001195-22; Judge Patrick Bradshaw, 03-08-24.

Attorney for plaintiff: Lawrence A. LeBrocq of Garces, Grabler & LeBrocq in New Brunswick, NJ. Attorney for defendant: Seth M. Garrod of Tango, Dickinson, Lorenzo, McDermott & McGee in Millburn, NJ.

Multiple Vehicle Collision

$37,500 ARBITRATION AWARD

Motor vehicle negligence – Multi-vehicle rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle, causing collision with third vehicle – 2 disc herniations – Left knee tear.

Bergen 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, which caused the plaintiff driver to sustain injuries. The defendant generally denied all allegations of negligence.

On November 2, 2020, the plaintiff's vehicle was traveling North on the Garden State Parkway near mile post 144.4 in Irvington, New Jersey. At the same time, the defendant's vehicle was also traveling North on the Garden State Parkway, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle began to slow to accommodate traffic ahead. As the plaintiff's vehicle slowed, it was struck in the rear by the defendant's vehicle, which then caused the plaintiff's vehicle to be pushed forward into the rear of a third vehicle.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to remain adequately attentive, failing to observe the plaintiff's vehicle, failing to obey traffic conditions, failing to maintain a safe distance from other vehicles, failing to wait, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including 2 disc herniations, as well as a left knee tear.

The arbitrators found in favor of the plaintiff and reported an award for $37,500.

REFERENCE

Kohen Samuel vs. Tabak Batsheva. Docket no. L005683-22; Judge Michael N. Beukas, 04-18-24.

Attorney for plaintiff: Sander Budanitsky of Law offices of Sander Budanitsky, LLC in Roselle, NJ. Attorney for defendant: Colleen M. Ready of Margolis Edelstein in Mount Laurel, NJ.

$12,500 SETTLEMENT

Motor vehicle negligence – Multi-vehicle rear end collision – Minor plaintiff passenger injured when host vehicle struck from behind and pushed into vehicle in front – Cervical, dorsal, lumbar and sacroiliac strain/sprain and myofasciitis – Orthopedic treatment, chiropractic treatment and physical therapy – Defendant driver claims brakes on vehicle failed to engage.

Essex County, NJ

In this motor vehicle negligence case, the plaintiff, an 11-year-old girl, asserted that the defendant driver struck the rear of her host vehicle with such force that it caused her significant injury. The defendant asserted that her brakes did not respond when she attempted to stop behind the plaintiff's vehicle.

On June 20, 2021, the minor plaintiff was a restrained, rear-seat passenger in a vehicle traveling southbound on Frelinghuysen Avenue in Newark. The plaintiff's vehicle was stopped at a red light at the intersection of Empire Street. The plaintiff contended that the defendant driver negligently failed to slow or stop behind the plaintiff's vehicle and struck it from the rear with enough force to push the plaintiff's vehicle into the vehicle in front of it.

As a result of the collision, the plaintiff claimed cervical, dorsal, lumbar and sacroiliac strain/sprain and myofasciitis. The plaintiff treated with orthopedic treatment; physical therapy and chiropractic treatment. The plaintiff claimed $809 in medical liens.

The parties settled the matter prior to trial in the amount of $12,500 broken down as follows: $3,017 in attorney fees; $431 in costs and disbursements; $809 in medical expenses and $8,243 in net damages to the minor plaintiff.

REFERENCE

Alvia, a minor vs. Ortega, et al. Docket no. L-003910-23; Judge Stephen L. Petrillo, 02-28-24.

Attorney for plaintiff: Michael Dreskin of Dreskin & Dreskin, P.C. in Roselle Park, NJ. Attorney for defendant: Regina Geise of Law Office of Rachel Vicari in Clark, NJ.

Parking Lot Collision

$17,500 ARBITRATION AWARD

Motor vehicle negligence – Parking lot collision – Plaintiff's vehicle struck in driver's side by defendant's vehicle attempting to park in adjacent parking spot – Cervical disc herniations – Lumbar disc herniations – Lumbar disc bulges.

Bergen County, NJ

In this motor vehicle negligence action, the plaintiff's parked vehicle was struck in the driver's side by the defendant's vehicle attempting to park in an adjacent parking spot, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On November 29, 2020, the plaintiff was seated in her vehicle, which was parked in a convenience store parking lot on the premises of 825 North Black Horse Pike in Camden, New Jersey. At this time, the defendant's vehicle had just entered the same parking lot and was preparing to park. At the time of the incident, the defendant's vehicle attempted to pull into the parking spot next to the plaintiff's vehicle. As the defendant's vehicle was pulling in, it struck the plaintiff's vehicle in the driver's side.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to properly and safely park the vehicle, failing to observe the plaintiff's vehicle, failing to maintain a safe distance from the plaintiff's vehicle, failing to operate the vehicle at a reasonable rate of speed for traveling in a parking lot, failing to keep the vehicle under proper and adequate control, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including cervical disc herniations, lumbar disc herniations, and lumbar disc bulges.

The arbitrators found in favor of the plaintiff and reported an award for $17,500.

REFERENCE

Hines Kemyatta vs. Thomas Matthew. Docket no. L001654-22; Judge John S. Kennedy, 03-23-24.

Attorney for plaintiff: Robert I. Segal of Robert I. Segal, PA in Medford, NJ. Attorney for defendant: Melissa Bishop of USAA Insurance.

Rear End Collision

$475,000 SETTLEMENT

Motor vehicle negligence – Rear end collision – Cervical herniation – Fusion surgery – No income claims.

Essex County, NJ

In this action for motor vehicle negligence, the plaintiff driver in his late 40s contended that he was struck in the rear by the defendant driver of a utility truck causing him to sustain injuries. The defendant did not dispute liability.

The plaintiff maintained that he suffered a cervical herniation that was confirmed by MRI. The plaintiff asserted that he required a single-level fusion in the cervical area that required surgery and the installation of hardware and the pain and restriction will permanently remain very substantial. The defendant maintained that the plaintiff made a better recovery than claimed.

The plaintiff is self employed and made no income claims.

The case settled prior to trial for $475,000.

REFERENCE

Doe vs. Defendant utility.

Attorney for plaintiff: Trevor Warden of Bongiavanni Collins & Warden, PC in Denville, NJ.

$105,000 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiffs injured when vehicle struck in rear by defendant's vehicle while approaching intersection – Disc herniations and bulges in neck and lower back – Neuropathy – Chiropractic treatment.

Mercer County, NJ

In this motor vehicle negligence action, 2 plaintiffs were injured when the plaintiff driver's vehicle was struck in the rear by the defendant's vehicle while approaching an intersection. The defendant generally denied all allegations of negligence.

On March 9, 2020, the plaintiff driver and the plaintiff passenger were traveling in the plaintiff driver's vehicle on Perry Street, approaching its intersection with North Montgomery Street in Trenton, New Jersey. At the same time, the defendant's vehicle was also traveling on Perry Street, directly behind the host vehicle. At the time of the incident, the plaintiff's vehicle slowed as it approached the subject intersection. As the plaintiff's vehicle slowed down, it was suddenly struck in the rear by the defendant's vehicle, causing the plaintiffs to become injured.

The plaintiffs maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to maintain a safe distance from other vehicles, failing to observe the plaintiff's vehicle slowing down, failing to obey traffic conditions, failing to remain adequately attentive, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff driver sustained injuries, including disc herniations and bulges in the neck and lower back, as well as neuropathy, which required 8 months of chiropractic treatment to repair. The plaintiff passenger also sustained injuries, include disc herniations and bulges in the neck and lower back as well as neuropathy, which required 10 months of chiropractic treatment to repair.

The arbitrators found in favor of the plaintiffs and reported a total award for $105,000, awarding $50,000 to the plaintiff driver and $55,000 to the plaintiff passenger.

REFERENCE

Allen Tammy, McNeill Tomaisa vs. Cohen Samuel. Docket no. L000227-22; Judge Douglas H. Hurd, 03-25-24.

Attorney for plaintiff: Bryan M. Roberts of Stark & Stark, PC in Lawrenceville, NJ. Attorney for defendant: Raymond Francis Danielewicz of Raymond Francis Danielewicz in Haddonfield, NJ.

$8,733 VERDICT

Motor vehicle negligence – Rear end collision – 2 cervical disc herniations; 2 lumbar disc bulges; radiculopathy; bilateral shoulder injuries – Chiropractic treatment.

Camden County, NJ

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

On June 18, 2018, the plaintiff was stopped southbound on Route 9 in the Township of Toms River, New Jersey. The defendant was driving directly behind the plaintiff. The plaintiff contended that the defendant negligently failed to slow or stop behind the plaintiff's vehicle and struck the plaintiff's vehicle from the rear.

As a result of the collision, the plaintiff sustained cervical disc herniations at C4-5 and C5-6 with acute left C6 radiculopathy per EMG; lumbar disc bulges at L4-5 and L5-S1 with S1 radiculopathy per EMG and bilateral shoulder pain and headaches. The plaintiff underwent chiropractic treatment. The plaintiff claimed $1,208 in medical liens.

The defendant argued that the impact and injuries were minor and that the plaintiff's claimed medical lien was not boardable as it was not an ERISA lien. The defendant's medical expert opined that the plaintiff suffered from unrelated degenerative disc disease and had injuries that were not trauma induced.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 100% liability to the defendant with damages of $51,208 inclusive of all claims. The arbitration was not confirmed and the matter proceeded to trial.

The jury found in favor of the plaintiff and awarded damages in the amount of $8,733 broken down as follows: $8,000 in damages and $733 in prejudgment interest.

REFERENCE

Talosig vs. Gato. Docket no. L -001994-20; Judge Anthony M. Pugliese, 05-24-23.

Attorney for plaintiff: Joseph W. Gable, Jr. of Stark & Stark in Marlton, NJ. Attorney for defendant: Robert R. Nicodemo, III of Nicodemo & Connell in Haddonfield, NJ.

Right Turn Collision

$80,000 ARBITRATION AWARD

Motor vehicle negligence – Right turn collision – Plaintiff's vehicle struck by commercial truck operated by defendant when defendant tries to turn right from left lane at intersection – Cervical disc herniations – Cervical disc bulges – Lumbar disc bulge – Left wrist tear – Left elbow injury – Right shoulder rotator cuff tear.

Bergen County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck by a commercial truck operated by the defendant, when the defendant tried to turn right from the left lane in an intersection, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On October 24, 2018, the plaintiff's vehicle was traveling on Grand Avenue, at its intersection with West Central Boulevard in Palisades Park, New Jersey. At this time, the plaintiff's vehicle was preparing to proceed straight through the subject intersection. At the same time, the defendant, operating a large commercial truck, was also traveling on Grand Avenue, and was preparing to make a right turn at the same intersection. At the time of the incident, the defendant's truck pulled into the left-turn only lane at the subject intersection. The defendant later maintained that he had pulled into the left turn only lane in order to navigate the tight right turn. However, the plaintiff, proceeding straight, assumed that the defendant was making a left turn, because he had pulled into the left lane. As such, the plaintiff proceeded forward when the light at the intersection turned green. At the same time, the defendant's truck began to make its right turn, from the left turn lane. The defendant's truck then struck the plaintiff's vehicle in the side.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to make a right turn from the correct lane, failing to remain in the correct lane of travel, in negligently attempting to make a right turn from the left turn in lane, in failing to warn that the truck was turning right, failing to yield, failing to wait for clearance, failing to keep the truck under proper and adequate control, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including cervical disc herniations, cervical disc bulges, a lumbar disc bulge, left wrist tear, left elbow injury, and a rotator cuff tear of the right shoulder.

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

REFERENCE

Chon vs. Mccracken. Docket no. L005054-20; Judge Peter G. Geiger, 04-06-24.

Attorney for plaintiff: Nicholas Farnolo of Napoli Shkolnik, PLLC in New York, NY. Attorney for defendant: Colin Paul Hackett of Lewis Brisbois Bisgaard & Smith, LLP in Newark, NJ.

PREMISES LIABILITY

Fall Down

$121,500 ARBITRATION AWARD

Premises liability – Fall down – Plaintiff trips and falls over uneven sidewalk at defendant hotel – Depressed fractures of both nasal bones – Chronic rhinitis – Deviated septum – Facial bruising – Right knee abrasion.

Morris County, NJ

In this premises liability action, the plaintiff sustained injuries when tripping and falling over an uneven section of the sidewalk at the defendant hotel, causing her to become injured. The defendants generally denied all allegations of negligence.

On March 15, 2021, the plaintiff was lawfully traversing a sidewalk adjacent to the defendant hotel, located on the premises of 271 Continental Drive North in Mount Olive, New Jersey. At this time, the subject sidewalk was owned, operated, and maintained by the defendants. While traversing the sidewalk, the plaintiff suddenly encountered a broken or uneven section. This specific section of the sidewalk had been repaired before, but ineffectively. The plaintiff then tripped over the broken or uneven section and fell.

The plaintiff maintained that the defendants were negligent in failing to maintain safe and adequate conditions on the premises, failing to inspect the premises, failing to properly repair the sidewalk, failing to further repair a broken or uneven section of the sidewalk, failing to remove broken or otherwise hazardous sidewalk tiles, failing to warn of a tripping hazard, failing to cordon off or otherwise remove a tripping hazard, failing to hire adequate maintenance staff, failing to fix the sidewalk in a timely manner, failing to provide safe passage, and failing to regard for the health and safety of visitors on the premises including the plaintiff. Consequently, the plaintiff sustained injuries, including fractures of both nasal bones, chronic rhinitis, deviated septum, facial bruising, and right knee abrasion.

The arbitrators found in favor of the plaintiff and awarded $121,500.

REFERENCE

Betska vs. Residence Inn by Marriott. Docket no. L001783-21; Judge David H. Ironson, 04-25-24.

Attorney for plaintiff: Gary J. Grabas of Bramnick Rodriguez Grabas Arnold & Mangan, LLC in Scotch Plains, NJ. Attorney for defendant: Deirdre Dennis of The Hartford Insurance Company.

$75,000 ARBITRATION AWARD

Premises liability – Fall down – Plaintiff trips and falls due to unsecured carpet on interior staircase at defendants' property – Nondisplaced fracture of coccyx/pelvis.

Ocean County, NJ

In this premises liability action, the plaintiff tripped and fell due to unsecured carpet on an interior staircase on the defendants' property, causing her to become injured. The defendants generally denied all allegations of negligence.

On August 11, 2018, the plaintiff was a lawful invitee at a vacation home, located on the premises of t 208 E. 21st Street in Long Beach Township, New Jersey. The vacation home was being rented by the plaintiff's daughter. On this day, the vacation home was owned, operated, and maintained by the defendants. While staying at the property on the aforementioned date, the plaintiff was attempting to descend a carpeted, interior staircase on the property. As the plaintiff was walking down the stairs, she suddenly tripped on an unsecured part of the carpeting. The plaintiff then fell.

The plaintiff maintained that the defendants were negligent in failing to maintain safe and adequate conditions on the premises, failing to ensure the safety of the subject staircase, failing to properly secure carpeting on the stairs, failing to prevent a slipping hazard, failing to remove or replace hazardous, unsecured carpeting, failing to warn of unsecured carpeting, failing to provide safe passage inside the home, and failing to regard for the health and safety of vacation home renters and invitees, including the plaintiff. Consequently, the plaintiff sustained injuries, including a nondisplaced fracture of the coccyx/pelvis.

The arbitrators found in favor of the plaintiff and reported an award for $75,000.

REFERENCE

Algozzino vs. LBIProperty Development, LLC. Docket no. L001873-20; Judge Valter H. Must, 05-11-24.

Attorney for plaintiff: William Wright of The Wright Law Firm, LLC in Manahawkin, NJ.

Hazardous Premises

$80,000 ARBITRATION AWARD

Premises liability – Hazardous premises – Plaintiff bar patron injured when bar stool he was seated on breaks, causing him to fall – Neck injury – Spine injury – Paraspinal pain extending to trapezius and parascapular regions – Paresthesia in both hands.

Morris County, NJ

In this premises liability action, the plaintiff bar patron was injured when the bar stool he was seated on broke, causing him to fall. The defendants denied all allegations of negligence.

On May 25, 2019, the plaintiff was a lawful visitor, business invitee, and patron at the defendant bar, located at 600 Huron Ave in Atlantic City, New Jersey. At this time, the plaintiff was a seated at the bar and was consuming a non-alcoholic beverage while seated on a high-sitting bar stool. At the time of the incident, one of the legs of the plaintiff's bar stool suddenly broke, causing the stool to collapse. The plaintiff then fell, striking his head and neck on the armrest of another stool and knocking another patron to the ground, as well.

The plaintiff maintained that the defendants were negligent in failing to maintain safe and adequate conditions on the premises, failing to inspect the premises, failing to ensure the safety of bar and restaurant equipment including bar stools, failing to provide safe bar and restaurant equipment, failing to repair or replace a broken or hazardous bar stool, failing to prevent hazardous or unsafe conditions on the premises, failing to prevent the subject bar stool from breaking and collapsing, and failing to regard for the health and safety of visitors and patrons on the premises including the plaintiff. Consequently, the plaintiff sustained injuries, including neck injury, spine injury, paraspinal pain extending to the trapezius and parascapular regions, and paresthesia in both hands.

The arbitrators found in favor of the plaintiff and awarded $80,000.

REFERENCE

Knott vs. Golden Nugget Atlantic City. Docket no. L001082-21; Judge David H. Ironson, 03-09-24.

Attorney for plaintiff: Lawrence Kalish of Kalish Law Group in Lake Hiawatha, NJ. Attorney for defendant: George Cheesman Godfrey of Yankwitt, LLP in White Plains, NY.

RESTAURANT NEGLIGENCE

$27,500 ARBITRATION AWARD

Restaurant negligence – Plaintiff injured when hot cup of coffee from defendant coffeehouse and bakery spills onto her – Failure to maintain safe temperatures for food and drink products – Failure to secure lid onto cup of hot coffee – Burn injury to abdomen – Burn scars.

Bergen County, NJ

In this negligence action, the plaintiff was injured when a hot cup of coffee from the defendant coffeehouse and bakery chain spilled onto her due to an unsecured lid. The defendants generally denied all allegations of negligence.

On November 17, 2021, the plaintiff was a lawful visitor and patron of the defendant coffeehouse and bakery, located on the premises of 247 Route 4 in Paramus, New Jersey. At this time, the plaintiff had ordered a cup of hot coffee to go from the defendants. When the plaintiff received her coffee and attempted to drink it, the lid on the coffee cup had not been put securely in place, and came off. The coffee in the cup, which was a scalding temperature, then spilled onto the plaintiff's stomach and abdomen, causing her to become injured.

The plaintiff maintained that the defendants were negligent in failing to maintain safe temperatures for food and drink products on the premises, failing to secure the lid onto a cup of scalding hot coffee so as to prevent it from spilling, failing to warn that the lid on the coffee cup was not secured, failing to warn of the scalding temperature of the coffee, failing to disclose that coffee on the premises was brewed at extremely high temperatures, failing to prevent hazardous or unsafe conditions on the premises of the coffeehouse, failing to allow the coffee to cool before serving it to the plaintiff, failing to inspect food and drink products before giving them to patrons, and failing to regard for the health and safety of visitors and patrons on the premises. Consequently, the plaintiff sustained injuries, including burn injury to the abdomen, as well as prominent burn scars.

The arbitrators found in favor of the plaintiff and reported an award for $27,500.

REFERENCE

Dobney Venessa vs. Entrepreneurs, LLC, Krispy Kreme. Docket no. L001623-22; Judge David V. Nasta, 04-13-24.

Attorney for plaintiff: Alexander S. Corazon of Birkhold & Maider, LLC in Nutley, NJ. Attorney for defendant: Daniel Kaye of Liberty Mutual.

TRANSIT AUTHORITY LIABILITY

$82,500 ARBITRATION AWARD

Transit Authority liability – Bus negligence – Plaintiff falls and becomes injured when public bus owned by defendants stops short – Right hip tear – Left shoulder tear – Cervical disc bulges.

Bergen County, NJ

In this bus negligence action, the plaintiff fell and became injured when a public bus, owned by the defendant Transit Authority, stopped short. The defendants generally denied all allegations of negligence.

On August 8, 2019, the plaintiff was a passenger on a public bus, which was owned, operated, and maintained by the defendant transit corporation. At this time, the bus was traveling on Teaneck Road in Ridgefield Park, New Jersey, and the plaintiff passenger was standing inside the bus. At the time of the incident, the subject bus made a very abrupt stop while proceeding on Teaneck Road. The abrupt stop caused the plaintiff to fall, striking her head, hip, and shoulder, and caused her to become injured.

The plaintiff maintained that the defendants were negligent in failing to keep a proper lookout, failing to exercise due care, failing to properly and safely operate a public bus, failing to properly train bus drivers, failing to enforce proper bus safety protocol, failing to hire competent bus drivers, failing to ensure the safety of the subject bus, failing to warn that the bus was stopping, failing to apply the brakes in a timely manner, failing to slow the bus before stopping, and failing to regard for the health and safety of bus passengers including the plaintiff. Consequently, the plaintiff sustained injuries, including a right hip tear, a left shoulder tear, and cervical disc bulges.

The arbitrators found in favor of the plaintiff and awarded $82,500.

REFERENCE

Fernandez vs. New Jersey Transit Corporation. Docket no. L004887-21; Judge Michael N. Beukas, 04-06-24.

Attorney for plaintiff: Rosemarie Arnold of Law Offices of Rosemarie Arnold in Fort Lee, NJ. Attorney for defendant: Patrick Lawrence O'Hara of New Jersey Office of the Attorney General.

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

$2,014,000 VERDICT – MEDICAL MALPRACTICE – EMERGENCY DEPARTMENT NEGLIGENCE – PLAINTIFF'S DECEDENT SPENDS OVER 10 HOURS IN DEFENDANT'S E.R. SUFFERING FROM SYMPTOMS OF PULMONARY EMBOLISM WHICH DEFENDANTS FAIL TO TIMELY DIAGNOSE AND TREAT – WRONGFUL DEATH OF 50-YEAR-OLD MALE.

Philadelphia County, PA

The estate of the decedent brought this medical malpractice action suit against the defendant hospital and the 2 doctors involved in the decedent's care in the emergency room. The estate maintained that the defendants allowed the decedent to suffer an untreated pulmonary embolism for over 10 hours resulting in his death. The defense argued that the decedent's course of care was set forth in the medical records and speaks for itself. The plaintiff's characterization of the case and any and all allegations of negligence were denied by the defendants.

The estate of the decedent maintained that the defendants were negligent in failing to properly and promptly diagnose, monitor, intervene and treat the decedent's condition, failing to promptly perform appropriate diagnostic testing in light of the decedent's abnormal EKG and elevated troponin, failing to properly, promptly and timely treat the decedent's presenting symptoms given his history of DVT, his abnormal EKG, his elevated troponin and a markedly elevated D dimer test and failing to promptly obtain a CT angiogram of the chest to evaluate for pulmonary embolism.

The jury found that the defendant hospital and the first defendant emergency room doctor were negligent. The jury determined that their negligence was a factual cause of bringing harm to the decedent. The jury apportioned liability at 90% against the hospital and 10% against the doctor. The jury awarded wrongful death damages in the amount of $1,300,000 and survival damages in the amount of $714,000 for a total verdict of $2,014,000.

REFERENCE

Maria Eveland Administratrix of the Estate of James F. Eveland, Jr. and Individually vs. Aria Health D/B/A Jefferson Torresdale Hospital, Anna Dymarsky, D.O., Andrew Lee, D.O. Case no. 201100912; Judge Angelo Foglietta, 03-26-24.

Attorney for plaintiff: Anthony Baratta of Baratta, Russell & Baratta in Huntington Valley, PA. Attorney for defendant: Donald J. Brooks, J attempted for about an hour before the decedent pronounced dead.

$1,400,000 GROSS VERDICT – MEDICAL MALPRACTICE – HOSPITAL NEGLIGENCE – DEFENDANT STAFF ALLOWS PLAINTIFF TO SUFFER FALL WHILE BEING LEFT UNATTENDED IN DEFENDANT HOSPITAL'S BATHROOM DESPITE BEING LABELED FALL RISK WHO REQUIRED SUPERVISION – DISPLACED DISTAL RADIUS FRACTURE – 2 SURGERIES REQUIRED.

Allegheny County, PA

The plaintiff in this medical malpractice action maintained he was admitted to the defendant's hospital for severe low sodium and was assessed as a fall risk. When the plaintiff needed to use the bathroom, he was escorted to the bathroom by 2 staff members and then left alone where he fell. As a result of the fall, the plaintiff sustained a severely displaced distal radius fracture that required a bedside reduction maneuver and 2 days later an extensive open reduction and internal fixation procedure. He suffered a permanent reduction in the use and function of his dominant arm. The defendant denied being negligent and maintained that the plaintiff was treated in accordance with medical standards.

The plaintiff maintained that the defendant breached its duty of care to the plaintiff by failing to properly assess the plaintiff's fall risk status, failing to provide the plaintiff with adequate precautions to prevent him from falling, and failing to implement appropriate fall risk precautions.

The jury found that the defendant was 83% negligent and the plaintiff 17% negligent. The jury awarded the plaintiff damages in the amount of $1,400,000 which was molded to $1,162,000.

REFERENCE

Michael Rotz vs. UPMC Passavant. Case no. GD-22-001441; Judge Alan Hertzberg, 03-01-24.

Attorney for plaintiff: Sandra Neuman of Gilman & Bedigian Law Firm in Pittsburgh, PA. Attorney for defendant: John Conti of Marshall Dennehey Warner Coleman & Goggin, PC in Pittsburgh, PA. r. of Eckert Seamans Cherin & Mellott, LLC in Philadelphia, PA.

$1,100,000 VERDICT – MEDICAL MALPRACTICE – OB/GYN NEGLIGENCE – DEFENDANTS FAIL TO PROPERLY INTERPRET AND RECORD CONCERNING FETAL HEART TRACINGS RESULTING IN DELAY IN DELIVERING COMPROMISED FETUS – FAILURE TO PROMPTLY PERFORM C-SECTION – OXYGEN DEPRIVATION – BRAIN DAMAGE – NECROTIZING ENTEROCOLITIS AND LOW IQ.

Butler County, PA

The plaintiffs in this medical malpractice action maintained that the defendants improperly addressed the plaintiff mother's labor which resulted in the compromised fetus remaining in utero too long and suffering oxygen deprivation and injuries including hypoxic ischemic encephalopathy, brain damage from insufficient oxygen, necrotizing enterocolitis and low IQ.

The defendants maintained that the plaintiffs were provided with care that conformed with all medical standards.

The plaintiffs maintained that the defendant doctor was negligent in failing to confirm with the plaintiff mother the status of the amniotic sac, failing to closely monitor the fetal status throughout labor, failing to promptly deliver the baby despite non-reassuring fetal tracings and failing to perform a timely C-section. The plaintiff maintained that the defendant ob/gyn practice and hospital were vicariously negligent for the acts of the defendant doctor.

The jury found that the defendant hospital was 100% liable and awarded the plaintiffs $500,000 in past and future pain and suffering and $600,000 in future loss of earnings for a total verdict of $1,100,000. Post-trial motions by both parties are pending.

REFERENCE

L.S. a minor by and through his pngs Eric and Krista Stalker vs. Marydonna Ravasio, D.O., Advanced Ob/Gyn Associates, P.C. and Butler Healthcare Providers tba Butler Memorial Hospital. Case no. 2015-10667; Judge S. Michael Yeager, 11-17-23.

Attorney for plaintiff: Harry S. Cohen of Harry Cohen & Associates in Pittsburgh, PA. Attorney for defendant: Alas S. Baum of Matis Baum O'Conner in Pittsburgh, PA. Attorney for defendant: Brett Shear of Marshall Dennehey in Pittsburgh, PA.

PRODUCT LIABILITY

$13,094,751 GROSS VERDICT – PRODUCT LIABILITY – FAILURE TO WARN – WRONGFUL DEATH – PLAINTIFFS' DECEDENT RENTS PIECE OF EQUIPMENT FROM DEFENDANT WHICH EMITS DANGEROUS LEVELS OF CARBON MONOXIDE RESULTING IN CO POISONING AND DEATH OF DECEDENT – PLAINTIFFS CLAIM DEFENDANT'S FAILURE TO WARN DECEDENT OF DANGER, FAILURE TO TRAIN, AND FAILURE TO INFORM OF REQUIRED SAFETY EQUIPMENT DURING USE – DEFENDANT DENIES DUTY TO WARN.

Miami-Dade County, FL

In this product liability and negligent failure to warn case, the plaintiffs, the wife and children of the decedent, asserted that the defendant equipment rental company negligently violated its duty to customers renting equipment to warn, train, and properly equip customers when renting its equipment, resulting in the death of the plaintiff's decedent. The plaintiffs also claimed that the equipment was itself defective and therefore the rental company was strictly liable for the ensuing damages. The defendant denied the plaintiffs' claims, and asserted that the decedent negligently caused his own death.

The defendant leased the subject Shot Blaster, a machine that shoots fine metal beads at a floor the floor's surface that is powered by a small combustion engine, to the plaintiffs' decedent. The plaintiffs contended that the defendant knew or should have known that the Shot Blaster was unreasonably dangerous and extremely hazardous to the operator without proper warning, instruction and training.

The jury found the plaintiff's decedent 32% responsible and the defendant 68% responsible. The jury found the defendant liable on both claims of negligence and strict liability. The jury awarded damages in the amount of $13,094,751 broken down as follows: $4,751 in funeral expenses; $1,000,000 to the plaintiff wife for past loss of companionship and protection; and pain and suffering; $2,000,000 to the plaintiff wife for future loss of companionship and protection and pain and suffering; $865,000 to the plaintiff wife for loss of services; $2,250,000 to the plaintiff son for past loss of parental companionship and protection and for pain and suffering; $2,250,000 to the plaintiff son for future loss of parental companionship and protection and for pain and suffering; $112,500 to the plaintiff son for loss of services; $2,250,000 to the plaintiff daughter for past loss of parental companionship and protection and for pain and suffering; $2,250,000 to the plaintiff daughter for future loss of parental companionship and protection and for pain and suffering and $112,500 to the plaintiff daughter for loss of services. Gross damages were reduced to $8,904,431 for the decedent's comparative negligence.

REFERENCE

Burns vs. Sunbelt Rentals, Inc. Case no. 2020–018605–CA-01; Judge Reemberto Diaz, 07-19-23.

Attorney for plaintiff: Ernesto L. Santos, Jr. of Halpern, Santos & Pinker, P.A. in Coral Gables, FL. Attorneys for plaintiff: Pedro Echarte, III and Todd Michaels of The Haggard Law Firm, P.A. in Coral Gables, FL. Attorney for defendant: Todd Wallen of Wallen Kelley in Coral Gables, FL. Attorneys for defendant: F. Bryant Blevins and Joshua Golembe of Butler Weihmuller Katz Craig, LLP in Tampa, FL.

MOTOR VEHICLE NEGLIGENCE

$600,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – REAR END COLLISION – PLAINTIFF'S VEHICLE STRUCK IN REAR BY DEFENDANT'S VEHICLE WHILE STOPPED IN TRAFFIC – CERVICAL DISC HERNIATION – LUMBAR DISC HERNIATION – LUMBAR DISC BULGE – 1 CERVICAL AND 2 LUMBAR EPIDURAL INJECTIONS – 3-LEVEL ANTERIOR CERVICAL DISCECTOMY AND FUSION – MICRO-LUMBAR DISCECTOMY.

Union County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear by the defendant's vehicle while stopped in traffic. Consequently, the plaintiff passenger sustained injuries, including cervical disc herniations, lumbar disc herniations, and lumbar disc bulge, which required 1 cervical injection and 2 lumbar epidural injections. The plaintiff ultimately underwent a 3-level anterior cervical discectomy and fusion, as well as a micro-lumbar discectomy. The defendant generally denied all allegations of negligence.

The plaintiffs maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to maintain a safe distance from other vehicles, failing to safely and properly maneuver a commercial vehicle, failing to remain adequately attentive, failing to obey traffic conditions, failing to obey traffic signals, failing to observe the plaintiff's stationary vehicle, failing to operate the vehicle at a reasonable rate of speed, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle.

The jury found in favor of the plaintiff and awarded $600,000.

REFERENCE

Ortiz Ramiro, Alvarez-Contreraz Dora vs. Menjivar-Hernandez Carlos. Docket no. L001481-20; Judge Mark P. Ciarrocca, 09-02-23.

Attorney for plaintiff: Patrick Mangan of Bramnick Rodriguez Grabas Arnold & Mangan, LLC in Scotch Plains, NJ. Attorney for defendant: John Joseph Kapp of State Farm Insurance.

$290,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – INTERSECTION COLLISION – PLAINTIFF PASSENGER INJURED WHEN HOST VEHICLE STRUCK BY DEFENDANT'S VEHICLE AFTER DEFENDANT DISREGARDS STOP SIGN – HEAD INJURY – LOW GRADE TEAR OF ULNAR COLLATERAL LIGAMENT OF RIGHT HAND – SURGERY REQUIRED.

Union County, NJ

In this motor vehicle negligence action, the plaintiff passenger was injured when the host vehicle was struck by the defendant's vehicle after the defendant driver disregarded a stop sign. Consequently, the plaintiff passenger sustained injuries, including head injury, as well as a low grade tear of the ulnar collateral ligament of the right hand, which required a ligament repair surgery with the placement of an anchor. The defendant generally denied all allegations of negligence.

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

The jury found in favor of the plaintiff and awarded $290,000.

REFERENCE

Layden Nichole vs. Khedekar Darshan. Docket no. L003109-21; Judge Daniel R. Lindemann, 10-14-23.

Attorney for plaintiff: Kathleen T. Dilts, Esq. of Law Office of Craig M. Rothenberg in Clinton, NJ. Attorney for defendant: Jeffrey D. Noonan of Pomeroy, Heller & Ley, LLC in New Providence, NJ.

PREMISES LIABILITY

$22,500,000 GROSS VERDICT – PREMISES LIABILITY – HAZARDOUS PREMISES – DEFENDANT COLLEGE FAILS TO PROVIDE SAFE MEANS OF TRAVEL FOR PEDESTRIANS RESULTING IN PLAINTIFF BEING STRUCK BY VEHICLE SUSTAINING LIFE-ALTERING INJURIES – TRAUMATIC BRAIN INJURY – FRACTURED LEG – COLLAPSED LUNG.

Christian County, MO

In this case, the plaintiff sued the defendant college maintaining that it failed to provide a safe means of travel for pedestrians on their campus resulting in the plaintiff being struck by a minivan resulting in significant and life-altering injuries. The plaintiff suffered a traumatic brain injury, a collapsed lung, leg fracture, fractured sternum and multiple contusions, abrasions and lacerations. The defendant argued that there were several factors that played into the incident that night, including weather and the fogging up of the defendant driver's windows, and the comparative negligence of the plaintiff.

The plaintiff maintained that the defendant college failed to provide a sidewalk for pedestrians to travel safely upon and failed to properly illuminate the stretch of road where the incident occurred.

The jury found that the defendant was 85% negligent and that the plaintiff 15% negligent. The jury awarded the plaintiff $22,500,000 which was reduced accordingly to $19,025,000. The plaintiff settled with the defendant driver for $100,000. Post-trial motions are pending.

REFERENCE

Cooper Heishman vs. James River Church College, Alyssa Temple. Case no. 20CT-CC00164; Judge Jessica Kruse, 01-31-24.

Attorney for plaintiff: Aaron Woods in Lees Summit, MO. Attorney for defendant: Bradley Tuck in Springfield, MO. Attorney for defendant: Patricia Keck of Keck & Austin in Springfield, MO.

$990,000 RECOVERY – PREMISES LIABILITY – FALLING OBJECT – MINOR PLAINTIFF INJURED WHEN ROOM DIVIDER COLLAPSES AND FALLS ONTO HER AT DEFENDANT WEDDING VENUE – DISPLACED TRANSVERSE FRACTURE OF LEFT FEMUR – SURGERY.

Kings County, NY

In this premises liability action, the minor plaintiff was injured when a room divider collapsed and fell onto her at the defendant wedding venue. The minor plaintiff's injuries included a displaced, transverse fracture of the left femur, which required open reduction and internal fixation with the placement of hardware to repair. The defendants generally denied all allegations of negligence.

The plaintiffs maintained that the defendants were negligent in failing to maintain safe and adequate conditions on the premises, failing to properly install the room divider, failing to secure the room divider, failing to prevent the room divider from collapsing,

failing to inspect the venue prior to the wedding, failing to warn of the hazardous conditions of the room divider, failing to remove a broken, hazardous, or otherwise unsafe room divider from the venue and failing to ensure safe passage inside the wedding venue.

The parties entered into a settlement for $990,000.

REFERENCE

C. B. an infant by her Father and natural guardian, Aron Blau, Aron Blau Individually vs. Aperion Production, Inc. Index no. 509671/2022; Judge Francois A. Rivera, 02-06-23.

Attorney for plaintiff: Mordecai Schwartz of Schwartz Goldstone & Campisi in New York, NY.

$724,873 VERDICT – PREMISES LIABILITY – FALL DOWN – PLAINTIFF TRIPS AND FALLS OVER MATERIALS LEFT ON FLOOR AT DEFENDANT DRUG STORE – BACK PAIN – RIGHT HAND INJURY – RIGHT SHOULDER INJURY – SURGERY REQUIRED.

Burlington County, NJ

In this premises liability action, the plaintiff was a lawful visitor and business invitee at the defendant drug store, located on the premises of 217 Sunset Road in Willingboro New Jersey. At the time of the incident, the plaintiff encountered a pile of materials left on the floor. The plaintiff tripped over them, causing her to fall. Consequently, the plaintiff sustained injuries, including back pain and back injury, right hand injury, and right shoulder injury. The plaintiff's injuries required surgery to repair, including a carpal tunnel release procedure, as well as surgery on her right shoulder. The defendants generally denied all allegations of negligence.

The plaintiff maintained that the defendants were negligent in failing to maintain safe and adequate conditions on the premises, failing to remove a tablecloth and cardboard from the floor, failing to inspect the premises, failing to clean the premises and failing to warn of a tripping hazard.

The jury found in favor of the plaintiff and awarded $724,872.82.

REFERENCE

Jones Lavant vs. Rite Aid. Docket no. L001965-18; Judge Aimee R. Belgard, 09-25-23.

Attorney for plaintiff: John Hanahan of Rosenbaum & Associates, P.C. in Cherry Hill, NJ. Attorney for defendant: Daniel S. Jahnsen of Dorf, Nelson, & Zauderer in Red Bank, NJ.

ADDITIONAL VERDICTS OF PARTICULAR INTEREST

Dog Attack

$307,015 VERDICT – DOG ATTACK – PLAINTIFF CLAIMS DEFENDANT NEIGHBORS' PIT BULL ATTACKED HIM ON SIDEWALK IN FRONT OF HIS HOME – MULTIPLE LARGE BITES TO RIGHT THIGH – SWELLING, HEMATOMAS, AND INFECTION – TREATED AT HOSPITAL AND WITH SUBSEQUENT DRAINING OF INFECTED WOUNDS.

Suffolk County, NY

In this dog attack case, the plaintiff asserted that the defendants' Pit Bull breed dog attacked him. As a result of the attack, the plaintiff sustained multiple large bites to his right thigh which caused swelling, hematomas, and infections requiring the wounds to be drained of infection. To this day the plaintiff has recurring swelling and cellulitis of the right inner thigh. The defendants failed to appear or answer the plaintiff's summons and were found in default by the court as to liability.

As a result of the injuries sustained, the plaintiff was required to seek medical and hospital care, incurring costs of his deductible and out-of-pocket expenses. The plaintiff also claimed he was unable to work and missed approximately 12 weeks of work, due to his inability to stand or walk.

The matter was referred for inquest and assessment of damages. After reviewing the evidence presented by the plaintiff, the court assessed damages in the amount of $307,015 broken down as follows: $100,000 for past injury, disability and conscious pain and suffering; $180,000 for future injury, disability and conscious pain and suffering; $10,000 to the plaintiff's wife for the past loss of society and consortium of her husband; $923 in costs; $12,106 in interest and $3,986 in unreimbursed medical expenses.

REFERENCE

Rosen vs. Hightower. Index no. 203812/2022; Judge Robert F. Quinlan, 01-08-24.

Attorney for plaintiff: Robert P. Sharron of Robert P. Sharron & Associates, P.C. in New York, NY.

Lead Poisoning

$250,000 SETTLEMENT – LEAD POISONING – MINOR PLAINTIFF EXPOSED TO LEAD PAINT IN APARTMENT FAMILY RENTED FROM DEFENDANT PROPERTY OWNER – PHYSICAL AND PSYCHOLOGICAL DAMAGES – LIFELONG LIMITS TO COGNITIVE DEVELOPMENT – DEPRESSION AND EMOTIONAL DISTRESS.

Essex County, NJ

In this lead poisoning case, the infant plaintiff asserted that the defendant property owner/ landlord allowed lead paint to exist where residents could be exposed to it and that the plaintiff was exposed to lead paint on the premises. As a result of the lead paint exposure, the plaintiff claimed physiological and psychological injury to the infant plaintiff; depression and emotional distress to the infant and plaintiff mother; absence from school; lost wages by the plaintiff mother due to her need to care for the infant plaintiff; medications related to the infant plaintiff's lead paint exposure and the infant plaintiff's delayed academic development. The defendants argued that they acted reasonably and in accordance with all applicable legal standards and that the defendants' conduct was not the cause in fact or proximate cause of the plaintiff's contended injuries or damages.

The plaintiff alleged that the ingestion of lead resulted in permanent injuries. The plaintiff presented the certification of an expert psychologist who opined that the plaintiff will require special education services throughout her education and will be unable to achieve her cognitive potential due to her low verbal functioning and peoples with speech and attention, caused in large part by lead poisoning.

The parties settled the matter prior to trial in the amount of $250,000 broken down as follows: $56068 in attorney fees; $17,793 in costs and disbursements; $6,793 in medical liens; $7,936 for services of Guardian Ad Litem; and $161,411 in net damages to the minor plaintiff.

REFERENCE

Boyd vs. 320 Mt. Prospect Limited Company, et al. Docket no. L-002471-18; Judge Cynthia Santomauro, 02-16-24.

Attorneys for plaintiff: Paul A. O'Connor, III and Debra D. Tedesco of O'Connor, Parsons, Lane & Noble, LLC in Springfield, NJ. Attorney for defendant: Abbie Eliasberg Fuchs of Harris Beach, PLLC in Newark, NJ. Attorneys for defendant: Joshua L. Milrad and David J. Coppola of Goldberg Segalla, LLP in Hartford, CT.

Municipal Liability

$1,500,000 RECOVERY – MUNICIPAL LIABILITY – PLAINTIFF WALKING ON DEFENDANT CITY OF NEW YORK'S BOARDWALK CLAIMS LEFT FOOT CAUGHT IN CONCRETE HOLE CAUSING FALL – FULL THICKNESS TEAR OF RIGHT ROTATOR CUFF; POSTERIOR DISC PROTRUSION AT L5-S 1 – PAIN MANAGEMENT; PHYSICAL THERAPY; RIGHT SHOULDER ARTHROSCOPIC SURGERY, SUBACROMIAL DECOMPRESSION; LUMBAR DECOMPRESSION AND LUMBAR FUSION.

Kings County, NY

In this municipal liability case, the plaintiff, a construction engineer and father of 3, asserted that the defendant city's parks and recreation department failed to maintain a boardwalk in a public park such that it caused the plaintiff to fall. After the plaintiff fell, emergency personnel responded but the plaintiff declined transport to the hospital and instead drove directly from the scene to the hospital. When he arrived, the plaintiff complained of back pain and a laceration to the leg. The plaintiff was treated and released. The defendant argued that the plaintiff's injuries were pre-existing, long-standing, and not caused by the singular trip and fall incident in question.

The defendant was found 80% liable for the accident and the plaintiff 20% liable at a jury trial in May 2022. The matter proceeded on damages only. The defendant pointed to the plaintiff's history of spinal issues including 2 prior motor vehicle accidents, and his long record doing heavy duty construction work that would accelerate spinal degeneration.

The jury awarded damages in the amount of $747,000 broken down as follows: $140,000 in past lost earnings; $400,000 in future lost earnings; $145,000 in past medical expenses and $62,000 in future medical expenses. Following the jury verdict, the plaintiff moved to set aside the verdict. After filing of the plaintiff's motion, the parties settled the matter in the amount of $1.5 million inclusive of costs, interest, attorney's fees, and disbursements.

REFERENCE

Cavicchio vs. The City of New York, et al. Index no. 502976/2017; Judge Katherine A. Levine, 10-17-23.

Attorney for plaintiff: Daniel T. Leav of Leav & Steinberg, LLP in New York, NY. Attorney for plaintiff: Brian J. Isaac of Pollack Pollack Isaac & DeCicco, LLP in New York, NY.

Police Liability

$10,000,000 VERDICT – POLICE LIABILITY – MALICIOUS PROSECUTION – DEFENDANT OFFICER WITHHOLDS EXONERATING EVIDENCE FOR PLAINTIFF IN ORDER TO AVOID POSSIBLE RETALIATION FROM ACTUAL SUSPECT RESULTING IN PLAINTIFF BEING INCARCERATED FOR MURDER HE DID NOT COMMIT FOR MORE THAN 6 YEARS – WRONGFUL INCARCERATION – EMOTIONAL DISTRESS.

Detroit County, MI

The plaintiff in this civil suit maintained that he was wrongfully charged and prosecuted for a murder the defendant officer knew the plaintiff did not commit. The defendant also withheld evidence that would have exonerated the plaintiff. The defendant maintained he withheld the evidence out of fear that the actual suspect, a member of a powerful drug cartel, would retaliate against him. The defendant did not investigate any of the facts given to him by an anonymous tipster.

At trial, the plaintiff was again identified as the shooter by the defendant officers, Barley and Figueroa. The defense called a witness from the neighborhood to testify. She stated that she saw the shooter and, knowing the plaintiff from the neighborhood, testified that he was not the shooter. On September 27, 2013, the plaintiff was given a life sentence without the possibility of parole.

Due to the newly discovered evidence, the CIU submitted the plaintiff's case to Wayne County prosecutor, Kym Worthy. Prosecutor Worthy agreed that the plaintiff was factually innocent of these crimes and agreed to a full and complete exoneration.

The plaintiff suffered a deprivation of Liberty by being jailed for over 6-and-a-half years including significant time spent in solitary confinement, severe emotional distress, and physical manifestations of emotional distress including weight loss, sleeplessness and headaches.

The jury found that the defendant violated the plaintiff's 14th Amendment right to due process and awarded the plaintiff $6,500,000 in past compensatory damage and $3,500,000 in future compensatory damages.

REFERENCE

Alexandre Ansari vs. Moises Jiminez. Case no. 20-cv-10719; Judge Stepehn J. Muprhy, 02-16-24.

Attorney for plaintiff: Wolf Mueller of Mueller Law Firm in Novi, MI. Attorney for defendant: Alfred Ashu of City of Detroit Law Department in Detroit, MI.