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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.

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Note Correction: In the following previously published article, we mistakenly listed the attorney for plaintiff as Michael Fitzpatrick of Day Pitney, LLP in Parsippany, NJ. The actual attorneys for plaintiff are Bruce H. Nagel and Michael J. Paragano of Nagel Rice, LLP in Roseland, NJ.

FEATURED CASES

$5,700,000 RECOVERY – EMPLOYER LIABILITY – NEGLIGENT SECURITY – PLAINTIFF ASSAULTED BY MALE NURSE CONTRACTED TO WORK AT DEFENDANT HOSPITAL – ATTACKER STRUCK PLAINTIFF IN HEAD WITH WRENCH AND SEVERELY BURNED PLAINTIFF WITH CHEMICALS – THIRD DEGREE BURNS TO FACE AND HANDS – LACERATION AND CONTUSION TO HEAD.

Bergen County, NJ

The plaintiff in this personal injury negligence action sued the defendant hospital where she worked alleging that they negligently allowed her assailant access to hospital carrying a bag with a weapon and chemicals whereupon the assailant attacked the plaintiff in the break room of the hospital causing serious injuries to the plaintiff. The defendant hospital denied being negligent and maintained that it was the actions of the assailant only that caused the incident and the plaintiff's injuries.

On February 7, 2022, the female plaintiff, age 52, was a patient care technician and employee of the defendant hospital and was lawfully on the property managed, maintained, operated, serviced and/or otherwise controlled by defendant. While the plaintiff was in the break room she was attacked by a male who had contracted with the defendant as a nurse but was not on duty at the time. The attacker was allowed to enter the hospital carrying a large bag containing weapons and harmful chemicals. The attacker wantonly and intentionally struck the plaintiff in the head with a wrench and severely burned the plaintiff with chemicals.

The plaintiff maintained that the defendant hospital was negligent, careless and reckless in failing to properly manage, maintain, operate, service and/or otherwise control the property, allowing a person not authorized to be on the premises to enter and remain on so as to constitute a danger to the patients, employees, occupants and others lawfully coming in and out of the property; in providing security systems that were ineffective and/or defective making the aforementioned premises unsafe and dangerous, failing to properly hire, train, control and supervise any and all employees and failing to take proper and adequate measures and to have adequate security to safeguard and protect the patients, employees, occupants and others lawfully coming in and out of the property. The plaintiff suffered serious and disfiguring injuries including third degree burns to her face, upper body and hands and a contusion and laceration to the head requiring stitches.

The plaintiff and the hospital settled the dispute for $5,700,000.

REFERENCE

Magalie Cius and Dennis Charlemon vs. Hackensack University Medical Center. Docket no. L002049-22; Judge Robert C. Wilson, 01-25-23.

Attorneys for plaintiff: Bruce H. Nagel and Michael J. Paragano of Nagel Rice, LLP in Roseland, NJ.

COMMENTARY

Following the incident, the assailant fled the scene. Police responded to the scene and sent out an APB for the attacker that the police described as armed and dangerous. The attacker was later found dead by a self-inflicted gunshot wound to the head. Court records indicated that the assailant was not a hospital employee but had worked at the defendant Hackensack University Medical Center as a contracted nurse for several months. The attacker cleared a background check at Hackensack University Medical Center prior to being hired.

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$1,000,000 RECOVERY – COUNTRY CLUB NEGLIGENCE – PLAINTIFF STANDING IN FRONT OF PRO GOLF SHOP STRUCK BY GOLF CART UNDER CONTROL OF COUNTRY CLUB EMPLOYEE – LUMBAR HERNIATION – FUSION SURGERY WITH HARDWARE – MENISCAL TEAR – AGGRAVATION OF PLANTAR FASCIITIS.

Essex County, NJ

In this case, the 59-year-old plaintiff was standing in front of the pro shop at the defendant country club when she was struck by a golf cart under the control of the defendant's employee. The plaintiff contended that her legs were run over and crushed, and the impact forced the left side of her body to strike a nearby wall before she fell to the ground. The plaintiff maintained that she suffered a lumbar herniation that required fusion from L4-S1 with hardware, a meniscal tear that necessitated arthroscopic surgery, plantar fasciitis and tarsal tunnel syndrome which required a release. The evidence reflected that the defendant's employee parked the golf cart facing the pro shop with the engine on while he loaded a cooler with ice and water. As he was in the process of loading the cooler, a case of water fell onto the cart's accelerator, causing it to hit the plaintiff who was standing 10 feet away. The defendant did not vigorously dispute liability during the course of the litigation.

The plaintiff had suffered plantar fasciitis in an accident approximately 10 years earlier and continued to receive injections as of the time of the subject accident. The plaintiff asserted, however that the pain to the foot and lower leg was much more pronounced after the incident and that she has been forced to lead a much more sedentary life. The plaintiff contended that she suffered a lumbar herniation and that after more conservative care proved inadequate, she underwent fusion surgery with hardware. The plaintiff asserted that although the surgery helped to some extent, she has difficulties remaining active. The plaintiff maintained that despite arthroscopic surgery, pain and difficulties with her knee will remain permanently and substantially contribute to her leading a much more sedentary lifestyle. The plaintiff further contended that the trauma caused an aggravation to her plantar fasciitis and that such conditions will permanently cause increased pain and contribute to much greater restrictions on her activities.

The defendant asserted that any injuries sustained in the incident substantially resolved. The plaintiff countered that she has been unable to continue playing golf despite attempts and has also had difficulties with everyday tasks. The plaintiff contended that she had continued playing regularly until the subject incident occurred despite the prior lower leg difficulties. The plaintiff would have presented lay testimony that supported her position.

The plaintiff made no income claims.

The case settled prior to trial for the primary policy of $1,000,000.

REFERENCE

Sutton vs. Glen Ridge Country Club, et al. Docket no. ESX-L-2348-19; Judge Raymond A. Reddin.

Attorneys for plaintiff: Bruce H. Nagel and Michael J. Paragano of Nagel Rice, LLP in Roseland, NJ.

COMMENTARY

It is felt that the highly traumatic nature of the incident in which the totally innocent plaintiff was struck by the golf car under the defendant's control, was significant in the ability of the plaintiff to command this settlement despite the absence of any income claims. Additionally, one of the challenges facing the plaintiff included the fact that she had injured the same lower leg in an accident approximately 10-years earlier and had continued to receive plantar fasciitis injection up until the time of the subject incident. The plaintiff stressed that she had been able to stay active and play golf regularly until the subject incident occurred.

$750,000 RECOVERY – MOTOR VEHICLE NEGLIGENCE – REAR-END COLLISION ON HIGHWAY – DEFENDANT CONTENDS HE IS CUT OFF BY PHANTOM DRIVER, CAUSING ACCIDENT – TORN LABRUM IN HIP – EXTENSIVE NUMBER OF INJECTIONS AND PHYSICAL THERAPY – NEED FOR FUTURE SURGERY – NO INCOME CLAIMS.

Passaic County, NJ

In this action for motor vehicle negligence, the plaintiff driver, approximately age 50, contended that as she was stopped in traffic in the middle lane of I-80, she was struck in the rear by the defendant driver. As a result of the collision, the plaintiff sustained serious injuries which will require future surgery. The defendant asserted that he was cut off by a phantom driver, causing the accident.

The plaintiff would have countered that the physical evidence reflected a straight type rear end collision and did not entail an angle. The plaintiff, who would not have produced a liability expert, would have contended that this physical evidence was very probative.

The plaintiff maintained that she suffered a torn labrum in the hip. The evidence disclosed that the plaintiff underwent extensive physical therapy and numerous injections. The plaintiff's orthopedic surgeon contended that future surgery will be necessary. The plaintiff indicated that she plans on undergoing the surgery,

The defendant had $1,000,000 in coverage. The case settled prior to trial for $750,000.

REFERENCE

Plaintiff's orthopedic surgeon expert: Alexander Hughes, M.D. from Hospital for Special Surgery, New York, NY.

Marino vs. MacGlaughlin. 11-04-21.

Attorney for plaintiff: Jeffrey J. Zenna of Blume Forte Fried Zerres & Molinari, PC in Chatham, NJ.

$350,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – INTERSECTION COLLISION – PLAINTIFF'S VEHICLE STRUCK BROADSIDE BY DEFENDANT'S VEHICLE AFTER DEFENDANT RUNS RED LIGHT – CERVICAL HERNIATIONS IN 5 LOCATIONS – CERVICAL RADICULOPATHY – CERVICAL COMPRESSION – ULNAR MEDIAN NERVE RADICULOPATHY – CANDIDATE FOR CERVICAL DECOMPRESSION, RECONSTRUCTION AND REPLACEMENT SURGERY AT 2 LEVELS.

Bergen County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck broadside by the defendant's vehicle after the defendant's vehicle ran a red light at an intersection causing the plaintiff to sustained serious injuries which will require future surgery. The defendant generally denied all allegations of negligence.

On August 18, 2018, the plaintiff's vehicle was traveling in a southbound direction on Locust Avenue in Wallington, New Jersey. At this time, the plaintiff was attempting to proceed in a straight direction through the intersection of Locust Avenue and Paterson Avenue. At the same time, the defendant's vehicle was traveling eastbound on Paterson Avenue, toward the same intersection. At the time of the incident, the plaintiff proceeded into the intersection with a green traffic signal in his favor. The defendant also proceeded into the intersection despite having a red traffic signal, and struck the plaintiff's vehicle broadside, causing the plaintiff to become injured.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to obey traffic signals, failing to observe traffic signals, failing to observe the plaintiff's vehicle, failing to remain adequately attentive, failing to keep the vehicle under proper and adequate control, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including cervical herniations in 5 locations, cervical radiculopathy, cervical compression, and ulnar median nerve radiculopathy.

The jury found in favor of the plaintiff and awarded $350,000.

REFERENCE

Molinari Joseph vs. Peter S. Anin, Gaeta Recycling Company, Inc. Docket no. L003939-20; Judge Anthony R. Suarez, 05-03-23.

Attorney for plaintiff: Glenn M. Gerlanc of Parisi & Gerlanc, Attorneys at Law in Hackensack, NJ. Attorney for defendant: Katherine A. Mastrobuoni of Freeman Mathis & Gary, LLP in Newark, NJ.

COMMENTARY

Following the accident in this case, the plaintiff sustained several long-term injuries that were conservatively treated with physical therapy and rest. However, this course of treatment was ineffective for the severity of the plaintiff's claimed injuries. Currently, the plaintiff continues to suffer spinal pain and discomfort. At this time, the plaintiff remains a candidate for cervical decompression, reconstruction, and replacement surgery at 2 levels, and will be required to undergo this procedure in the near future.

It would appear from the results of this case that the jury was of mixed emotions. While on one hand, the plaintiff is looking at a future with likely significant surgical interventions, the jury may have felt that the plaintiff's failure to undergo theses surgeries may have affected the award amount.

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DEFENDANT'S VERDICT – PREMISES LIABILITY – FALLING OBJECT – PLAINTIFF HOTEL GUEST CLAIMS SHOWERHEAD BECAME DISLODGED AND STRUCK HIM ON HEAD, CAUSING HIM TO FALL TO FLOOR – CONCUSSION WITH TRAUMATIC BRAIN INJURY, DIZZINESS, BLURRED VISION, HEARING LOSS, MEMORY ISSUES, PTSD, CERVICAL, LUMBAR AND THORACIC DISC PROTRUSIONS AT C3-C6, T11-12, L4-5 AND L5-S1 – MULTIPLE EPIDURAL INJECTIONS, ABLATION, CERVICAL DISCECTOMY AND FUSION – DEFENDANT DENIED NOTICE OF ANY DEFECT WITH SHOWERHEAD AND QUESTIONED PLAINTIFF'S VERSION OF EVENTS.

Atlantic County, NJ

In this action for premises liability, the plaintiff, a 53-year-old professional gambler, asserted that the defendant hotel negligently failed to maintain its premises such that a showerhead fell on the plaintiff and caused significant, permanent injury.

On August 12, 2017, the plaintiff was a guest at the defendant hotel, located at 777 Harrah's Boulevard in Atlantic City. The plaintiff was taking a shower in his room when, he contended, the showerhead dislodged, due to high water pressure, and struck the plaintiff on the forehead causing him to lose consciousness and fall backwards where he struck his head, neck, mid- and low-back on the edge of the tile bench seat in the shower causing him to sustain life-altering injuries. The defendant denied notice of any defect with the showerhead and questioned the plaintiff's version of events, arguing that only the screen of the showerhead, and not the entire showerhead, fell on the plaintiff and his purported concussion could not have been caused by the piece of the showerhead falling on him from a short distance.

The plaintiff contended that the defendant negligently failed to maintain the showerhead and water pressure such that it caused injury to the plaintiff. The plaintiff presented testimony that it is the policy of the defendant to conduct a thorough inspection of every room after each guest, including running the water and checking the shower. Thus, the plaintiff maintained the defendant had, or should have had, notice of the defective showerhead. The plaintiff alleged that the incident resulted in permanent injuries.

As a result of the incident, the plaintiff sustained traumatic brain injury, dizziness, blurred vision, hearing loss, memory issues, PTSD, cervical, lumbar and thoracic disc protrusions at C3-C6, T11-12, L4-5 and L5-S1. The plaintiff treated with multiple epidural injections, ablation, cervical discectomy and fusion. The plaintiff claimed a Medicare lien of $60,358 and outstanding medicals of $96,440.

The defendant presented an expert biomechanical engineer who testified that the plaintiff's claimed impact to his lumbar, thoracic, and cervical spine was not consistent with the shower enclosure dimensions and biomechanics of a standing fall; and that the impact energy of the showerhead screen was not sufficient to cause the claimed concussion and traumatic brain injury. The defendant also argued that it did not have control of the shower prior to the incident that injured the plaintiff. The defendant held that the plaintiff and his three roommates had control of the bathroom where the accident allegedly occurred for at least 12 to 15 hours prior to the time the plaintiff alleged the showerhead became disconnected from the shower and struck him on the head. As to his injuries, the defendant pointed to the plaintiff's preexisting conditions, namely a long history of spinal problems including previous injuries, from his cervical spine to his lumbar spine, and prior lumbar discectomy and fusion surgery. The defendant argued that the plaintiff's medical records indicate multiple prior herniations and degenerative conditions but no traumatic change from the subject incident.

The jury unanimously found that the plaintiff had failed to prove that the defendant had exclusive control of the instrumentality that allegedly caused the plaintiff's claimed injury. The jury returned a verdict in favor of the defendant.

REFERENCE

Alhababi vs. Caesar's New Jersey, Inc., et al. Docket no. L -002107-19; Judge Danielle J. Walcoff, 05-25-23.

Attorney for plaintiff: Justyna Karbarz of Law Offices of Steven A. Varano, P.C. in Little Falls, NJ. Attorneys for defendant: Frederick E. Blakelock and Anthony J. Giordano of Reilly, Mcdevitt & Henrich, P.C. in Cherry Hill, NJ.

Verdicts By Category

CONTRACT

$20,000 BENCH VERDICT

Breach of contract – Failure to pay loan – Plaintiff contends parties entered into loan agreement with defendant to repay plaintiff a $20,000 loan at 20% interest and defendant failed to repay –Defendant argues he did repay loan, despite usurious interest, and was owed $7,400 in refund of interest payment portion on loan.

Bergen County, NJ

In this breach of contract case, the plaintiff asserted that the defendant failed to repay money loaned to him by the plaintiff per the terms of an agreement between the parties. The defendant denied breaching the contract and presented contemporaneous notes as evidence of his repayment of the loan.

The plaintiff and defendant had been friends since childhood with a history of the plaintiff loaning money by check to the defendant who would repay by check as well. The plaintiff contended that a prior loan was made to the defendant on June 26, 2015 which was repaid by check on August 12, 2015. On December 15, 2015, the plaintiff loaned the defendant $20,000 payable on or before December 15, 2016 with interest of 20%. The plaintiff contended that the defendant failed to repay the loan and had no documentation signed by the plaintiff to show repayment. The plaintiff held that a contract existed and that the defendant breached the contract by failing to repay the funds. The plaintiff contended that the defendant owed him $20,000.

The defendant's notes indicated that only $1,093 remained outstanding under the loan agreement. The defendant further argued that this was the balance amount before credit is given for usurious interest previously paid by the defendant. The defendant maintained that he had made 5 payments of principal and interest under the loan agreement in cash, gold, and chattel, totaling $27,400. The defendant also presented testimony of a witness, his girlfriend who was also the former girlfriend of the plaintiff, that she personally witnessed the defendant making a cash payment to the plaintiff in April 2016. The defendant counterclaimed that he had paid $7,400 in usurious interest under the loan agreement and paid a total of an additional $20,000 in satisfaction of the $20,000 note. The defendant claimed he was entitled to an order entering judgment in his favor for $7,400 plus pre- and post-judgment interest.

The matter came before the bench and the court found that it was undisputed that the parties entered into a contract whereby the plaintiff lent the defendant $20,000 at the interest rate of 20% per annum. The interest part of the contract had already been stricken from the damages by a prior court. As to the credibility of the parties, the court found both to be suspect due to the plaintiff presenting a document that was not the actual agreement between the parties and not executed by the defendant, which the court inferred him to have signed as a fraudulent document. The defendant had only submitted a self-serving document that he kept in his possession to track the monies he paid back to the plaintiff with no receipts to show that he was paying back the plaintiff in the manner he alleged with cash, gold coins or furniture.

The court found that the plaintiff had proven his claims against the defendant for the full amount of the debt, specifically $20,000 without interest as interest was already deemed improper. The court issued judgment for the plaintiff in the amount of $20,000.

REFERENCE

Basralian vs. Linzalone. Docket no. L-002071-21; Judge Anthony R. Suarez, 05-01-23.

Attorney for plaintiff: Edward S. Zizmor of RWKD Law, LLC in Hackensack, NJ. Attorneys for defendant: Robert E. Levy and Thomas H. Herndon, Jr. of Scarinci Hollenbeck, LLC in Little Falls, NJ.

LANDLORD NEGLIGENCE

$22,500 RECOVERY

Landlord negligence – Premises liability – 2-year-old plaintiff falls through faulty deck railing to ground below – Laceration to forehead – Closure of wound and follow-up screenings for head injury – Permanent scar – Defendant asserts plaintiff's father agreed to maintain property in exchange for reduced rent and any negligence in upkeep sole fault of plaintiff's father.

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Atlantic County, NJ

In this case, the minor plaintiff, a 2-year-old girl, asserted that the defendant property owners and their agent failed to maintain the property in a safe condition such that the minor plaintiff fell through a deck railing and suffered permanent injury. The defendants denied responsibility and asserted that the plaintiff's parents (the tenants) and the defendants had an agreement for the plaintiff's father to be responsible for all minor indoor and outdoor maintenance in exchange for a reduction in rent. On May 23, 2020, the infant plaintiff was a resident with her parents in a house owned by the defendant property owners and maintained by the co-defendant agent of the landlord. The property was located at 566 4th Street in Absecon. The plaintiff was playing at the home when she fell against a loose railing on the back deck of the property and that it gave way causing her to fall to the ground below and sustain serious injury.

The plaintiff parents asserted that they had previously complained about the deck railing to the defendants. The plaintiff parents contended that they had made multiple complaints over several months to their landlords about defects in the property, most notably a loose railing in the rear deck on the property. The plaintiff maintained that, despite numerous promises to correct the defects, the defendants failed to do so in a reasonable time and manner and thus were negligent in maintaining the property in a safe condition for residents, including the infant plaintiff.

The plaintiff argued that the defendants breached their duty to exercise reasonable care to protect the plaintiff by inspection and other affirmative acts from the danger of a reasonably foreseeable injury; in breaching their duty to the plaintiff to have available sufficient personnel and equipment to properly inspect and maintain the aforesaid premise in a condition reasonably safe for the plaintiff and free from defects and conditions rendering it unsafe; by failing to have proper and suitable warnings that would have alerted the plaintiff and other invitees to the aforesaid dangers and unfit conditions; failed to otherwise warn the plaintiff in a timely and proper manner of the aforesaid dangerous conditions; failed to properly perform its duty and legal obligation regarding the maintenance of the property by causing and/or permitting a dangerous condition to exist; failed to take corrective measures to repair the railing when timely notified by the plaintiff's parents of its dangers; and was otherwise negligent and careless.

As a result of her fall, the plaintiff was taken to the emergency room where she was treated for a laceration to the left side of her forehead. She was treated with closure of the wound and 2 follow ups for evaluation of any other potential head injury. The plaintiff has a 1 cm long/ 2 mm wide, horizontal scar on her forehead which her treating physicians contend is permanent.

The defendants alleged that the loose railing on the deck fell under the responsibilities assumed by the plaintiff father and that he was the one who was negligent in that he knew about the faulty railing but failed to repair it. The defendants asserted that the plaintiff's father claimed he made the defendant aware of the banisters and railings when, in fact, the defendant told the plaintiff's father to fix the banisters per their oral agreement. The defendants denied any negligent conduct attributable to them which proximately caused the plaintiff's alleged injuries.

The parties settled the matter prior to trial in the amount of $22,500 broken down as follows: $4,708 in attorney fees; $3,668 in costs and disbursements; and $14,124 in net damages to the minor plaintiff.

REFERENCE

Batmani vs. Alshallah, et al. Docket no. L-003522-21; Judge Danielle J. Walcoff, 05-05-23.

Attorney for plaintiff: Chad M. Sherwood of Law Office of Chad M Sherwood, LLC in Pleasantville, NJ. Attorney for defendant: Jared Paul Miller of Powell, Kugelman & Postell, LLC in Old Bridge, NJ.

MOTOR VEHICLE NEGLIGENCE

Intersection Collision

$50,000 VERDICT

Motor vehicle negligence – Intersection collision – Defendant fails to stop for stop sign and enters intersection lawfully occupied by plaintiff striking plaintiff's vehicle – Cervical and lumbar disc injuries – Sprains and contusions – Concussion and headaches.

Monmouth County, NJ

The plaintiff in this vehicular negligence action maintained that he was injured when he was lawfully proceeding through an intersection and was struck by the defendant who failed to stop for a stop sign. The defendant denied all allegations of negligence and injury.

On September 28, 2020, the plaintiff was operating a vehicle traveling on Howell Rd. at its intersection with Vanderveer road in Howell Township, New Jersey. The

defendant was traveling in his Mini Cooper on Vanderveer road when he failed to stop for a stop sign and entered the intersection striking the plaintiff's vehicle.

The plaintiff maintained that the defendant was negligent in failing to observe and stop for traffic control signals, failing to make proper observations of the vehicles operated by others, failing to make proper road observations and failing to act prudently. Consequently, the plaintiffs suffered a herniated disc at C5-6 with radiculopathy, L4-5 compression of the thecal sac, L5-S1 annular tear, and a chest contusion, right ankle sprain, left shoulder contusion, concussion, and headaches. The defendant maintained that the actions of the plaintiff caused or contributed to the accident.

The board of arbitrators found that the defendant was 100% liable and awarded the plaintiff $50,000.

REFERENCE

Pavle Glurjidze vs. Richard Valdes. Docket no. L-1890-21, 03-09-23.

Attorney for plaintiff: Charles M. Grocco of Nelson, Fromer, Crocco & Jordan in Neptune, NJ. Attorney for defendant: Sean Doherty of Law Offices Pamela D. Hargrove in Cranford, NJ.

$7500 RECOVERY

Motor vehicle negligence – Intersection collision – 3 minor plaintiffs injured when host vehicle struck broadside by defendant's vehicle which ran red light – Neck pain – Back pain – Shoulder – Lumbar radiculopathy.

Atlantic County, NJ

In this motor vehicle negligence action, 3 minor plaintiffs sustained injuries when the host vehicle was struck broadside by the defendant's vehicle in an intersection. The defendant generally denied all allegations of negligence.

On April 1, 2020, the 3 minor plaintiffs in this case were passengers in their father's vehicle, which was traveling southbound on St. Louis Avenue in Egg Harbor, New Jersey. At this time, the host vehicle was traveling toward the intersection of St. Louis Avenue and Route 30. At the same time, the defendant's vehicle was traveling westbound on Route 30, toward the same intersection. At the time of the incident, the host vehicle attempted to proceed through the intersection with a green traffic signal, when the defendant's vehicle ran a red light and struck the host vehicle broadside.

The plaintiffs maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to obey traffic signals, failing to observe traffic conditions, failing to observe the host 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 host vehicle. Consequently, the minor plaintiffs all sustained injuries, including neck pain, back pain, shoulder pain, and lumbar radiculopathy.

The parties entered into a settlement for $7,500.

REFERENCE

Stokes Michael, Smith Alexandra, Stokes Aaliyah, Stokes Austin vs. Ayala Manuel. Docket no. L001033-22; Judge John C. Porto, 03-31-23.

Attorney for plaintiff: Steven K. Johnson of D'Arcy Johnson Day in Egg Harbor Township, NJ.

Lane Change Collision

$30,000 VERDICT

Motor vehicle negligence – Lane change collision – Defendant sideswipes passenger side of plaintiff's vehicle – Shoulder ligament tear – Cervical radiculopathy.

Middlesex County, NJ

The plaintiff in this vehicular negligence action maintained she suffered various bodily injuries when the care in which she was a passenger was sideswiped on the passenger side by the defendant driver in the course and scope of his employment with the defendant excavation company. The defendants generally denied all allegations of negligence and injury.

On June 8, 2019, the female plaintiff was a passenger in a vehicle being operated by her husband. They were traveling south on Route 1 in North Brunswick, New Jersey. The defendant, Wilson, operating a vehicle in the course and scope of his employment with the defendant excavation company H. Liedtka, was traveling in the lane next to the plaintiff. Suddenly and without warning, the defendant entered the plaintiff's lane, sideswiping the plaintiff's vehicle on the passenger side. The plaintiff maintained that the defendant driver was negligent in failing to properly operate and control the vehicle, failing to keep a proper lookout, changing lanes when it was unsafe to do so and failing to maintain a single lane.

The plaintiff maintained that the defendant company was vicariously liable for the acts of the defendant driver. The plaintiff suffered right shoulder tears of the supraspinatus/infraspinatus, right carpal tunnel syndrome and C5-6 radiculopathy. The defendants generally denied all allegations of negligence and maintained that it was the actions of the plaintiff driver that caused the collision.

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The case was arbitrated with the board finding for the plaintiff and awarding the plaintiff $30,000.

REFERENCE

Dika Taqi vs. Jimmie Wilson and H. Liedtka Company. Docket no. L 002228-21; Judge Alberto Rivas, 04-13-23.

Attorney for plaintiff: Andrew Garruto of Garruto & Calabria in Nutley, NJ. Attorney for defendant: Regina DiStefano of Martin, Kane & Kuper in East Brunswick, NJ.

Left Turn Collision

$50,000 VERDICT

Motor vehicle negligence – Left turn collision – Plaintiff injured when vehicle struck broadside by defendant's vehicle making sudden, improper left turn – Bruising of neck, back and chest.

Bergen County, NJ

In this motor vehicle negligence action, the plaintiff was injured when her vehicle was struck broadside by the defendant's vehicle making a sudden and improper left turn. The defendant generally denied all allegations of negligence.

On August 14, 2019, the plaintiff was traveling in her vehicle in a southbound direction on South Summit Avenue in Hackensack, New Jersey. At the same time, the defendant's vehicle was also traveling on South Summit Avenue, in a northbound direction. Both the plaintiff's vehicle and the defendant's vehicle were approaching the intersection of South Summit Avenue and Route 17, from opposite directions. As the plaintiff's vehicle was attempting to proceed straight through the aforementioned intersection, the defendant's vehicle suddenly attempted to execute a left turn onto Route 17. The defendant's vehicle then struck the plaintiff's vehicle broadside, causing the plaintiff to become injured.

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 execute a left turn, failing to wait for clearance before executing a left turn, failing to yield the right-of-way, 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 bruising of the neck, back, and chest.

The jury found in favor of the plaintiff and awarded $50,000.

REFERENCE

Allen Vivienne vs. Kane Joseph. Docket no. L005209-21; Judge Gregg A. Padovano, 05-08-23.

Attorney for plaintiff: Joseph Alexander Takach in Hackensack, NJ. Attorney for defendant: Mallary Rebecca Hollander of Sobel Law Group, LLC in New York, NY.

Rear End Collision

$650,000 RECOVERY

Motor vehicle negligence – Rear end collision – Plaintiff driver struck by box truck – Tear of dominant rotator cuff – Arthroscopic surgery – Lumbar herniation – Injection – Cervical bulge – Physical therapy – No income claims.

Middlesex County, NJ

In this action for motor vehicle negligence, the plaintiff driver in his late 20s contended that he was struck in the rear by the defendant driver of a box truck. The plaintiff contended that he suffered a right, dominant rotator cuff tear that will cause permanent pain and limitations despite arthroscopic surgery. The defendant denied that the claimed injuries occurred.

The plaintiff also asserted that he suffered a lumbar herniation which necessitated and injection, and which will none-the-less cause permanent symptoms.

The plaintiff maintained that the MRI also showed a cervical bulge which was treated with physical therapy and which will continue to cause additional pain permanently. The defendant maintained that the property damage was light and that the plaintiff suffered resolving soft tissue injuries only.

The plaintiff made no income claims.

The case settled prior to trial for $650,000.

REFERENCE

Elliott vs. Howland. Docket no. MID-L-671-17; Settled after Mediation by Judge Bradley Ferencz.

Attorneys for plaintiff: Michael Heck and Daniel Epstein of Epstein Ostrove, LLC in Edison, NJ.

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$275,000 RECOVERY

Motor vehicle negligence – Rear end collision – Cervical herniation – Surgery with hardware.

Bergen County, NJ

In this action for motor vehicle negligence, the plaintiff driver in her mid 50s contended that the defendant driver negligently struck her in the rear while she was stopped. The plaintiff contended that as a result, she suffered a cervical herniation that was confirmed by MRI. The defendant denied that the plaintiff suffered the claimed injuries in the accident.

The plaintiff countered that she had no prior symptoms or treatment. The plaintiff required surgery with the insertion of a BAK cage. The plaintiff asserted that she will suffer permanent symptoms.

The plaintiff did not work outside the home and made no income claims.

The case settled prior to trial for $275,000.

REFERENCE

Plt driver in her mid 50s vs. deft driver.

Attorney for plaintiff: Patrick M. Metz of Dario Albert Metz Eyerman Canda Concannon Ortiz & Krouse in Hackensack, NJ.

$5,000 VERDICT

Motor vehicle negligence – Rear end collision – Defendant strikes rear of plaintiff's host vehicle – Lumbar disc injuries – Chiropractic treatment required.

Monmouth County, NJ

The plaintiff in this vehicular negligence action maintained that he suffered lower back injuries when the vehicle in which he was a passenger, was struck in the rear by the defendant. The defendant denied all allegations of negligence and injury.

On August 16, 2018, the plaintiff was a passenger in a vehicle being operated by the co-defendant. They were traveling on State Highway 35 in Middletown Township, New Jersey. The plaintiff's vehicle came to a stop in accordance with traffic when it was struck in the rear by the defendant. The 62-year-old plaintiff suffered injuries to his lumbar spine and required chiropractic care.

The plaintiff maintained that the defendant driver was negligent in failing to properly and timely apply the brakes, failing to keep a proper distance and failing to maintain a proper lookout. The defendant denied being negligent and brought in the plaintiff's host driver as a co-defendant. In addition, the defendant denied that the plaintiff suffered any serious or permanent condition as a result of the collision as the plaintiff had prior complaints of low back injuries.

The board of arbitrators found in favor of the plaintiff and awarded the plaintiff $5,000.

REFERENCE

Tamire McKenna vs. Man Szeto and Glenn Meyer. Docket no. L 002352-20; Panel Arbitration, 03-23-23.

Attorney for plaintiff: Francis Wilton of The Wilton Law Firm in Middletown, NJ. Attorney for defendant: Jarred Blumer of Law Office of Cindy Thompson in Piscataway, NJ. Attorney for defendant: Brittany Edgerly Dallal of GEICO Insurance in NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Rear end collision – Injuries to plaintiff's neck and back.

Middlesex County, NJ

The plaintiff in this motor vehicle negligence action suffered injuries to her neck and back when her vehicle was struck in the rear by the defendant in heavy stop-and-go traffic. The defendant denied all allegations of negligence and argued that it was the actions of the plaintiff that caused the accident.

On October 30, 2018, the female plaintiff was traveling in heavy traffic on the Garden State Parking in New Jersey. The plaintiff brought her vehicle to a stop in accordance with traffic conditions when her vehicle was struck in the rear by the defendant.

The plaintiff maintained that the defendant was negligent in failing to maintain an assured clear distance, failing to heed traffic conditions, traveling too fast for traffic conditions and failing to have the vehicle under proper and adequate control. The plaintiff maintained that the accident caused her to suffer injuries to her neck and back. The defendant denied all allegations of negligence and argued that the plaintiff made a sudden and unexpected stop in front of him and he could not avoid striking the rear of the plaintiff's vehicle.

The jury found that the plaintiff did not suffer a serious or permanent injury in the collision.

REFERENCE

Nelly Carrion vs. Dominic Etzold. Docket no. L007223-20; Judge Gary K. Wolinetz, 04-13-23.

Attorney for plaintiff: Rita F. Barone of Flanagan Barone O'Brien in Bernardsville, NJ. Attorney for defendant: William F. Henning in South Orange, NJ.

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MUNICIPAL LIABILITY

$375,000 RECOVERY

Municipal liability – Failure of municipal street sweeper to stop at stop sign – Bilateral shoulder tears – Surgery – Meniscal tear – Arthroscopic knee surgery – Lumbar herniation – Surgery

Hudson County, NJ

In this case, the plaintiff driver, in his mid 30s at the time of the recovery, contended that the defendant driver of a municipal street sweeper negligently failed to stop at a stop sign, causing the accident. The defendant maintained that the plaintiff failed to make adequate observations and was comparatively negligent.

The plaintiff maintained that he suffered bilateral shoulder tears which will cause permanent pain and restriction despite surgery on each side. The plaintiff also asserted that he suffered lumbar and cervical herniations and underwent surgery for both conditions. The plaintiff contended that he will suffer permanent symptoms.

The plaintiff has a wife and no children. He works as a construction worker. The plaintiff maintained that he has great difficulties with everyday tasks otherwise taken for granted and will be permanently restricted to light duty.

The case settled prior to trial for $375,000.

REFERENCE

Plaintiff's orthopedic surgeon expert: David Basch, M.D. from Sparta, NJ.

Cueto vs. Moore & City of Jersey City. Docket no. HUD-L-3980-20, 02-15-23.

Attorney for plaintiff: Christopher L. Musmanno of Einhorn Barbarito Frost & Botwinick, PC in Denville, NJ.

PREMISES LIABILITY

Fall Down

$105,000 VERDICT

Premises liability – Fall down – Plaintiff slips on puddle of water inside defendant hotel – Right knee sprain – Tear of right meniscus.

Atlantic County, NJ

In this premises liability action, the plaintiff slipped on a puddle of water inside the defendant hotel and fell, causing him to become injured. The defendants generally denied all allegations of negligence.

On August 24, 2020, the plaintiff was a guest staying at the defendant hotel, located on the premises of 1000 Boardwalk in Atlantic City, New Jersey. At this time, the plaintiff was walking through the lobby area of the hotel. As he was walking in this area, the plaintiff encountered a puddle of water that had just been spilled on the floor. The plaintiff slipped on the water and fell, causing him to become injured.

The plaintiff maintained that the defendants were negligent in failing to maintain safe and adequate conditions on the premises, failing to remove water from the floor on the premises, failing to adequately clean the premises, failing to clean up a spill in a timely manner, failing to hire adequate janitorial staff, failing to erect signs or otherwise warn of a wet floor, failing to prevent hazardous or unsafe conditions on the premises, and failing to regard for the health and safety of hotel guests and visitors including the plaintiff. Consequently, the plaintiff sustained injuries, including right knee sprain, as well as a tear of the right meniscus.

The parties entered into a settlement for $105,000.

REFERENCE

John Allen, Sr. vs. Hard Rock Atlantic City. Docket no. L002714-21; Judge Danielle J. Walcoff, 04-22-23.

Attorney for plaintiff: Robert S. Shiekman in Atlantic City, NJ.

$90,000 RECOVERY

Premises liability – Fall down – Plaintiff trips on uneven ground in parking area of defendant's premises – Comminuted fracture of left clavicle – Surgery required.

Atlantic County, NJ

In this premises liability action, the plaintiff sustained injuries when she tripped on uneven ground in the parking area of the defendant condominium building. The defendants generally denied all allegations of negligence.

On September 23, 2019, the plaintiff was lawfully traversing the parking area at the defendant condominium building, located on the premises of 9300 Atlantic Avenue in Margate, New Jersey. At this time, the plaintiff was attempting to step up from the parking area onto a sidewalk curb near the entrance to the building. While attempting to step up, the plaintiff tripped on a deep depression in the blacktop and fell, causing her to become injured.

The plaintiffs maintained that the defendants were negligent in failing to maintain safe and adequate conditions on the premises, failing to prevent a tripping hazard, failing to warn of a tripping hazard, failing to repair uneven or broken blacktop, failing to erect signs or otherwise warn of a depression in the ground, failing to inspect the premises, failing to provide safe passage, and failing to regard for the health and safety of building residents and visitors including the plaintiff. Consequently, the plaintiff sustained injuries, including a comminuted fracture of the left clavicle, which required open reduction and internal fixation surgery to repair. The defendants generally denied negligence.

The jury found in favor of the plaintiff and awarded $90,000.

REFERENCE

Ciociola Carol vs. Shore Club Condo Assoc., Inc. Docket no. L001411-21; Judge Danielle J. Walcoff, 05-02-23.

Attorney for plaintiff: Harrison J. Gordon of Gordon & Gordon, Esqs. in Springfield, N.J.

DEFENDANT'S VERDICT

Premises liability – Fall down – Plaintiff trips over uneven surface between concrete and blacktop at defendant convenience store – Tear of right lateral meniscus – Surgery required.

Atlantic County, NJ

In this premises liability action, the plaintiff suffered injuries when she tripped and fell over a raised, uneven surface between concrete and blacktop on the premises of the defendant convenience store. The defendants generally denied all allegations of negligence.

On August 31, 2019, the plaintiff was a lawful visitor and business invitee at the defendant convenience store, located on the premises of 2403 New Road in Northfield, New Jersey. At this time, the plaintiff was walking toward the store entrance. While walking toward the store, the plaintiff encountered a raised surface where the blacktop of the parking lot met a concrete apron at the storefront. The plaintiff then tripped over the uneven surface and fell, causing her to become injured.

The plaintiff maintained that the defendants were negligent in failing to maintain safe and adequate conditions on the premises, failing to repair or remove a tripping hazard, failing to maintain the store's parking lot area, failing to provide safe passage, failing to warn of a tripping hazard, failing to inspect the premises, and failing to regard for the health and safety of visitors and business invitees including the plaintiff. Consequently, the plaintiff sustained injuries, including a tear of the right lateral meniscus, which required surgery to repair.

The jury found in favor of the defendants.

REFERENCE

Williams Kimberly vs. Wawa, Inc. Docket no. L002157-21; Judge Stanley L. Bergman, 04-08-23.

Attorney for plaintiff: Melville D. Lide of Radano and Lide in Vineland, NJ. Attorney for defendant: William J. Kohler of Cooper Levenson in Atlantic City, NJ.

Falling Object

DEFENDANT'S VERDICT

Premises liability – Falling object – Plaintiff injured when table umbrella becomes dislodged and strikes him at defendant restaurant – Head injury – Neck pain – Partial tear of right distal tricep tendon.

Atlantic County, NJ

In this premises liability action, the plaintiff was injured when a table umbrella became dislodged and struck him at the defendant restaurant. The defendants generally denied all allegations of negligence.

On July 11, 2020, the plaintiff was a lawful visitor and business invitee at the defendant restaurant, located on the premises of t 1900 Pacific Avenue in Atlantic City, New Jersey. At this time, the plaintiff was dining outside, and was sitting at a table equipped with a large umbrella in the center. While the plaintiff was eating, a strong wind caused the umbrella to become dislodged from the table and fall. The umbrella struck the plaintiff on the head, neck, and shoulder, causing him to become injured.

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 table umbrellas, failing to inspect the premises including dining tables and attached umbrellas, failing to secure umbrellas to tables, failing to warn of the potential for umbrellas to become dislodged and fall, failing to prevent hazardous or unsafe conditions on the premises, and failing to regard for the health and safety of business invitees on the premises including the plaintiff. Consequently,

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the plaintiff sustained injuries, including head injury, neck pain, and a partial tear of the right distal tricep tendon.

The jury found in favor of the defendants.

REFERENCE

Royster James vs. Harry's Oyster Bar, Llc. Docket no. L000302-21; Judge Danielle J. Walcoff, 05-06-23.

Attorney for plaintiff: Marc I. Simon of Simon & Simon, P.C. in Camden, NJ.

SPORTS & RECREATION

DEFENDANT'S VERDICT

Sports & Recreation – Minor plaintiff injured at defendant facility when she is kicked in head by another participant in defendants' cheerleading program – Head injury – Possible concussion.

Atlantic County, NJ

In this personal injury action, the minor plaintiff was injured when she was kicked in the head by another child while she was attending cheerleading practice at the defendants' facility. The defendants generally denied all allegations of negligence.

On January 9, 2019, the minor plaintiff was lawfully attending practice for the defendants' cheerleading program at the defendants' athletic facility. At this time, the minor plaintiff was practicing a "flying" maneuver with other enrollees of the program. The maneuver required the minor plaintiff to stand on the ground and "catch" the flyer, who would be propelled into the air during the stunt. While practicing the drill, the minor plaintiff was suddenly kicked in the head by the flyer, causing her to become injured.

The plaintiffs maintained that the defendants were negligent in failing to properly train cheerleading athletes, failing to properly supervise minor athletes including the minor plaintiff, failing to properly oversee complex or dangerous stunts, failing to properly teach "flying" maneuvers to the athletes, in negligently allowing the program enrollees to practice stunts that they were not ready for, in failing to provide proper instructions for such a maneuver, and in failing to prevent harm to the minor plaintiff while she was under the care and custody of the defendants. Consequently, the minor plaintiff sustained injuries, including headaches and a head injury including a possible concussion.

The jury found in favor of the defendants.

REFERENCE

Errera Sydney vs. All Star One Gymnasium. Docket no. L003988-20; Judge Sarah B. Johnson, 05-13-23.

Attorney for plaintiff: Bruce H. Stern in Hamilton, NJ.

Supplemental Verdict Digest

MEDICAL MALPRACTICE

$43,500,000 VERDICT – MEDICAL MALPRACTICE – ORTHOPEDIST'S NEGLIGENCE – DEFENDANTS FAIL TO APPRECIATE PLAINTIFF'S MENISCUS TEAR AND EXTRUSION AND RELEASED PLAINTIFF TO RESUME ACTIVITIES WORSENING KNEE CONDITION ENDING PROFESSIONAL FOOTBALL CAREER – PERMANENT INJURY.

Philadelphia County, PA

In this medical malpractice action, the plaintiff, a defensive back, played 8 seasons in the NFL and suffered a serious injury to his knee in a game in 2017. The knee injury was negligently treated by the defendants which resulted in a premature end to the plaintiff's playing career. The defendants denied all allegations of negligence. The defendants argued that the injury seen in the May of 2018 MRI was a meniscal root variant or anomaly and not the result of injury.

On October 12, 2017, the male plaintiff suffered a right knee injury while playing professional football for the Philadelphia Eagles. In November of 2017, plaintiff sought care for his injured knee from the defendant orthopedist. On November 8, 2017, the defendant orthopedist performed a right knee arthroscopy with a Posterior Cruciate Ligament ("PCL") reconstruction with Achilles allograft. The plaintiff's right knee condition worsened and due to his rehabilitation activities as ordered by the defendants which placed undue stress on the knee with an uncorrected medial meniscus injury. As a result, further injury to the knee joint occurred, including exaggeration of the tear of the medial meniscus as well as degeneration of the articular cartilage of the medial compartment of the knee.

The jury found for the plaintiff against the defendants finding that the defendant Dr. was 67% negligent and the defendant orthopedic associates was 33% negligent. The jury awarded the plaintiff damages totaling $43,500,000.

REFERENCE

Christopher Maragos vs. James P. Bradley, M.D. and Burke and Bradley Orthopedic Associates II, P.C. and Rothman Institute. Case no. 191100972; Judge Charles Cunningham, 02-13-23.

Attorney for plaintiff: Dion G. Rassias of The Beasley Firm in Philadelphia, PA. Attorney for defendant: John C. Conti of Dickie, McCamey & Chilcote, P.C. in Pittsburgh, PA.

$30,900,000 VERDICT – MEDICAL MALPRACTICE – NURSING HOME NEGLIGENCE – PLAINTIFF'S DECEDENT SUFFERS SEVERE BEDSORE IN JUST 2 WEEKS AT DEFENDANT'S FACILITY – WRONGFUL DEATH OF 86-YEAR-OLD MALE.

Sacramento County, CA

In this medical malpractice action, the estate of the decedent maintained that the defendant long-term care facility negligently cared for the decedent and in just 2 short weeks allowed the decedent to develop a severe and painful bedsore that contributed to his death the following year. The defendant facility denied all allegations of negligence and injury and maintained that the decedent was treated properly in accordance with all medical standards.

The estate alleged that the facility failed to provide proper care to the decedent, failed to rotate or turn the decedent, failed to properly train their staff in skin breakdown prevention and grossly understaffed their facility for the sake of profits. The decedent died in March of 2018 from complication related to his wound. He is survived by his wife and 8 adult children.

A jury found in favor of the plaintiffs awarding $5.9 million in compensatory damages plus $25 million in punitive damages for a total of 30.9 million.

REFERENCE

The Estate of Sam Rios, Jr. vs. Pine Creek Care Center, Plum Healthcare Group, LLC and Daisy Holdings. Case no. 34-2018-00244263, 01-24-23.

Attorney for plaintiff: Jay Renneisen of Law Offices of Jay P. Renneisen in Walnut Creek, CA. Attorney for defendant: William C. Wilson of Wilson Getty, LLP in San Diego, CA.

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$240,000 RECOVERY – MEDICAL MALPRACTICE – NURSING HOME NEGLIGENCE – DEFENDANT NURSING HOME PROVIDES SUBSTANDARD CARE TO PLAINTIFF'S DECEDENT RESULTING IN INFECTIONS AND NECROTIZING FASCIITIS CAUSING HER DEATH – WRONGFUL DEATH OF 92-YEAR-OLD FEMALE.

Montgomery County, PA

In this action for medical malpractice, the estate of the decedent sued the defendant nursing home for negligence alleging that their care of the decedent caused infections that resulted in death. The defendant facility denied being negligent and maintained in provided care that was proper in and in accordance with all medical standards.

The plaintiff's decedent had been living independently at her home until a fall and resulting hip fracture. Her condition took a drastic turn while at patient at the defendant facility. The estate maintained that the defendant facility was negligent in providing substandard care to the decedent, failing to provide proper hydration and nutrition, failing to provide the decedent with proper hygiene and failing to prevent the decedent from suffering infections. The decedent died on June 19, 2020, several months after she was admitted to the defendant facility. The parties settled for $240,000.

REFERENCE

The Estate of Jean Costanzo by James Costanzo vs. North Wales 1089 MC BG OPCO, LLC dba Park Creek Place Memory Care. Case no. 202205527; Judge Melissa Sterling, 12-22-22.

Attorney for plaintiff: Matthew Wilkov of Rubin, Glickman, Steinberg and Gifford in Lansdale, PA.

MOTOR VEHICLE NEGLIGENCE

$2,400,000 RECOVERY – MOTOR VEHICLE NEGLIGENCE – BUS/PEDESTRIAN COLLISION – PLAINTIFF STRUCK BY BUS WHILE CROSSING IN CROSSWALK NEAR STATION – RIB FRACTURES – INJURIES TO NECK, NON-DOMINANT SHOULDER, BOTH KNEES, LEFT HIP AND LEFT ANKLE – 5 SURGICAL INTERVENTIONS – INABILITY TO CONTINUE MARKETING CAREER – EXTENSIVE DIFFICULTIES ENGAGING IN EVERYDAY TASKS.

Bergen County, NJ

This motor vehicle negligence case involved a plaintiff in her mid 50s who contended that as she crossed in a crosswalk not controlled by a traffic light and directly near a station, she was struck by a municipal shuttle bus. The plaintiff maintained that she suffered rib fractures and severe injuries to her neck, non-dominant shoulder, both knees, her left hip and left ankle.

The plaintiff contended that she required some 5 surgical interventions and asserted that she can no longer work. The plaintiff related that prior to the accident, she was able to live independently and also help her daughter who lived in her own apartment. The plaintiff asserted that in addition to being unable to work, she is unable to engage in the activities of daily living without assistance and has moved into a one bedroom apartment with her daughter, with the plaintiff staying in the bedroom and the daughter on the living room couch. The plaintiff contended that the injuries are permanent in nature.

The case settled prior to trial for $2,400,000.

REFERENCE

Plaintiff's orthopedic spinal surgeon expert: Joshua Rovner, M.D. from Englewood, NJ. Plaintiff's orthopedic surgeon expert: Richard Selde, M.D. from Hackensack, NJ.

Song vs. Henderson and Boro of Edgewater. Docket no. BER-L-7632-19, 06-22.

Attorneys for plaintiff: Jae Lee and Shane Sullivan of Jae Lee Law, PC in Ft. Lee, NJ.

$2,064,075 VERDICT – MOTOR VEHICLE NEGLIGENCE – LEFT TURN COLLISION – DEFENDANT ATTEMPTS LEFT TURN AT INTERSECTION AND STRIKES PLAINTIFF'S VEHICLE – DISREGARDING STOP SIGN – SPINAL INJURIES – RADICULOPATHY – TRAUMATIC BRAIN INJURY WITH DISRUPTION IN MOOD AND MEMORY.

Burlington County, NJ

The plaintiff in this vehicular negligence action maintained that she sustained permanent injuries including spinal disc problems with right upper extremity radiculopathy and a traumatic brain injury with cognitive deficits manifesting as memory and mood problems when she was lawfully at an intersection and her vehicle was struck by the defendant who entered the same intersection attempting to turn left, without stopping for a stop sign. The defendant stipulated liability but denied that the impact caused injury to the plaintiff.

The defendant argued that a prior accident, which occurred shortly before this accident, caused the plaintiff's condition. The defendant originally argued that a third-party vehicle prevented the defendant from seeing the plaintiff in the intersection; however, the defendant stipulated liability prior to trial.

Trial in this matter resulted in a 7-0 jury award of $2,064,075, broken down as $1,548,056.25 on plaintiff Glenda Smiley's claim and $516,018.75 on Charles Smiley's loss of consortium claim. The defendant has moved for a new trial or in the alternative, for remittitur. The motion was granted by the court in April of 2023.

REFERENCE

Glenda W. Smiley and Charles J. Smiley vs. Estate of Charles F. Carter, Jr. Docket no. L002007-19; Judge James J. Ferrelli, 12-05-22.

Attorney for plaintiff: Robert Segal in Medford, NJ. Attorney for defendant: Steven Antinoff of Parker, Young and Antinoff, LLC in Marlton, NJ.

$1,000,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – AUTO/PEDESTRIAN COLLISION – PLAINTIFF'S DECEDENT THROWN INTO ROADWAY DURING HEATED ALTERCATION WITH ALLEGED SECURITY GUARD FROM NEARBY HOTEL WHO WAS PURPORTEDLY NEGLIGENTLY HIRED BY HOTEL – DECEDENT IN ROADWAY FOR ALMOST A MINUTE WHEN STRUCK BY HIT AND RUN DRIVER IN EARLY MORNING HOURS – DEATH OF 51-YEAR-OLD MAN.

Queens County, NY

This case involved the 51-year-old plaintiff's decedent who was struck and killed by a driver after he was pushed into the street during a heated argument with a security guard who was allegedly negligently hired by the co-defendant, nearby hotel. The plaintiff brought a separate action against the hotel. The driver left the scene and the motor vehicle case involved the MVAIC. The case against the hotel settled for $150,000 prior to discovery. The settlement was with the hotel only and did not reflect the actions of the guard.

In the case against the hit and run driver, the plaintiff contended that the jury should assess all liability against the driver. The plaintiff asserted that the driver had the obligation to refrain from driving "ahead" of his head lights and that it was clear that the driver did s not do so. The plaintiff pointed to the video, which the plaintiff argued, showed that the decedent was prone in the street for almost one minute. The plaintiff also argued that the jury should send a message to the family that the decedent died in a motor vehicle accident and not a street fight.

The decedent left a widow and 2 adult sons. There was no evidence of conscious pain and suffering. The plaintiff did not introduce evidence of prior earnings by the decedent.

The jury found the driver 80% negligent, the security guard 20% negligent and awarded $1,000,000. MAIC received credit for the prior settlement of the hotel.

REFERENCE

Perez vs. MVAIC. Index no. 707734/18, 12-21.

Attorney for plaintiff: Harry Katz of Harry I. Katz, PC in New York, NY.

$300,000 RECOVERY – MOTOR VEHICLE NEGLIGENCE – AUTO/BICYCLE COLLISION – MINOR PLAINTIFF BICYCLIST SUSTAINS SEVERE INJURIES AFTER BEING STRUCK BY DEFENDANT'S VEHICLE FROM BEHIND – BILATERAL PELVIC FRACTURES – BILATERAL SACRAL FRACTURES – BILATERAL PULMONARY CONTUSION AND PNEUMOTHORAX – ACUTE DISPLACED FRACTURE OF LEFT ANTERIOR FIRST RIB – SCAPULA FRACTURES – URETHRAL TRANSECTION AND COMPLETE BLADDER NECK DISRUPTION – SURGERY REQUIRED.

Westchester County, NY

In this motor vehicle negligence action, the minor plaintiff bicyclist sustained severe injuries including bilateral pelvic fractures, bilateral sacral fractures, bilateral pulmonary contusion and pneumothorax, acute displaced fracture of the left anterior first rib, scapula fractures, and urethral transection and complete bladder neck disruption after being struck by the defendant's vehicle from behind. 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 remain adequately attentive, failing to observe the minor plaintiff, failing to observe traffic conditions, failing to maintain a safe distance from the minor plaintiff bicyclist, in negligently following the minor plaintiff bicyclist too closely, in 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

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avoid striking the minor plaintiff. Consequently, the minor plaintiff sustained injuries. The minor plaintiff was required to undergo several surgeries for his injuries.

The parties entered into a settlement for $300,000.

REFERENCE

D. P. by his father and natural guardian, Anand Patel, Anand Patel Individually vs. Daniel Berkowitz. Index no. 54235/2021; Scp Part, 02-21-23.

Attorney for plaintiff: Mitchell Weiss of Sakkas, Cahn & Weiss, LLP in New York, NY. Attorney for defendant: Lorraine Korth of Law Office of Denis J. Kennedy in Garden City, NY.

PREMISES LIABILITY

$2,000,000 RECOVERY – PREMISES LIABILITY – NEGLIGENT SECURITY – PLAINTIFF ASSAULTED IN MALL PARKING LOT – BLUNT FORCE TRAUMA TO HEAD – TRAUMATIC BRAIN INJURY – 24-HOUR CARE REQUIRED.

Miami-Dade County, FL

The plaintiff in this action for premises liability was a 26-year-old male who suffered a catastrophic brain injury at the hands of an unknown assailant in the parking lot of the defendant's strip mall. The plaintiff contended that the defendant property owner had actual or constructive knowledge of a history of criminal activity on and in the vicinity of the premises and knew or should have known that there was a propensity for criminal conduct by third persons; yet the defendant failed to implement appropriate security measures to protect invitees, including the plaintiff.

His injuries have left him non-verbal and wheelchair bound. He requires 24-hour care, supervision, and assistance with all daily activities. Further, the plaintiff's severe injuries have prevented him from caring for his young

The case settled prior to trial for the defendant's insurance policy limits of $2,000,000.

REFERENCE

Fuentes vs. Chaklader Properties, et al. Case no. 2018-027131CA; Judge Maria DeJesus Santovenia, 10-19-22.

Attorney for plaintiff: Douglas McCarron of the Haggard Law Firm in Coral Gables, FL.

$750,000 RECOVERY – PREMISES LIABILITY – HAZARDOUS PREMISES – CHAIR ATTACHED TO SLOT MACHINE DISLODGES AS PLAINTIFF LEANS BACK – PLAINTIFF FALLS TO FLOOR – CLOSED HEAD INJURY – FREQUENT HEADACHES – COGNITIVE DEFICITS.

Atlantic County, NJ

In this action for premises liability, the plaintiff Atlantic City casino patron, age 37 at the time, contended that as he leaned back in the chair that was bolted to the slot machine, the chair suddenly detached and he fell to the floor, striking his head and sustaining serious injuries including a closed head injury and a TBI.

The plaintiff's neurologist contended that the plaintiff will suffer frequent headaches despite Botox injections. The plaintiff's neurologist and neuropsychologist concluded that the plaintiff will permanently suffer significant deficits in short term memory and concentration. The plaintiff's engineer maintained that 2 of the 4 bolts were missing and that the other 2 were improperly secured, heightening the hazard.

The plaintiff maintained that he is permanently unable to work. The plaintiff' had previously been employed the State of New York in a union position. The defendant pointed out that the plaintiff had a very spotty work history.

The case settled prior to trial for $750,000.

REFERENCE

Plaintiff's neuropsychologist expert: Kenneth Kutner, Ph.D. from East Rutherford, NJ. Plaintiff's TBI expert: Brian Greenwald, M.D. from Edison, NJ.

37-year-old plaintiff patron vs. defendant Atlantic City Casino, et al.

Attorney for plaintiff: Joseph D. Sullivan of Law Offices of Joseph D. Sullivan in Cedar Knolls, NJ. Attorney for plaintiff: Thomas J. Vesper of Westmoreland Vesper Quattrone & Beers, PA in Atlantic City, NJ.

$200,000 RECOVERY – PREMISES LIABILITY – FALL DOWN – PLAINTIFF'S WALKER GETS CAUGHT IN ENTRY RUG AT DEFENDANT HOSPITAL CAUSING PLAINTIFF TO FALL TO FLOOR AND BE STRUCK BY DEFENDANT'S REVOLVING DOOR – FEMUR FRACTURE – INTRAMEDULLARY NAIL FIXATION SURGERY REQUIRED.

Bucks County, PA

In this premises liability action, the plaintiff sustained injures when she was lawfully on the defendant's hospital premises and her walker got caught in an entryway rug causing the plaintiff to fall to the floor where she was then struck by the revolving door through which she had just entered. The incident resulted in the plaintiff sustaining a femur fracture of the left leg requiring intramedullary nail fixation surgery. She also suffered severe pain, humiliation, scarring and disfigurement. The defendant hospital generally denied all allegations of negligence and injury.

The plaintiff maintained that the defendant hospital was negligent in failing to properly place the entryway rug, failing to keep the entrance rug in good repair, failing to keep the revolving door in good repair, failing to keep the lobbies, entryways, doorways, vestibules and or passageways in a safe and proper condition free of obstructions and defects, and failing to install a sensor which controls the movement of the revolving door and vestibule which would have prevented the door from striking the plaintiff when she was on the ground.

The parties settled their dispute for $200,000.

REFERENCE

Jane and Edmund Liwoch vs. St. Mary Medical Center and Trinity Health. Case no. 2018-07110; Judge C. Theodore Fritsch, 10-05-22.

Attorney for plaintiff: William Goldman of Goldman Law Offices in Doylestown, PA. Attorney for defendant: Lori Miller of Goldberg Miller & Rubin, P.C. in Philadelphia, PA. Attorney for defendant: Warren Sperling of Bennett Bricklin & Saltzburg in Philadelphia, PA.

ADDITIONAL VERDICTS OF PARTICULAR INTEREST

Construction Site Negligence

$1,500,000 RECOVERY – CONSTRUCTION SITE NEGLIGENCE – PLAINTIFF'S DECEDENT FALLS FROM FOURTH FLOOR OF 80-UNIT PREFABRICATED BUILDING HE WAS WORKING ON COURSE AND SCOPE OF EMPLOYMENT WITH DEFENDANT CONSTRUCTION COMPANY – WRONGFUL DEATH AND SURVIVAL ACTION.

Union County, NJ

In this action for construction site negligence, the estate of the decedent maintained that their decedent fell to his death while in the scope of his employment with the defendant construction company that failed to maintain a construction site properly and safely. The defendant denied being negligent and argued that it was the action of the decedent that caused the tragic fall and subsequent death.

The estate of the decedent alleged that the defendant failed to properly maintain and manage the premises, allowed a hazardous and dangerous condition to exist on the premises, failed to provide proper safety equipment to the decedent and failed to exercise reasonable care in the performance of their professional services. The Estate maintained that on the day of the accident, it was too windy to safely use a crane and move trusses and the defendant should have halted construction. The parties settled their dispute for $1,500,000.

REFERENCE

The Estate of Angel Fernandez-Zhicay vs. American Landmark Developers. Docket no. L003052-19; Judge John G. Hudak, 12-14-22.

Attorney for plaintiff: Walter Dana Venneman of Gill & Chamas, LLC in Woodbridge, NJ. Attorney for defendant: Brian C. Harris of Braff, Harris, Sukoneck & Maloof in Livingston, NJ.

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Defamation

$740,000,000 VERDICT – DEFAMATION – HALF-BROTHER MAKES DEFAMATORY INTERNET COMMENTS IN CONNECTION WITH INHERITANCE DISPUTE – LOSS OF BUSINESS OPPORTUNITY – DEFENDANT IN DEFAULT.

Palm Beach County, FL

In this case, the plaintiff and defendant were half-brothers who were embroiled in an inheritance dispute involving their late-father's estate. The plaintiff alleged that the defendant started a website and posted false and defamatory statements about the plaintiff which damaged his business opportunities. The defendant was in default and was not represented at trial.

The plaintiff claimed that the defamatory comments issued by the defendant damaged his reputation, caused a loss of income, including the loss of a $250,000,000 real estate project, and resulted in him suffering emotional damages.

The jury found for the plaintiff in the amount of $740,000,000. The award included $251,000,000 in loss of income, $68,000,000 in loss of business opportunity and $421,000,000 in injury to the plaintiff's reputation.

REFERENCE

Plaintiff's business appraisal expert: Hasan Serhat Berkli from Istanbul.

Mehmet Tatlici vs. Ugur Tatlici. Case no. 50-2018CA-002361-XXXXMB; Judge Scott Kerner, 01-31-23.

Attorneys for plaintiff: Jeremy Friedman, C. David Durkee and Craig Downs of the Downs Law Group in Coconut Grove, FL. Attorney for plaintiff: Kara Rockenbach Link of Link & Rockenbach in West Palm Beach, FL. Attorneys for plaintiff: Jack Scarola and F. Gregory Barnhart of Searcy, Denney, Scarola, Barnhart & Shipley, PA in West Palm Beach, FL.

Landlord Negligence

$6,000,000 VERDICT – LANDLORD NEGLIGENCE – HAZARDOUS CONDITION – PLAINTIFFS FALL TO GROUND AFTER EXTERIOR STAIRWAY AT THEIR RENTAL HOME GIVES WAY BENEATH THEM CAUSING SERIOUS INJURIES – BACK INJURY WITH FOOT DROP TO MALE PLAINTIFF – FRACTURES, SURGERY, INFECTION AND POST-TRAUMATIC ARTHRITIS TO FEMALE PLAINTIFF – DAMAGES ONLY.

Charleston County, SC

The plaintiffs in this negligence action were lawfully walking up the exterior steps of a home they rented from the defendant real estate company. The steps gave way beneath the plaintiffs causing extensive injury to both plaintiffs. The plaintiffs originally sued the property owner and various companies involved in the construction of the steps and deck, however the only defendant to remain at trial was the real estate company that owned the property. The defendant real estate company accepted liability before trial.

The female plaintiff sustained a displaced trimalleolar fracture of the left ankle requiring multiple surgeries, displaced fracture of her fifth metatarsal bone of the left foot, and a closed fracture of the lateral portion of left tibial plateau. The plaintiff husband suffered a herniated lumbar disc at L4, L5 resulting in foot drop which has resolved after 6 months.

The defendant who remained at trial was the property owner, the defendant real estate company. The jury found that the defendant was negligent and that the female plaintiff was entitled to $4 million in damages and the male plaintiff entitled to $2,000,000 in damages. However prior to trial the parties entered into a high/low agreement conforms the verdict to $1,600,000 in damages for both plaintiffs.

REFERENCE

John Harrison and Virginia Harrison vs. CRP Real Estate, LLC d/b/a Charleston Rental Properties. Case no. 2018-CP-10-04778; Judge Deadra L. Jefferson, 11-21-22.

Attorney for plaintiff: Christopher C. Romeo of Thurmond Kirchner & Timbes, P.A. in Charleston, SC. Attorney for defendant: Morgan S. Templeton of Wall Templeton & Haldrup, P.A. in Charleston, SC.

Municipal Liability

$3,000,000 RECOVERY – MUNICIPAL LIABILITY – BUS/PEDESTRIAN COLLISION – PLAINTIFF STRUCK BY SCHOOL BUS TURNING LEFT OUT OF PARKING LOT – PLAINTIFF LIFTED UP AND THROWN TO GROUND – PINCHED URETER AND NEED FOR STENT WHICH MUST BE REPLACED EVERY 6 MONTHS – LUMBAR FRACTURE – 2 DISPLACED RIB FRACTURES – SUBSTANTIALLY RESOLVING RENAL, MESENTERIC AND RETROPERITONEAL HEMATOMAS – RESOLVING INJURIES TO PANCREAS.

Essex County, NJ

In this action for motor vehicle negligence, the 76-year-old plaintiff contended that as she was opening the trunk of her car, which was parked in the parking lot at the Newark Museum, the defendant school bus driver negligently struck her, lifted her up and threw her to the ground. The plaintiff asserted that as a result, she suffered severe urinary injuries that included a pinched ureter, and required multiple surgeries, including the placement of a stent. The plaintiff also asserted that she suffered a lumbar compression fracture and 2 displaced rib fractures.

The incident was captured on the museum's surveillance system, and although grainy, the plaintiff would have argued that the jury could well see the event occur. The plaintiff would have argued that if the school bus driver had made proper observations as he was turning, the incident would not have occurred. None of the children on the bus were injured.

The plaintiff maintained that because of the pinched ureter, she required a stent and the plaintiff's proofs would have reflected that the stent will have to be replaced every 6 months. The plaintiff suffered a hematoma that had to be surgically addressed. The plaintiff also sustained an injury to the pancreas that was treated without surgery. These injuries substantially resolved.

The plaintiff is an attorney and made no income claims.

The case settled prior to trial for $3,000,000.

REFERENCE

76-year-old plaintiff vs. City of Newark.

Attorney for defendant: Travis W. Nunziato of Laddey Clark & Ryan, LLP in Sparta, NJ.

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