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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

$674,704 THIRD-PARTY VERDICT – BREACH OF CONTRACT – PLAINTIFF CONTENDS DEFENDANT PURCHASED SPECIALIZED MACHINERY FROM PLAINTIFF DISTRIBUTOR AND THEN FAILED TO PAY FULL PRICE FOR MACHINE – DEFENDANT ASSERTS MACHINERY DEFECTIVE AND BRINGS CLAIM AGAINST MANUFACTURER.

Morris County, NJ

In this action, the plaintiff was a distributor of machines and capital equipment. The defendant was a designer of custom lighting solutions and worked primarily with architects and designers to manufacture and sell custom lighting for commercial, retail, hospitality, industrial and high-end residential applications. The plaintiff contended that the defendant breached a sales agreement wherein the defendant agreed to purchase a machine from the plaintiff for $418,950. The defendant paid a deposit of $83,790 but did not pay the remaining balance.

The plaintiff sought $335,160 in damages for breach of contract and damages for the defendant's retention of the loaner machine after the lease's term expired. The defendant denied all liability and asserted a counterclaim against the plaintiff for breach of contract, breach of the implied covenant of good faith and fair dealing, violations of the Uniform Commercial Code and the Consumer Fraud Act, fraud, and negligent misrepresentation. The defendant maintained that the machine was experiencing several construction and design problems. The manufacturer, subsequently a third-party defendant, then built a replacement machine for the defendant which the defendant refused to accept because it was defective.

The plaintiff maintained that the defendant's counterclaims were barred by the limitations provision and warranty provision of the agreement and were not cognizable under the Consumer Fraud Act. The plaintiff argued that the defendant's representative signed all parts of the agreement. Regardless of the claim by the defendant's representative that he did not remember being alerted to additional terms of the agreement, he signed all parts, including front and back pages and, despite his lack of memory of the provisions of the agreement, he agreed to the terms and conditions. The plaintiff asserted that that fact was not challengeable at trial.

The defendant's counterclaim against the plaintiff was dismissed on summary judgment and the plaintiff settled with the defendant prior to trial. The matter continued as to the defendant's third-party claim against the manufacturer of the machine. The defendant brought a third-party claim against the third-party defendant manufacturer of machine tools, turning centers, and lathes for breach of warranty and negligent design and construction. The defendant claimed that it purchased the machine based on misrepresentations by the plaintiff and third-party defendants that the machine would satisfy the defendant's specific needs. The defendant claimed it was provided a quote for a machine with various features and peripheral equipment, including two warranties, which the defendant accepted. The machine then experienced issues that made it unusable by the defendant. The defendant maintained that the third-party defendant offered a replacement but did not allow an opportunity to inspect the replacement.

The third-party defendant maintained that the defendant's breach of warranty claim was barred because the defendant refused to accept a replacement machine, that any damages were limited to the difference between the value of the machine as warranteed and its value after repairs were provided; that the defendant's claims for consumer fraud and negligent design and construction were subsumed under the Products Liability Act; that the negligent design and construction claims were barred under the economic loss doctrine; and that the defendant could not recover damages from the date the replacement would have been installed because such damages were speculative.

The court found in favor of the defendant and against the third-party defendant on the defendant's cross claim. The court awarded the defendant a total of $674,704 broken down as follows: $249,871 for lost profits; $366,329 for expenses and $58,404 for extra employer compensation.

REFERENCE

Maruka Usa, Inc. vs. Specialty Lighting Industries. Docket no. L -002920-13; Judge Stephan C. Hansbury, 05-23-23.

Attorney for plaintiff: Denis F. Driscoll of Inglesino, Webster, Wyciskala & Taylor, LLC in Parsippany, NJ. Attorney for defendant: Donald E. Taylor of Wilentz, Goldman & Spitzer, P.A. in Woodbridge, NJ. Attorney for third-party defendants, Mori USA, Inc. and DMG Mori Co., Ltd: William K. Pelosi of Litchfield Cavo, LLP in Cherry Hill, NJ.

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$358,000 VERDICT – PREMISES LIABILITY – FALL DOWN – PLAINTIFF TRIPS ON STAIRS LEADING TO ENTRANCE OF DEFENDANT DEPARTMENT STORE – MEDIAL MENISCUS TEAR – LUMBAR HERNIATIONS – LUMBAR RADICULOPATHY – SURGERY.

Essex County, NJ

In this premises liability action, the plaintiff tripped on a set of stairs leading to the entrance of the defendant department store sustaining serious injuries. The defendants generally denied all allegations of negligence.

On December 26, 2016, the plaintiff was working as an employee at the defendant department store, located on the premises of 1 Riverside Square Mall in Hackensack, New Jersey. On this day, the plaintiff was attempting to ascend a small staircase that led to the entrance of the defendant store. At this time, the plaintiff was walking quickly up the stairs, when he tripped on the top step. The plaintiff then 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 inspect the premises, failing to ensure the safety of the subject staircase, failing to prevent a tripping hazard, failing to prevent hazardous or generally unsafe conditions on the premises, failing to warn of a potential tripping hazard, failing to provide safe passage, failing to repair a broken, uneven, or otherwise hazardous staircase, and failing to regard for the health and safety of visitors and employees on the premises including the plaintiff. Consequently, the plaintiff sustained injuries, including a right knee medial meniscus tear which required arthroscopic surgery to repair. Additionally, the plaintiff also sustained lumbar disc herniations and lumbar radiculopathy.

The jury found in favor of the plaintiff and awarded $358,000.

REFERENCE

Seltzer Thomas vs. Simon Property Group, Inc. Docket no. L008629-18; Judge Stephen L. Petrillo, 04-15-23.

Attorney for plaintiff: Amos Gern of Starr, Gern, Davidson & Rubin, P.C. in Roseland, NJ.

COMMENTARY

Following the accident in this case, the plaintiff's lower back pain continued to worsen and did not improve even with conservative medical treatment. The plaintiff eventually sought additional medical care due to his prolonged discomfort, and was eventually required to undergo several surgical procedures of the spine. The plaintiff was required to undergo a laminectomy and decompression procedure at L5-S1, as well as a discectomy with the placement of an artificial spinal cord stimulator at L4-5. After these surgeries, the plaintiff needed to attend physical therapy sessions indefinitely, and continues to do so. The verdict amount in this case was likely determined by the severity of the plaintiff's injuries as well as his prolonged need for medical care.

$250,000 VERDICT – CONSTRUCTION SITE NEGLIGENCE – PLAINTIFF INJURED AFTER ACCIDENTALLY STEPPING INTO UNFILLED FENCE POST HOLE AT CONSTRUCTION SITE – RIGHT QUADRICEPS TENDON RUPTURE – SURGERY REQUIRED.

Essex County, NJ

In this construction site negligence action, the plaintiff was injured when he accidentally stepped into an unfilled hole in the ground at the defendants' construction site. The defendants generally denied all allegations of negligence.

On March 20, 2017, the plaintiff was acting in the scope of his employment as a "safety person" at a construction site, located on the premises of 171 Rutherford Street in Newark, New Jersey. At this time, the plaintiff was guiding a dump truck toward the correct place to unload. In order to guide the truck, the plaintiff had to walk backwards. At the time of the incident, the plaintiff accidentally stepped backward into a large hole in the ground, which had been dug and left unfilled by the defendant fencing company a week prior. After stepping into the fence post hole, the plaintiff became injured.

The plaintiff maintained that the defendants were negligent in failing to maintain safe and adequate conditions at the construction site, failing to fill in a large hole in the ground, failing to inspect the construction site, failing to remove or repair a tripping hazard, failing to place traffic cones or otherwise warn of the presence of a large hole in the ground, failing to warn of a potential tripping hazard, failing to prevent hazardous or unsafe conditions at the construction site, and failing to regard for the health and safety of construction workers on the premises including the plaintiff. Consequently, the plaintiff sustained injuries, including a right quadriceps tendon rupture, which required an open repair surgical procedure.

The jury found in favor of the plaintiff and awarded $250,000.

REFERENCE

Bradley John vs. Hbc Company, Inc. Docket no. L005176-18; Judge Bridget A. Stecher, 05-11-23.

Attorney for plaintiff: Jonathan P. Arnold of Bramnick Rodriguez Grabas Arnold & Mangan, LLC in Scotch Plains, NJ. Attorney for defendant: Timothy K. Saia of Bennett, Bricklin & Saltzburg in Livingston, NJ.

COMMENTARY

Following the plaintiff's initial quadriceps tendon surgery, he was rendered immobile for 4 months and was unable to ambulate unassisted for the entire duration of this time period. After this period, the plaintiff spent another 4 months attending physical therapy sessions. Once the plaintiff was regaining the ability to walk, he discovered that he had developed severe pain and discomfort in the right knee, causing him to seek additional medical care. The plaintiff was then required to undergo arthroscopic surgery to address his knee pain, which rendered him immobile again for several weeks. The verdict amount in this case was likely determined by the severity of the plaintiff's injuries, as well as his prolonged need for medical care.

$235,000 RECOVERY – DOG ATTACK – 9-YEAR-OLD BOY AT FRIEND'S HOUSE WHEN DOG LIVING AT HOUSE ATTACKS AND BITES PLAINTIFF'S LEFT FOREARM – EXTENSIVE BITE WOUNDS REQUIRING TRANSFER TO DIFFERENT HOSPITAL FOR SURGICAL REPAIR – PLAINTIFF SELF-CONSCIOUS OF EXTENSIVE, VISIBLE SCARS WHICH TREATING PHYSICIAN OPINES CANNOT BE REMEDIATED – NON-BINDING ARBITRATION ASSIGNS 100% LIABILITY TO DEFENDANT.

Somerset County, NJ

In this case, the plaintiff, a 9-year-old boy, asserted that the defendant's dog attacked and bit him causing significant injury and permanent scarring. The defendant initially asserted that the plaintiff was comparatively negligent

On August 18, 2020, the plaintiff was at a friend's house located at 171 Rockview Avenue in North Plainfield, New Jersey when the homeowner's dog attacked and bit him extensively on the left forearm. The plaintiff contended that the defendant was strictly liable for the plaintiff's injuries under the "dog bite" statute, N.J.S.A. 4:19-16, which imposes liability on dog owners in personal injury actions arising from dog bites in certain settings, "regardless of the former viciousness of such a dog or the owner's knowledge of such viciousness." The plaintiff maintained that the defendant was negligent in permitting the dog to be left unattended, unleashed, unfenced and freely roaming the premises which allowed the dog to attack the plaintiff. The plaintiff alleged that the attack resulted in permanent injuries.

The plaintiff was treated at the emergency room and then transferred to another hospital for potential surgery on the arm. The plaintiff's lacerations were surgically repaired with extensive internal and external suturing. The minor plaintiff was left with scarring on his left arm from surgery, and alleged he is embarrassed when asked about the scarring from his peers at school. The residual scar is 10.1 x 1 cm and may require future surgical revision although the plaintiff's treating physician described the scar as "..permanent and is not amenable to plastic surgical revision."

The defendant ultimately settled the matter under his homeowner's insurance policy after the parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 100% liability to the defendant with damages of $187,500. Following arbitration and prior to trial, the parties settled for $235,000 broken down as follows: $58,312 in attorney fees; $1,756 in costs and disbursements and $174,936 in net damages to the minor plaintiff.

REFERENCE

Castro, et al. vs. Anonuevo. Docket no. L-001061-20; Judge Robert A. Ballard, 04-24-23.

Attorney for plaintiff: John H. Shields of Cellino & Barnes, P.C. in New York, NY. Attorney for defendant: Regina D. Geise of Law Offices of Pamela D. Hargrove in Clark, NJ.

$215,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – MULTI-VEHICLE REAR END COLLISION – PLAINTIFF INJURED WHEN DEFENDANT'S VEHICLE STRIKES ANOTHER VEHICLE IN REAR, PUSHING THAT VEHICLE INTO PLAINTIFF'S VEHICLE – POST-CONCUSSION SYNDROME – SUPERIMPOSED LUMBAR HERNIATION AT L4-L5 WITH ASSOCIATED ANNULAR TEAR – THORACIC COMPRESSION – SURGERY REQUIRED.

Camden County, NJ

In this motor vehicle negligence action, the plaintiff was seriously injured when the defendant's vehicle struck another vehicle in the rear, which pushed the other vehicle forward and into the rear of the plaintiff's vehicle. The defendant generally denied all allegations of negligence.

On August 19, 2019, the plaintiff's vehicle was traveling in a straight direction on Route 73, at or near its intersection with High Street, in Maple Shade, New Jersey. At this time, the plaintiff's vehicle was stopped at the aforementioned intersection for a red traffic light. At the same time, another vehicle was also stopped for the red traffic light, directly behind the plaintiff's vehicle. At the time of the incident, the defendant's vehicle, also traveling on Route 73, rapidly approached the aforementioned intersection. The defendant's vehicle then struck the other vehicle in the rear, causing the other vehicle to be propelled forward, striking the rear of 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 traffic conditions, failing to obey a red traffic signal, failing to remain adequately attentive, failing to maintain a safe distance from other vehicles, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid causing a collision. Consequently, the plaintiff sustained injuries, including concussion, post concussion syndrome, a superimposed lumbar herniation at L4-L5 with associated annular tear, and thoracic compression, which required a thoracic laminectomy at T6-7 and T7-8.

The jury found in favor of the plaintiff and awarded $215,000.

REFERENCE

Dasilva Peter vs. Jones Dylan. Docket no. L002341-21; Judge Donald J. Stein, 07-12-23.

Attorney for plaintiff: Patrick Reilly of Malamut & Associates, LLC in Cherry Hill, NJ. Attorney for defendant: Sean David Cascio of Sean David Cascio, Esq. in Marlton, NJ.

COMMENTARY

Following the accident in this case, the plaintiff continued to experience severe pain in his upper and middle back, even after undergoing thoracic laminectomy. The plaintiff returned to the hospital for a follow up visit several weeks after the surgery, where he continued to complain of pain and difficulty moving. At this time, it was discovered that the plaintiff had not only sustained thoracic compression injuries in the accident, but had also sustained thoracolumbar sprains and a compression fracture at T12-L1. The plaintiff will need additional surgical intervention in the future to repair these additional injuries. The verdict amount in this case was likely determined by the severity of the plaintiff's injuries, as well as his prolonged need for medical care.

DEFENDANT'S VERDICT – MOTOR VEHICLE NEGLIGENCE – WRONGFUL DEATH – AUTO/TRUCK COLLISION – PLAINTIFF'S ESTATE ASSERTS DEFENDANT TRUCK OWNER AND DRIVER NEGLIGENTLY AND ILLEGALLY PARKED TRACTOR-TRAILER TRUCK ON SIDE OF ROAD WHERE PLAINTIFF DRIVER STRUCK IT FROM REAR AND WAS KILLED ON IMPACT – DEFENDANTS ARGUE TRUCK NOT IN ROADWAY AND DID NOT CAUSE COLLISION – DEFENDANTS MAINTAIN PLAINTIFF DRIVER AT FAULT FOR COLLISION WHEREIN SHE WAS KILLED.

Camden County, NJ

In this motor vehicle negligence case, the plaintiff, the estate of the 21-year-old decedent, asserted that the defendant truck owner and defendant driver negligently and illegally parked a tractor-trailer truck on the side of the road without hazard lights and that the plaintiff driver did not see the truck and drove into it, causing her death. The defendants denied negligence arguing that the plaintiff's driving caused the collision that resulted in her death.

On November 19, 2016, the plaintiff was traveling near Exit 34 of Route 295 in Cherry Hill, New Jersey. The defendant truck driver was halting an oversized load and parked the tractor-trailer truck overnight with the truck partially on the paved shoulder and partially on the grass near the exit ramp. The plaintiff, driving home from having worked a late shift at a bar, struck the back of the trailer and was killed by the impact.

The plaintiff contended that the defendant negligently parked the truck in a dangerous location causing the collision that killed the plaintiff driver. The plaintiff maintained that the defendants failed to adhere to industry regulations on parking and failed to have the necessary knowledge, skills and safe driving experience to prevent causing an accident. The plaintiff's liability expert held that, regardless of any potential impairment by the plaintiff driver, the defendants' choice to park the truck on the shoulder of the

road was a substantial contributing factor to the accident. Another of the plaintiff's experts, a human factors expert, opined that it would have been virtually impossible for a driver approaching on the southbound entrance ramp to see the tractor trailer on the shoulder of the road.

The defendants noted that the police investigation of the accident found no evidence of skidding or braking by the plaintiff and there was no indication of tire marks from braking. The defendants asserted that, given the lack of braking, the timing of the accident, and the plaintiff's father's testimony that she usually arrived home after work by 1:30 a.m., indications were that she may have fallen asleep or been intoxicated, or both, which could have caused the collision. Even absent any impairment, the defendants argued that the negligent driving of the plaintiff caused the collision, that the truck was not impeding the plaintiff's path on the roadway, and that she had veered off the road onto the shoulder in order to collide with the truck.

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

REFERENCE

Estate of Brooks vs. Longcor, et al. Docket no. L - 003870-18; Judge Michael J. Kassel, 05-03-23.

Attorneys for plaintiff: Joseph L. Messa, Jr. and Ramon A. Arreola of Messa & Associates, P.C. in Mount Laurel, NJ. Attorney for plaintiff: Joel Wayne Garber of Garber Law in Voorhees, NJ. Attorneys for defendant: Michael J. Marone and Sandra D. Lovell of Mcelroy, Deutsch, Mulvaney & Carpenter, LLP in Morristown, NJ.

Verdicts By Category

CONSTRUCTION SITE NEGLIGENCE

$30,000 VERDICT

Construction site negligence – Plaintiff working in window installation trips on loose/uninstalled concrete slab and falls down stairs at defendants' construction site – Cervical disc herniation – Cervical disc bulge – Lumbar disc bulge – Right medial meniscus tear.

Essex County, NJ

In this construction site negligence action, the plaintiff was working in window installation when he tripped on a loose or uninstalled concrete slab and fell down a set of stairs at the defendants' construction site causing him to sustain injuries, including a cervical disc herniation. The defendants generally denied all allegations of negligence.

On March 2, 2017, the plaintiff was lawfully working on the defendants' construction site, located on the premises of 10 Elmwood Court in Livingston, New Jersey. At this time, the plaintiff was working in window installation, and was helping a coworker carry a 400 lb pane of glass to a window unit. In order to take the glass to the correct location, the plaintiff had to maneuver around scaffolding left behind by the plaintiffs, and had to walk over several concrete slabs that the defendant construction company had installed. At the time of the incident, the plaintiff tripped over one of the concrete slabs, which remained loose and/or incompletely installed. This caused the plaintiff to fall backward down a set of stairs, while still carrying the 400 lb pane of glass.

The plaintiff maintained that the defendant construction company was negligent in failing to maintain safe and adequate conditions on the construction site, failing to properly install concrete slabs, failing to complete concrete slab installations, failing to warn that concrete slabs may be loose or uninstalled, failing to warn of a potential tripping hazard, failing to prevent hazardous or unsafe conditions on the premises, failing to provide safe passage at the site, and failing to regard for the health and safety of workers on the premises including the plaintiff. Consequently, the plaintiff sustained injuries, including cervical disc herniation, cervical disc bulge, lumbar disc bulge, and right medial meniscus tear.

The jury found in favor of the plaintiff and awarded $30,000.

REFERENCE

Kramer vs. All Pro Development. Docket no. L001482-19; Judge Robert H. Gardner, 04-29-23.

Attorney for plaintiff: Adam P. Scalice of Eichen Crutchlow Zaslow in Edison, NJ.

CONTRACT

$76,616 NET ARBITRATION AWARD

Breach of contract – Plaintiff trucking services company and plaintiff mechanic services provider argue defendant owes for services provided and defendant failed to pay as well as damages for running over fire hydrant – Plaintiff trucking company claims defendant owes $61,763 and plaintiff mechanic claims the defendant owes $35,673 – Defendant denies owing plaintiffs and counters that trucking company owes defendant $100,000 for hauling services provided.

Burlington County, NJ

In this breach of contract case, the plaintiffs, a trucking services company and a heavy machinery mechanic service, asserted that the defendant trucking company breached a contract to pay for services rendered by the plaintiffs. The defendant denied owing the plaintiffs and asserted that it provided the plaintiff trucking services company with hauling services at the standard hauling rates in the industry, and the plaintiff agreed to pay for each load hauled by the defendant.

The defendant engaged the plaintiff trucking services company for various projects and trucking services and the plaintiff mechanic services company for repair services for the defendant's trucks. The plaintiffs asserted that they provided the contracted services per the agreement and that the defendant failed to pay either plaintiff for their services. Additionally, on August 13, 2019, the defendant's truck ran over a fire hydrant at a refinery in Linden causing damage and a back charge to the plaintiff trucking services com-

pany. The defendant was contractually responsible for causing the damage and owed the plaintiff for those damages.

The plaintiff trucking services company contended it was due $44,349 for services provided as well as $17,414 for the damage to the fire hydrant for a total of $61,763. The plaintiff mechanic company alleged that the defendant owed it $35,673 for goods and services per the agreement between the parties. The defendant maintained that the plaintiff failed to pay for such hauling services and owed the defendant $100,000.

The parties submitted to arbitration prior to trial. The arbitrator found that the defendant owed the plaintiff trucking company the net amount of $41,044 comprising $61,853 in damages, less an offset for $23,809 owed by the plaintiff to the defendant. The arbitrator also found that the defendant owed the plaintiff mechanic $35,572. The plaintiffs filed a motion to confirm the arbitration and enter judgment per the arbitration award. The motion was granted and the matter concluded prior to trial.

REFERENCE

Gondul Trucking, Inc., et al. vs. Typhoon Trucking, LLC. Docket no. L-000222-21; Judge James J. Ferrelli, 05-08-23.

Attorney for plaintiff: Marchetti Law, P.C. of Anthony L. Marchetti, Jr. in Sewell, NJ. Attorney for defendant: Timothy G. Hiskey of Law Offices of Scott E. Kaplan, LLC in Allentown, NJ.

$67,168 JUDGMENT

Breach of contract – Unjust enrichment and consumer fraud – Plaintiff apartment complex claims defendant electrical contractors failed to complete contracted work at plaintiff complex despite being paid in full and receiving state energy credits.

Monmouth County, NJ

In this breach of contract case, the plaintiff apartment complex asserted that 2 defendant electrical contractors failed to complete work per a contract between the parties, despite being paid in full for the contracted work. The second defendant electrical contractor did not answer or appear and a default judgment was entered against the second defendant only.

The plaintiff was the owner of a residential apartment complex located in Ocean Township. The defendants were electrical contractors the plaintiff hired to perform electrical work at the plaintiff's apartment complex. The parties entered into a contract on April 5. 2019 and an addendum was added on July 15, 2020. The plaintiff claimed that, despite the clear terms of the contract and addendum, the defendants failed to complete all of the work as agreed upon, even though the defendants were fully compensated. The plaintiff contended that the defendants failed to install lighting in hallways, storage rooms, laundry rooms and lights at the corners of the buildings as set forth in the contract and addendum.

The plaintiff claimed breach of contract and unjust enrichment for the defendants having received payment in full for the contract despite the fact that the defendants failed to complete all of the work as agreed upon. The plaintiff also claimed the defendants engaged in consumer fraud and were guilty of unconscionable conduct by entering into a contract and failing to perform in accordance of the terms of the contract while receiving payment through the energy program administered by the State of New Jersey in the form of energy credits, having been paid in full, and refusing to return to the job site to complete the work agreed upon.

The first defendant electrical contractor argued that it was not a party to the addendum referenced in the plaintiff's complaint. The first defendant argued that it provided all services required under the initial contract and was not bound by the addendum that only pertained to the work to be performed by the second defendant contractor. The first defendant maintained that the plaintiff was aware that the first defendant was not a party to the new contract with the second defendant contractor and filed suit against the first defendant anyway. The first defendant counterclaimed that the plaintiff's action was frivolous and intended to harass and maliciously injure the first defendant. The first defendant sought costs of litigation and attorney's fees arising from this action.

The plaintiff and first defendant agreed to dismiss their claims and counterclaims against each other and the court entered judgment only as to the second defendant in the amount of $67,168.

REFERENCE

Woodshire Apartments vs. TLC Electrical and TEC, Inc. Docket no. L-001986-21; Judge David Nitti, 05-15-23.

Attorney for plaintiff: Jonas Singer of Wells & Singer Law Office, LLC in Bordentown, NJ. Attorney for defendant TLC Electrical: Jonathan Fleisher of Law Offices of Jonathan Fleisher, Esq. in Neptune, NJ.

DOG BITE

$250,000 RECOVERY

Dog bite – 5-year-old girl bitten by neighbor's dog while visiting neighbor with her family – Bite wounds and lacerations to left side of face – Permanent scarring.

Camden County, NJ

In this dog bite case, the plaintiff, a 5-year-old girl, asserted that the defendant failed to restrain his dog and allowed the dog to bite the plaintiff, causing significant, permanent injury. The defendant made an appearance but did not answer the plaintiff's complaint prior to settlement of the matter.

On August 20, 2020, the minor plaintiff and her family were lawful invitees to the residence of the defendant, their neighbor, at his home located at 115 10th Avenue in Haddon Heights, New Jersey. The plaintiff contended that the defendant negligently kept a dog on the premises that was not confined and that he failed to warn the plaintiff of the dog or prevent the dog from biting the plaintiff.

The plaintiff was lying on the ground near the dog when the dog suddenly turned and bit the left side of the plaintiff's face without provocation. The attack caused multiple facial lacerations, abrasions, and bleeding resulting in significant and permanent scarring to the minor plaintiff's face.

The parties settled the matter prior to trial in the amount of $250,000 broken down as follows: $61,311 in attorney fees; $4,756 in costs and disbursements; $2,865 to repay a medical lien and $181,068 in net damages to the minor plaintiff to be paid in payments per a structured schedule.

REFERENCE

Perin vs. Enuco. Docket no. L -000912-23; Judge Anthony M. Pugliese, 05-30-23.

Attorney for plaintiff: Abraham Tran of Andres & Berger, P.C. in Haddonfield, NJ. Attorney for defendant: Janet L. Pisansky of Burke & Potenza, Esquires in Parsippany, NJ.

INSURANCE OBLIGATION

$20,000 VERDICT

Insurance obligation – Motor vehicle negligence – Auto/pedestrian collision – Plaintiff pedestrian collides with driver's side of unidentified defendant's vehicle while jogging – Right shoulder labral tear – Lumbar disc herniation.

Essex County, NJ

In this action, the plaintiff pedestrian collided with the driver's side of an unidentified defendant's vehicle while she was jogging across a street causing her to become injured. The defendant generally denied all allegations of negligence.

On January 4, 2021, the plaintiff pedestrian was lawfully going for a run on John K. Kennedy Street, at or near its intersection with Bloomfield Avenue, in Bloomfield, New Jersey. At this time, the plaintiff pedestrian was attempting to cross John K. Kennedy Street. The plaintiff entered the crosswalk while opposing traffic had a red traffic signal and all vehicles at the aforementioned intersection were at a complete stop. However, while the plaintiff was jogging across the roadway, the light suddenly turned green, which the plaintiff did not notice. At this time, the unidentified defendant's vehicle began to proceed forward into the intersection, pulling out directly in front of the plaintiff, who was still in the crosswalk. As a result, the plaintiff ran into the driver's side of the defendant's vehicle. The defendant's vehicle then fled the scene.

The plaintiff maintained that the unidentified defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to wait for the plaintiff to finish crossing the street, failing to observe the plaintiff pedestrian, failing to yield, failing to remain adequately attentive, failing to obey a crosswalk, 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 causing a collision. Consequently, the plaintiff sustained injuries, including a right shoulder labral tear, as well as lumbar disc herniations.

The jury found in favor of the plaintiff and awarded $20,000.

REFERENCE

Ebokosia Amanda vs. Nj Pliga. Docket no. L007208-21; Judge Stephen L. Petrillo, 10-02-23.

Attorney for plaintiff: Herbert F. Lawrence of Law Offices of Herbert Lawrence, LLC in Elizabeth, NJ.

$15,000 VERDICT

Insurance obligation – Auto/pedestrian collision – Minor plaintiff crossing in crosswalk in front of her school struck by uninsured driver – Left clavicle shaft fracture – Emergency room treatment, sling and follow-up.

Union County, NJ

In this case, the minor plaintiff pedestrian asserted that an uninsured driver struck her with his vehicle, causing injury. The plaintiff brought suit against her family's auto insurer under the uninsured motorist clause.

On September 14, 2021, the minor plaintiff was a pedestrian crossing in a marked crosswalk on St. Georges Avenue in Linden. The tortfeasor was the driver of an uninsured motor vehicle that failed to stop for pedestrians crossing the street in front of the Linden High School on St. Georges Avenue. The plaintiff contended that the defendant negligently failed to yield to pedestrians crossing the street in a marked crosswalk and struck the plaintiff, resulting in significant injuries.

As a result of the collision, the plaintiff was taken to the emergency room and evaluated. She sustained a left clavicle shaft fracture. She treated with immobilization via sling, received follow-up at Newark Beth-Israel hospital, and her injury resolved. The defendant settled the matter prior to trial in the amount of $15,000 broken down as follows: $3,648 in attorney fees; $401 in costs and disbursements; $371 in medical expenses and $10,574 in net damages to the minor plaintiff.

REFERENCE

Pudelko vs. Green, et al. Docket no. L-002997-22; Judge Mark Ciarrocca, 05-04-23.

Attorney for plaintiff: Nicholas P. Scutari, Esq. in Linden, NJ. Attorney for defendant: Georgette M. Wilton of Voss Nitsberg DeCoursey & Hawley in Iselin, NJ.

LANDLORD NEGLIGENCE

$60,000 VERDICT

Landlord negligence – Plaintiff trips and falls on front steps on premises of his apartment residence – Trimalleolar fracture – Surgery required.

Essex County, NJ

In this action, the plaintiff sustained injury when he tripped and fell on the front staircase of his apartment building which was owned and maintained by the defendant landlords. The defendants generally denied all allegations of negligence.

On May 20, 2016, the plaintiff was lawfully attempting to enter his own apartment residence, located on the premises of 301 Maple Avenue in North Plainfield, New Jersey. On this day, the premises was owned, operated, and maintained by the defendant landlord company. At this time, the plaintiff was attempting to ascend the front steps of the building so that he could enter. While he was climbing the stairs, the plaintiff tripped 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 inspect the front steps, failing to repair or remove a hazardous or unsafe front staircase, failing to hire adequate maintenance staff, failing to prevent hazardous or unsafe conditions on the premises, failing to prevent a tripping hazard, failing to warn of hazardous or unsafe conditions on the premises, failing to cordon off or otherwise prevent tenants from using the subject stairs, failing to provide safe entry into the building, and failing to regard for the health and safety of building tenants including the plaintiff. Consequently, the plaintiff sustained injuries, including a trimalleolar fracture, which required surgery with the placement of hardware to repair.

The jury found in favor of the plaintiff and awarded $60,000.

REFERENCE

Tello vs. H & W Gardens Associates. Docket no. L003229-18; Judge Stephen L. Petrillo, 06-24-23.

Attorney for plaintiff: Louis J. Serafini of Serafini & Serafini, P.C. in Wayne, NJ.

MOTOR VEHICLE NEGLIGENCE

Auto/Bicycle Collision

$45,000 RECOVERY

Motor vehicle negligence – Auto/bicycle collision – Comminuted fracture of right distal radius – External fixation – Ongoing pain and stiffness in right arm/wrist and difficulty with grasping.

Cape May County, NJ

In this motor vehicle negligence case, the minor plaintiff asserted that the defendant driver struck the plaintiff on his bicycle with such force that it caused significant, permanent injury to his wrist. The defendant denied negligence and argued that the damages alleged by the plaintiff were the result of the sole negligence of the plaintiff in failing to yield to vehicular traffic or by contributory negligence.

On July 30, 2021, the minor plaintiff was traveling on his bicycle east on the 300 block of East Montgomery Avenue at the intersection of Park Avenue in Wildwood, New Jersey. The plaintiff was attempting to cross over the intersection when the defendant, driving south on Park Avenue in the outside lane, struck the plaintiff. The plaintiff contended that the defendant negligently failed to observe the plaintiff on his bicycle and failed to avoid collision with the plaintiff's bicycle. The plaintiff alleged that the force of the impact resulted in permanent injuries.

As a result of the collision, the plaintiff sustained a comminuted and dorsally angulated metaphyseal fracture of the right distal radius. The plaintiff treated with external fixation and a home exercise program. The plaintiff complains of ongoing pain and stiffness in the right arm/wrist and difficulty with grasping. He noted difficulty playing basketball, an activity he enjoyed prior to the subject accident. The plaintiff's treating physician assessed him with a permanent orthopedic impairment of the right wrist caused by the accident.

The parties settled the matter prior to trial in the amount of $45,000 broken down as follows: $10,846 in attorney fees; $1,615 in costs and disbursements and $32,539 in net damages to the minor plaintiff.

REFERENCE

Walsh vs. Criscione. Docket no. L-000284-22; Judge Dean R. Marcolongo, 05-23-23.

Attorney for plaintiff: Charlene Cathcart of Charlene Cathcart, Attorney-at-Law in Cherry Hill, NJ.
Attorney for defendant: Dawn M. Ritter of Voss Nitsberg DeCoursey & Hawley in Iselin, NJ.

Auto/Pedestrian Collision

$70,000 VERDICT

Motor vehicle negligence – Auto/pedestrian collision – Plaintiff struck by defendant's vehicle backing out of parking spot – Abrasions to right elbow and right knee – Right knee lateral meniscus tear – Lumbar disc herniations – Supraspinatus tendinopathy of left shoulder.

Burlington County, NJ

In this motor vehicle negligence action, the plaintiff pedestrian was struck by the defendant's vehicle as it was backing out of a parking spot, causing her to fall down and become injured. The defendant generally denied all allegations of negligence.

On December 20, 2019, the plaintiff was a pedestrian traversing a store parking lot, located on the premises of 479 Route 70 in Brick Township, New Jersey. At this time, the plaintiff and her family had just exited the store and were walking through the parking lot back to the plaintiff's own vehicle. While walking to her vehicle, the plaintiff attempted to pass the defendant's vehicle, which was parked in a parking space in the subject lot. While the plaintiff was attempting to walk past the defendant's vehicle, the defendant suddenly began to reverse. As the defendant's vehicle was backing out, it struck the plaintiff pedestrian.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to observe the plaintiff pedestrian, failing to wait for clearance before backing out of a parking spot, 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 abrasions to the right elbow and knee, right knee lateral meniscus tear, lumbar disc herniations, and supraspinatus tendinopathy of the right shoulder.

The jury found in favor of the plaintiff and awarded $70,000.

REFERENCE

Nicoletta Denise vs. Buonocore Andrew. Docket no. L002138-21; Judge Aimee R. Belgard, 04-29-23.

Attorney for plaintiff: Robert LaRosa of LaRosa Law in Moorestown, NJ.

Driveway Exit Collision

$54,200 VERDICT

Motor vehicle negligence – Driveway exit collision – Broadside collision – Plaintiff's vehicle is struck broadside by defendant's vehicle backing out of driveway – Cervical disc herniations – Cervical disc bulges – Cervical radiculopathy – Lumbar disc bulges – Wrist and shoulder sprain/strain.

Gloucester County, NJ

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

On January 8, 2020, the plaintiff's vehicle was traveling westbound on East Cohawkin Road in East Greenwich, New Jersey. At this time, the defendant's vehicle was parked in a driveway on East Cohawkin Road, and was preparing to back out of the driveway and merge into traffic on East Cohawkin Road. The defendant began backing out of the driveway just as the plaintiff's vehicle was passing the premises. The defendant's vehicle then backed out in front of the plaintiff's vehicle, causing a broadside collision with 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 observe the plaintiff's vehicle, failing to wait for clearance before backing out, failing to yield the right of way, 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 causing a collision with the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including cervical disc herniations, cervical disc bulges, cervical radiculopathy, lumbar disc bulges, and wrist and shoulder sprain/strain.

The jury found in favor of the plaintiff and awarded $54,200.

REFERENCE

Cosentino Richard vs. Connell-Miller Kimberely. Docket no. L001310-21; Judge Timothy W. Chell, 05-02-23.

Attorney for plaintiff: Michael Novick of Brown, Novick & McKinley in Woodbury, NJ. Attorney for defendant: Eugene L. Belenitsky of Geico.

Intersection Collision

$44,000 VERDICT

Motor vehicle negligence – Intersection collision – Plaintiff's vehicle struck broadside by defendant's vehicle in intersection – Cervical disc herniation – Lumbar disc bulge – Shoulder tendonitis – Post-concussive syndrome.

Camden County, NJ

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

On November 18, 2019, the plaintiff's vehicle was traveling southbound on Route 130, at or near its intersection with Federal Street, in Camden, New Jersey. At this time, the plaintiff was attempting to proceed through the aforementioned intersection in a straight direction. At the same time, the defendant was traveling toward the same intersection on Federal Street. At the time of the incident, the defendant failed to stop at the stop sign on Federal Street and proceeded into the intersection at the same time as the plaintiff's vehicle. The defendant's vehicle then struck the plaintiff's vehicle broadside.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to obey traffic signals, failing to obey traffic conditions, failing to remain adequately attentive, 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 cervical disc herniations, lumbar disc bulge, shoulder tendonitis, and post-concussive syndrome.

The jury found in favor of the plaintiff and awarded $44,000.

REFERENCE

Medina vs. Welch. Docket no. L003121-21; Judge Steven J. Polansky, 04-22-23.

Attorney for plaintiff: Michael Sussen of Vincent J. Ciecka, P.C. in Pennsauken, NJ. Attorney for defendant: James D. Blumenthal of Blume Forte Fried Zerres & Molinari in Chatham, NJ.

Lane Change Collision

$120,000 VERDICT

Motor vehicle negligence – Lane change collision – Plaintiff claims to have had room to merge into left lane and did so safely whereupon she was struck by defendant traveling too fast for conditions and did not observe plaintiff merging into lane – Disc herniation at C5-C6; disc herniation superimposed on underlying disc bulge at L5-S1 and disc bulges at C3-C4, C4-C5 and C6-C7 – Treated conservatively with physical therapy, chiropractic treatment, and acupuncture; then L5- S1 decompression and interbody fusion following percutaneous discectomy.

Middlesex County, NJ

In this motor vehicle negligence case, the plaintiff asserted that the defendant driver struck her vehicle, after she had made a lane change into the defendant's lane, with such force that it caused significant, permanent injury. The defendant denied liability and claimed that the plaintiff did not successfully make the lane change and that her negligent lane change was, in fact, the cause of the collision. The defendant also contested the plaintiff's damages.

On October 2, 2017, the plaintiff was driving a vehicle traveling west on Roosevelt Avenue in Carteret. The plaintiff moved into the left turn lane of the roadway with the intent of turning left. The defendant was operating a vehicle in the course of his employment with the co-defendant trucking company. The plaintiff contended that the defendant negligently failed to observe the plaintiff in the roadway, having safely made the lane change, and was traveling at a higher rate of speed than was acceptable under the given conditions. The defendant struck the plaintiff's vehicle and the force of the impact resulted in permanent injuries.

As a result of the collision, the plaintiff sustained disc herniation at the C5-C6 level resulting in anterior subarachnoid space; disc herniation superimposed on an underlying disc bulge at L5-S1; and disc bulges at C3-C4, C4-C5 and C6-C7. The plaintiff initially treated conservatively with physical therapy, chiropractic treatment, and acupuncture. She eventually underwent an L5- S1 decompression and interbody fusion following the percutaneous discectomy.

The defendant argued that the plaintiff's injuries were degenerative in nature, not permanent, and not traumatic or caused by the subject collision. The defendant presented an expert radiologist who reviewed the plaintiff's lumbar MRI films of 11/3/17 and 1/30/18 and opined that they showed lumbar disc degeneration as opposed to a traumatically induced injury. The defendant also presented an expert physician who opined that the plaintiff had only suffered a temporary soft tissue injury to the back.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 80% liability to the defendant and 20% to the plaintiff with gross damages of $300,000 reduced to $240,000 for plaintiff's comparative negligence. The arbitration was not confirmed and the matter proceeded to trial.

The jury found in favor of the plaintiff and the plaintiff recovered $134,657 broken down as follows: $120,000 in damages and $14,566 in prejudgment interest.

REFERENCE

Hayes vs. Durovic, et al. Docket no. L-006327-19; Judge Christopher D. Rafano, 05-11-23.

Attorney for plaintiff: Alex S. Capozzi of Brach Eichler, LLC in Roseland, NJ. Attorney for defendant: John Raymond of Law Offices of Pamela D. Hargrove in Cranford, NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Lane change/rear end collision – Labral and rotator cuff tears in left shoulder; disc herniations at L2-3 and L5-S1 with lumbar radiculopathy; disc bulges at L3-4, L4-5, C4-5 and ulnar neuropathy – Multiple injections and nerve block – Defendant refutes plaintiff's claim of improper lane change and argues plaintiff rear-ended defendant.

Camden County, NJ

In this motor vehicle negligence case, the plaintiff, a 43-year-old man, asserted that the defendant driver cut into the plaintiff's lane of travel and struck his vehicle with such force that it caused significant, permanent injury. The defendant denied negligence and contested the plaintiff's damages.

On July 23, 2018 the plaintiff was traveling on 11th Street near the intersection with Subaru Avenue in Camden, New Jersey. The defendant was also traveling on 11th Street in the same direction. The plaintiff contended that the defendant negligently changed lanes in violation of the lane markings and caused a collision with the plaintiff's vehicle. The plaintiff alleged that the force of the impact resulted in permanent injuries.

As a result of the collision, the plaintiff sustained labral and rotator cuff tear in the left shoulder; disc herniations at L2-3 and L5-S1 with lumbar radiculopathy; disc bulges at L3-4, L4-5, C4-5; and

ulnar neuropathy. The plaintiff treated with various injections and a nerve block and was assigned a permanency rating by his physician. The plaintiff claimed ongoing difficulty with daily activities.

The defendant disputed the plaintiff's version of events and asserted that the plaintiff was the cause of the collision by rear-ending the defendant's vehicle. The defendant presented testimony from a medical expert challenged the extent, causation and permanency of the plaintiff's injuries. The defendant also pointed to a subsequent motor vehicle accident in which the plaintiff was involved in 2019.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 50% liability to the defendant and 50% to the plaintiff with gross damages of $60,000 reduced to $30,000 for plaintiff's comparative negligence. The arbitration was not confirmed and the matter proceeded to trial.

At trial, the jury found in favor of the defendant.

REFERENCE

Velez vs. Lam. Docket no. L -005034-19; Judge Donald Stein, 06-15-23.

Attorney for plaintiff: Steven M. Petrillo of Petrillo & Goldberg, P.C. in Pennsauken, NJ. Attorney for defendant: John Andrew Dougherty of Gerolamo Mcnulty Divis & Lewbart, P.C. in Audubon, NJ.

Multiple Vehicle Collision

$65,000 RECOVERY

Motor vehicle negligence – Multi-vehicle rear end collision – 9-year-old plaintiff rear-seat passenger in vehicle rear-ended by defendants' delivery truck with enough force to push it into vehicle in front of it – Cervical segmental dysfunction; radiculopathy; cervical disc bulge at C5-6 with compression of anterior thecal sac – Chiropractic treatment; MRI studies and EMG.

Middlesex County, NJ

In this motor vehicle negligence case, the minor plaintiff, a 9-year-old girl, asserted that the defendant driver, while in the course of his employment as a delivery truck driver, struck a vehicle in which the plaintiff was a passenger, with such force that it caused significant, permanent injury. The defendant driver asserted that as he came around a bend in the road he did not see the plaintiff's vehicle until the last minute and attempted to slam on his brakes but the vehicle was fully loaded and the forward momentum carried the truck forward into the rear of the plaintiff's vehicle.

On November 9, 2021, the minor plaintiff was a rear-seat passenger in a vehicle being driven by her father and traveling eastbound on Cozzens Lane in North Brunswick, New Jersey. The defendant was operating a large delivery truck owned by his employer, the co-defendant, while in the course of his employment. The defendants' vehicle was traveling directly behind the vehicle in which the minor plaintiff was a passenger. The plaintiff contended that her vehicle stopped in traffic and the defendant driver negligently failed to slow or stop behind the plaintiff's vehicle. The defendant struck the rear of the plaintiff's vehicle with enough force to push it into the vehicle in front of it. The defendant driver was issued a summons for careless driving. The plaintiff presented photos showing the damage to the rear of the vehicle in which she was a passenger, indicating the severity of the impact.

As a result of the collision, the plaintiff sustained cervical segmental dysfunction; radiculopathy; cervical disc bulge at C5-6 with compression of the anterior thecal sac and particle effacement of the anterior subarachnoid space. Immediately after the accident, the plaintiff was taken via ambulance to the hospital where she was treated and released. The plaintiff subsequently treated with chiropractic treatment and underwent MRI and EMG consultation. The plaintiff claimed continuing pain and decreased range of motion limiting her ability to perform her activities of daily living including work and recreational activities. The defendants contested the permanency of the plaintiff's damages.

The parties settled the matter prior to trial in the amount of $65,000 broken down as follows: $16,470 in attorney fees; $293 in costs and disbursements; $690 in medical expenses and $47,841 in net damages to the minor plaintiff.

REFERENCE

Rodriguez vs. Aives, et al. Docket no. L-001448-23; Judge Patrick J. Bradshaw, 05-18-23.

Attorneys for plaintiff: Lawrence A. LeBrocq and Ralph G. Cretella of Garces, Grabler & LeBrocq, P.C. in New Brunswick, NJ. Attorneys for defendant: Darren C. Audino and Ryan J. Mowll of BBC Law, LLP in Marlton, NJ.

$60,000 VERDICT

Motor vehicle negligence – Multi-vehicle rear end collision – Plaintiff's vehicle struck in rear by secondary vehicle, struck in rear by defendant's vehicle – Cervical disc herniations – Cervical nerve root irritation – Lumbar in jury at L4-5.

Gloucester County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear by another vehicle, which had been struck in the rear and pushed forward by the defendant's vehicle. Consequently, the plaintiff sustained injuries. The defendant generally denied all allegations of negligence.

On November 22, 2019, the plaintiff's vehicle was traveling northbound on State Highway 347, at or near mile post 8.1 in Maurice River Township, New Jersey. At this time, the plaintiff's vehicle was completely stopped for heavy traffic. At the same time, the defendant's vehicle was also traveling northbound on Highway 347, and was approaching the same traffic, two cars behind the plaintiff's. At the time of the incident, the defendant's vehicle struck another vehicle in the rear, causing the other vehicle to be pushed forward and strike 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 observe traffic conditions, failing to obey traffic conditions, failing to maintain a safe distance from other vehicles, 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 causing a collision with the plaintiff's vehicle. The plaintiff's injuries included cervical disc herniations, cervical nerve root irritation, and lumbar injury at L4-5.

The jury found in favor of the plaintiff and awarded $60,000.

REFERENCE

McKinley Robert vs. Johnson Makayla. Docket no. L001048-20; Judge Timothy W. Chell, 06-06-23.

Attorney for plaintiff: John D. Borbi of Borbi Clancy & Patriza, LLC in Marlton, NJ.

Parking Lot Collision

$12,500 NET RECOVERY

Motor vehicle negligence – Parking lot collision – Disc herniations at C4-5 and C5-6; disc bulges at L3-S1 with radiculopathy – Injections, chiropractic treatment and physical therapy – Non-binding arbitration assigns 50% liability to each to plaintiff and defendant with gross damages of 25,000.

Essex County, NJ

In this motor vehicle negligence case, the plaintiff asserted that the defendant driver struck her vehicle in a parking lot with such force that it caused significant, permanent injury. The defendant denied negligence and contested the plaintiff's damages. The defendant argued that it was the plaintiff who failed to follow the right-of-way in the parking lot and caused the collision between the vehicles.

On February 4, 2019, the plaintiff was the operator of a motor vehicle in lot #21 at Montclair State University in Montclair, New Jersey. The defendant LLC was the owner and the defendant driver was the operator of a motor vehicle also proceeding in lot #21. The plaintiff contended that the defendant carelessly, recklessly and negligently operated his vehicle so as to cause a collision with the plaintiff's motor vehicle at an intersection in the parking lot. The plaintiff alleged that the force of the impact resulted in permanent injuries.

As a result of the collision, the plaintiff sustained disc herniations at C4-5 and C5-6; disc bulges at L3-S1 with radiculopathy. The plaintiff treated with injections, chiropractic treatment and physical therapy. The defendant presented testimony from an IME who disputed the plaintiff's claimed cervical herniation, but did find one lumbar herniation at L4-5.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 50% liability to the defendant and 50% to the plaintiff with gross damages of $25,000 reduced to $12,500 for plaintiff's comparative negligence. Neither party made a motion for trial and the arbitration was confirmed by the court.

REFERENCE

Yousef vs. Henn, et al. Docket no. L-000788-21; Judge Cynthia D. Santomauro, 05-11-23.

Attorney for plaintiff: Marc A. Ross of Marc A. Ross, Esq., P.A. in Paterson, NJ. Attorney for defendant: Thomas J. Decker of Wade Clark Mulcahy, LLP in Springfield, NJ.

Rear End Collision

$75,000 VERDICT

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while stopped at stop sign – Disc herniation and tear at L5-S1 – Left thumb injury – Right hip injury – Surgery required.

Essex County, NJ

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

On May 8, 2016, the plaintiff's vehicle was traveling in a straight direction on South Knoll Drive in Denville Township, New Jersey. At this time, the plaintiff's vehicle was approaching a stop sign, and was slowing down to stop. At the same time, the defendant's vehicle was also traveling on South Knoll Drive, directly behind the plaintiff's vehicle. When the plaintiff's vehicle stopped for the stop sign, it was suddenly struck in the rear by the defendant's vehicle.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to obey traffic signs and signals, failing to observe the plaintiff's vehicle slowing down, failing to remain adequately attentive, failing to maintain a safe distance from other vehicles, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including disc herniation and tear at L5-S1, which required a percutaneous discectomy procedure to repair. Additionally, the plaintiff sustained left thumb injury, as well as right hip injury.

The jury found in favor of the plaintiff and awarded $75,000.

REFERENCE

Horn Dolores vs. Buckwalter Jordan. Docket no. L003268-18; Judge L. Grace Spencer, 04-15-23.

Attorney for plaintiff: Michael A. Mirda of Law Offices of Michael A. Mirda in East Hanover, NJ. Attorney for defendant: Thomas Matthews of Bennet Bricklin Saltzburg in Marlton, NJ.

$56,000 VERDICT

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear while plaintiff attempts to merge – Cervical disc bulges – Cervical disc herniations – Lumbar disc bulges – Cervical radiculopathy.

Gloucester County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear by the defendant's vehicle while the plaintiff was attempting to merge causing the plaintiff to sustain injuries. The defendant generally denied all allegations of negligence.

On October 2, 2019, the plaintiff's vehicle was traveling on State Highway 168, at or near its intersection with Sicklerville Road in Washington Township, New Jersey. At this time, the plaintiff was stopped in traffic waiting to merge from Highway 168 onto Sicklerville Road. At the same time, the defendant was also waiting to merge onto Sicklerville Road, directly behind the plaintiff's vehicle. While the plaintiff was beginning to proceed forward to merge, his vehicle was suddenly struck in the rear by the defendant's vehicle.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to observe traffic conditions, failing to remain adequately attentive, failing to maintain a safe distance from other vehicles, failing to obey traffic signals, 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 cervical disc bulges, cervical disc herniations, lumbar disc bulges, and cervical radiculopathy.

The jury found in favor of the plaintiff and awarded $56,000.

REFERENCE

Amato Jackson vs. Ober Kyle. Docket no. L001039-21; Judge Timothy W. Chell, 05-01-23.

Attorney for plaintiff: Edward M. Costello of Jarve Kaplan Granato, LLC in Marlton, NJ.

$20,000 VERDICT

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle after defendant makes right turn – Thoracic disc herniations – Lumbar disc bulges – Cervical disc herniations – Lumbar radiculitis.

Camden County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear by the defendant's vehicle, after the defendant made a right turn at a red light, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On April 8, 2019, the plaintiff's vehicle was traveling northbound on Roosevelt Avenue in Pennsauken Township, New Jersey. At this time, the plaintiff's vehicle was preparing to proceed in a straight direction through the intersection of Roosevelt Avenue and Beacon Avenue. At the same time, the defendant's vehicle was traveling westbound on Beacon Avenue, and was preparing to make a right turn onto Roosevelt Avenue. At the time of the incident, the plaintiff's vehicle proceeded through the intersection with a green light. After the plaintiff's vehicle passed, the defendant attempted to turn right on red onto Roosevelt Avenue directly behind the plaintiff's vehicle. As it turned, the defendant's vehicle struck the plaintiff's vehicle in the rear.

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 turning, failing to wait for a green traffic signal, failing to remain adequately attentive, failing to maintain a safe distance from other vehicles, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including thoracic disc herniations, lumbar disc bulges, cervical disc herniations, and lumbar radiculitis.

The jury found in favor of the plaintiff and awarded $20,000.

REFERENCE

Hill Demetrius vs. Oklen Lisa. Docket no. L001611-20; Judge Anthony M. Pugliese, 04-22-23.

Attorney for plaintiff: Robert I. Segal of Robert I. Segal, Esq. in Medford, NJ.

DEFENDANT'S ARBITRATION CONFIRMATION

Motor vehicle negligence – Rear end collision – Plaintiff passenger asserts defendant negligently failed to observe traffic and stop behind plaintiff's vehicle – Aggravation of underlying degenerative changes in cervical spine – 2 months of chiropractic treatment – Defendant denies plaintiff suffered injury and points to plaintiff's extensive medical history – Arbitration assigns 100% liability to defendant but finds plaintiff did not meet legal threshold for damages.

Burlington County, NJ

In this motor vehicle negligence case, the plaintiff asserted that the defendant driver struck the rear of a vehicle in which he was a front-seat passenger with such force that it caused significant, permanent injury. The defendant contested the plaintiff's damages.

On December 5, 2019, the plaintiff was a passenger in a vehicle stopped at a red light on Route 130 at the intersection with Farnsworth Avenue in Bordentown. The defendant was traveling directly behind the plaintiff's vehicle. The plaintiff contended that the defendant negligently failed to slow or stop when she observed the plaintiff's vehicle stopped for the light. The defendant struck the plaintiff's vehicle from the rear. The plaintiff alleged that the force of the impact resulted in permanent injuries.

As a result of the collision, the plaintiff sustained aggravation of underlying degenerative changes in the cervical spine. The plaintiff treated with 2 months of chiropractic care. The plaintiff presented a report from his treating physician confirming his cervical injury.

The defendant argued that the plaintiff did not suffer injury in the subject collision. The defendant pointed to the lack of objective findings of injury by the plaintiff. The plaintiff had no MRI or EMG studies to confirm injury caused by the accident. The defendant also pointed to the plaintiff's complicated and extensive history of medical issues, including a stroke, as potential causes of the degenerative changes in his spine.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 100% liability to the defendant but found that the plaintiff's claimed damages did not meet the requirement to pierce the limitation on lawsuit threshold. The arbitrator thus found no cause for suit and no economic damages. The defendant made a motion to confirm the arbitration order and the motion was granted with judgment entered in favor of the defendant.

REFERENCE

Nyiri vs. Rossi. Docket no. L-002408-21; Judge Aimee R. Belgard, 05-12-23.

Attorney for plaintiff: Christopher J. Culleton of Swartz Culleton, PC in Newtown, PA. Attorney for defendant: Brad A. Parker of Parker Young & Antinoff, LLC in Marlton, NJ.

Tractor-Trailer Negligence

$30,000 VERDICT

Motor vehicle negligence – Tractor-trailer negligence – Sideswipe collision – Plaintiff's vehicle struck in driver's side by defendant's tractor trailer as defendant attempts to change lanes – Left elbow tendon tear – Lumbar disc herniations – Cervical disc herniations.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was sideswiped by the defendant's tractor trailer as the defendant attempted to change lanes, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On October 11, 2017, the plaintiff's vehicle was traveling eastbound in the right lane on Route 81, near its intersection with North Avenue East in Elizabeth, New Jersey. At this time, the defendant was operating a tractor trailer and was also traveling eastbound on Route 81 in the middle travel lane. At the time of the incident, the defendant attempted to maneuver the tractor trailer into the right lane, where the plaintiff was traveling. As he attempted to merge, the defendant 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 remain in the correct lane of travel, failing to wait for clearance before changing lanes, failing to yield, failing to observe the plaintiff's vehicle, failing to remain adequately attentive, 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 left elbow tendon tear, lumbar disc herniations, and cervical disc herniations.

The jury found in favor of the plaintiff and awarded $30,000.

REFERENCE

Murray vs. Gilchrist. Docket no. L006649-18; Judge Russell J. Passamano, 04-08-23.

Attorney for plaintiff: Brent Bramnick of Bramnick Rodriguez Grabas Arnold & Mangan, LLC in Scotch Plains, NJ. Attorney for defendant: Kevin D. London of Travelers Insurance.

MUNICIPAL LIABILITY

PLAINTIFF'S VERDICT

Municipal liability – Actions In Lieu Of Prerogative Writs – Plaintiff hotel owner asserts defendant city's planning board wrongfully determined hotel to have been abandoned for purposes of denying its nonconforming zoning status – Defendant argues plaintiff failed to make repairs or apply for zoning permit for 3 years following fire on property thus rendering property abandoned for its nonconforming purpose.

Monmouth County, NJ

The plaintiff in this case was the owner of real property known as 217 McCabe Avenue, Borough of Bradley Beach which was occupied by a 3-story commercial hotel. The hotel structure dated back to at least 1906. The property was located in the R-1 Residential Single-Family Zone, which prohibited hotels as permitted uses. The property was previously located in the R-T Residential Transition Zone, which was abolished by an ordinance, effective June 11, 2019. In March 2015, the roof and attic area of the hotel located on the property were damaged by a fire. Prior to the fire, the building was operating as a 14-room year round hotel, owned by a non-party. On July 28, 2015, the non-party transferred title of the property to the plaintiff LLC. On April 1, 2016, the plaintiff made an application to the defendant Planning Board to demolish and remove the existing structure and construct 4 attached townhouse dwellings. The defendant adopted a resolution denying the plaintiff's application and the plaintiff appealed the defendant Board's decision.

On October 3, 2019, the court entered an Opinion and Order dismissing the action and upholding the defendant Board's decision. During the period between the March 2015 fire and the issuance of the court's Order, the property was registered with the State of New Jersey as a hotel. Additionally, the plaintiff claimed that, during the same time period, the plaintiff annually applied to the defendant for a mercantile license as would be required for the continuation of the hotel use. During that same time period, no repairs were made, and the hotel was not in operation.

The plaintiff requested that the court enter judgment in favor of the plaintiff and against the defendant as follows: reversing Zoning Board of Adjustment's resolution affirming the Zoning Officer's determination that plaintiff had abandoned its prior, nonconforming hotel use of the property; declaring the plaintiff's use of the property as a year-round hotel as a nonconforming use as defined by N.J.S.A. 40:55D-5;

and declaring that the plaintiff could continue the nonconforming use of the property as a year- round hotel pursuant to N.J.S.A. 40:55D-68.

The defendant board argued that it rightfully determined that the plaintiff had abandoned the hotel use after failing to make a timely and reasonable attempt to repair the fire damage pursuant to the defendant's ordinance that states, "a nonconforming use shall be deemed to be abandoned where there is an intention to abandon as well as an external act (or omission to act) by which such intention is carried into effect. It shall be prima facie evidence that a nonconforming use shall be deemed to be abandoned when there occurs a cessation of such use on the part of a tenant or owner for a continuous period of at least 2 years." The defendant argued that, from 2016 through the present day, the hotel had not been in operation and the plaintiff had not made any repairs. In fact, the defendant maintained, the plaintiff did not attempt to apply for a zoning permit until 2019, 3 years after the fire damage. The defendant Board thus asserted that the plaintiff abandoned its prior nonconforming use.

The defendant requested that the court enter judgment in favor of the defendant and against the plaintiff; and that the court enter an order declaring that the plaintiff abandoned its prior nonconforming hotel use and affirming the decision of the defendant's Land Use Board.

The court heard the case and overturned the defendant Board's decision. The court found that the decision of the defendant Board in finding an abandonment of the hotel use without regard to the plaintiff's intent went against the weight of the evidence and was arbitrary, capricious and unreasonable.

REFERENCE

Irvington Manor, LLC vs. Zoning Board of Adjustment of the Borough of Bradley Beach. Docket no. L-003079-21; Judge Kerry E. Higgins, 02-15-23.

Attorney for plaintiff: James T. Hundley of Law Offices of James T. Hundley, Esq., LLC in Ocean Grove, NJ. Attorney for defendant: Mark G. Kitrick of King Kitrick Jackson McWeeney & Wells, LLC in Manasquan, NJ.

PREMISES LIABILITY

Fall Down

$82,500 VERDICT

Premises liability – Fall down – Plaintiff steps into hole, trips and falls while walking her dog on or near defendant's premises – Soft tissue injury to left foot and ankle – Left knee sprain – Surgery required.

Burlington County, NJ

In this premises liability action, the plaintiff was injured when she stepped into a hole in the ground while walking her dog on the defendant's premises, causing her to trip and fall. The defendant generally denied all allegations of negligence.

On November 26, 2019, the plaintiff was walking her dog on or near the defendant's property, located on the premises of 2013 Beverley Road in Burlington Township, New Jersey. At this time, the plaintiff had to step onto the defendant's lawn, as the nearby sidewalk ended at the edge of the property. While the plaintiff was walking across the lawn, she accidentally stepped into a large hole in the ground. The plaintiff then tripped and fell, causing her to become injured.

The plaintiff maintained that the defendant was negligent in failing to maintain safe and adequate conditions on the premises, failing to fill a hole on the premises, failing to repair a hole in the ground despite prior knowledge of the hole, failing to warn of a hole in the ground on the premises, failing to prevent hazardous or unsafe conditions on the premises, failing to provide safe passage, and failing to regard for the health and safety of individuals walking past the premises. Consequently, the plaintiff sustained injuries, including soft tissue injuries to the left foot and ankle, which required surgery to repair. The plaintiff also sustained a left knee sprain.

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

REFERENCE

Montalvo vs. Sackie. Docket no. L002510-21; Judge Eric G. Fikry, 04-07-23.

Attorney for plaintiff: Andaiye Al-Uqdah of Andaiye Al-Uqdah, Esq. in Lawnside, NJ.

$38,500 VERDICT

Premises liability – Fall down – Plaintiff slips on wet area of floor at defendant restaurant – Fracture of ileac bone – Multiple contusions.

Essex County, NJ

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

On October 28, 2018, the plaintiff was a lawful visitor and business invitee at the defendant restaurant, located on the premises of 111 Hartford Street in Newark, New Jersey. When the plaintiff was finished eating, he stood and walked across the restaurant interior toward the exit. As the plaintiff was attempting to exit the restaurant, he suddenly slipped on a wet area of the floor. The plaintiff then fell.

The plaintiff maintained that the defendant was negligent in failing to maintain safe and adequate conditions on the premises, failing to inspect the premises, failing to adequately clean the premises, failing to hire adequate janitorial staff, failing to remove water or other fluid substances from the floor, failing to erect signs or otherwise warn of a wet floor, failing to prevent hazardous or unsafe conditions on the premises, failing to provide safe passage, and failing to regard for the health and safety of business invitees on the premises including the plaintiff. Consequently, the plaintiff sustained injuries, including a fracture of the ileac bone, as well as multiple contusions.

The jury found in favor of the plaintiff and awarded $38,500.

REFERENCE

Heyward Ramadan vs. Checkers, Best Burger Management, LLC. Docket no. L006332-20; Judge Robert H. Gardner, 06-27-23.

Attorney for plaintiff: Benjamin L. Del Vento, Jr. of Benjamin L. Del Vento in Livingston, NJ.

TRANSIT AUTHORITY LIABILITY

$50,000 VERDICT

Transit Authority liability – Bus negligence – Plaintiff injured after falling down on NJ Transit bus after un-named driver makes sudden maneuver – Aggravation of prior fusion of lumbar spine – Cervical disc herniations – Cervical disc bulges.

Hudson County, NJ

In this Transit Authority liability action, the plaintiff was injured after falling down on a public transit bus when the unnamed bus driver made a sudden maneuver. The defendants generally denied all allegations of negligence.

On February 4, 2020, the plaintiff was a lawful passenger on a bus owned and operated by the defendant public transit company. At this time, the plaintiff had just boarded the bus at a bus stop and was walking down the middle corridor, looking for a seat. Before the plaintiff could find a seat on the bus, the unnamed bus driver made a sudden maneuver with the bus, abruptly pulling away from the bus stop. Because of the sudden motion of the bus, the plaintiff was thrown forward and caused to fall down. The plaintiff became injured as a result.

The plaintiff maintained that the defendant was negligent in failing to maintain safe and adequate conditions on the bus, failing to properly and safely operate the bus, failing to adhere to bus safety procedures, failing to wait for passengers to be seated before moving the bus, failing to warn of the bus's sudden movements, failing to hire competent and adequate bus drivers, failing to properly train bus drivers, and failing to regard for the health and safety of public transit passengers including the plaintiff. Consequently, the plaintiff sustained injuries, including aggravation of prior fusion of the lumbar spine, cervical disc herniations, and cervical disc bulges.

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

REFERENCE

Kwon Young vs. NJ Transit. Docket no. L001523-21; Judge Anthony Delia, 04-28-23.

Attorney for plaintiff: Soo Hyun Kim of Law Offices of Kim & Cha in Englewood Cliffs, NJ.

$32,000 VERDICT

Transit Authority liability – Rear end collision – Plaintiff's vehicle struck in rear by public transit bus operated by defendant – Cervical disc herniations – Cervical radiculopathy – Lumbar disc bulges.

Essex County, NJ

In this action, the plaintiff's vehicle was struck in the rear by a public transit bus, which was operated by the defendant, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence.

On September 9, 2018, the plaintiff's vehicle was traveling on Market Street, at or near its intersection with Halsey Street in Newark, New Jersey. At this time, the plaintiff was operating his own vehicle as a rideshare driver, and pulled over into the shoulder on Market Street to let a passenger into his vehicle. While parked in the shoulder, the plaintiff turned on his vehicle's hazard lights to alert traffic that he had stopped temporarily. While a passenger was attempting to get into the plaintiff's vehicle, a public transit bus, operated by the defendant, approached the plaintiff's vehicle from behind. The bus attempted to maneuver around the plaintiff's stopped vehicle, but instead struck the plaintiff's vehicle in the rear.

The plaintiff maintained that the defendant driver was negligent in failing to keep a proper lookout, failing to exercise due care, failing to properly and safely operate a bus, failing to heed the plaintiff's hazard lights, failing to wait for the plaintiff to move before proceeding, failing to observe traffic conditions, failing to operate the bus at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including cervical disc herniations, cervical radiculopathy, and lumbar disc bulges.

The jury found in favor of the plaintiff and awarded $32,000.

REFERENCE

Garcia Javier vs. Weaver, New Jersey Transit Corp. Docket no. L006354-18; Judge Mayra V. Tarantino, 04-29-23.

Attorney for plaintiff: Andrew J. Calcagno of Calcagno & Associates in Cranford, NJ. Attorney for defendant: Brian R. Tipton of Florio Perrucci Steinhardt Cappelli Tipton & Taylor, LLC in Belvedere, NJ.

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

Supplemental Verdict Digest

MEDICAL MALPRACTICE

$1,200,000 RECOVERY – MEDICAL MALPRACTICE – NURSING HOME NEGLIGENCE – FAILURE TO ADEQUATELY SUPERVISE NON-VERBAL RESIDENT – MULTIPLE FALLS – FIBULAR FRACTURE – NERVE DAMAGE – BRUISING – FOOT DROP.

Luzerne County, PA

This medical malpractice action was brought against the defendants, a residential nursing home and adult day care provider, on behalf of a 61-year-old non-verbal, intellectually challenged and medically fragile plaintiff. The plaintiff alleged that the defendants failed to provide adequate care, allowing the plaintiff to sustain multiple injuries and a permanent downward health spiral. The claims were denied by the defendants.

The plaintiff was taken care of her by her family until May of 2013 when her care was entrusted to the defendant group home. The plaintiff remained at the facility from May 22, 2013 until July 2013. During that time, she was transported and her care was turned over for periods of time to the co-defendant adult care provider. Despite being at the defendant nursing home for less than 90 days, the plaintiff's family noticed her becoming bruised and injured. The plaintiff contended that, during this relatively short period, the plaintiff sustained a right lower extremity fibular fracture, associated peroneal nerve palsy, bruising, contusions, foot drop, and other related issues.

The plaintiff alleged that the defendants were understaffed, had high employee turnover and required employees to work excessive hours. The plaintiff also contended that the defendant failed to follow the plaintiff's individual support plan which required 24-hour supervision for safety and failed to report all falls, bruising or other incidents, as required.

The case was settled prior to trial for $ $1,200,000.

REFERENCE

Victoria Ackerman as POA for Sandra Dunkle vs. Defendant Nursing Home (name withheld). Case no. 2015-CV-6104; Judge Richard Hughes, 08-01-23.

Attorneys for plaintiff: Michael Pisanchyn, Bradley Moyer and Douglas Yazinski of The Pisanchyn Law Firm in Scranton, PA.

$1,000,000 RECOVERY – MEDICAL MALPRACTICE – CARDIOLOGY – DEFENDANT HEART SURGEON IMPROPERLY PERFORMS HEART SURGERY ON PLAINTIFF'S DECEDENT CAUSING DECEDENT'S HEART TO BE ARRESTED FOR PROLONGED PERIOD OF TIME, RESULTING IN FATAL HEART INJURY – FAILURE TO PROPERLY ADMINISTER CARDIOPLEGIA – WRONGFUL DEATH OF 33-YEAR-OLD MALE.

Allegheny County, PA

In this action for medical malpractice, the estate of the decedent maintained that the decedent died as a result improperly performed heart surgery where the decedent's heart was arrested for too long causing permanent and irreparable harm to the decedent's heart. He died 5 days after the surgery was performed. The defendant doctor and hospital generally denied all allegations of negligence and injury.

The estate of the decedent maintained that the defendant was negligent in failing to timely and appropriately administer cardioplegia during the procedure, arresting the decedent's heart for a prolonged period of time without provide proper cardioplegia, failing to use adequate and proper hypothermia to protect the decedent's heart muscle and failing to properly manage the decedent's temperature. The estate maintained that the defendant hospital was vicariously liable for the actions of the defendant doctor.

The parties settled for $1,000,000.

REFERENCE

The Estate of Alan Lee Wilson by Daniel Lee Rockwell vs. Mitsuko Takahashi, D.O., Allegheny Clinic and Jefferson Regional Medical Center dba Jefferson Hospital. Case no. GD-21-011082; Judge Patrick Connelly, 09-13-23.

Attorney for plaintiff: C.J. Engel of Swensen & Perer, P.C. in Pittsburgh, PA. Attorney for defendant: Lynn E. Bell in Pittsburgh, PA.

DEFENDANT'S VERDICT – MEDICAL MALPRACTICE – OB/GYN NEGLIGENCE – FETUS SUFFERS LOSS OF OXYGEN DURING LABOR AND DELIVERY RESULTING IN BRAIN INJURY – HYPOXIC BRAIN INJURY – SEIZURES – CEREBRAL PALSY.

Montgomery County, PA

This medical malpractice action was brought by the parents of the infant plaintiff to recover for damages the infant suffered when he was deprived of oxygen during labor and delivery attended by the defendant. The plaintiffs claim that the defendants did not properly address the infant's non-reassuring fetal heart tracings resulting in a hypoxic injury. The defendants denied being negligent and maintained that the plaintiffs were treated properly in accordance with all medical standards.

The plaintiffs maintained that the defendant was negligent in failing to provide proper fetal monitoring, failing to safely manage the plaintiff's labor and delivery, failing to properly interpret fetal tracings, failing to implement proper treatment including a cesarean section despite deteriorating fetal health particularly in light of an extended and difficult labor and failing to promptly diagnose and treat known fetal compromise. The infant was diagnosed with a hypoxic brain injury and cerebral palsy.

The jury found no negligence on the part of the defendants.

REFERENCE

C.F. a minor by and through png Melanie Brennan vs. Abington Memorial Hospital and Stacy Lexow, M.D. Case no. 2018-14016; Judge Richard P. Haaz, 04-06-23.

Attorney for plaintiff: Lane Jubb, Jr. of The Beasley Firm in Philadelphia, PA. Attorney for defendant: Benjamín Post of Post & Post, LLC in Berwyn, PA.

MOTOR VEHICLE NEGLIGENCE

$80,000,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – WRONGFUL DEATH – TRUCK/PEDESTRIAN COLLISION – DEFENDANT STRIKES PLAINTIFFS' 14-YEAR-OLD DAUGHTER WALKING TO SCHOOL BUS STOP – PAIN AND SUFFERING; LOSS OF SUPPORT AND SERVICE AND LOSS OF COMPANIONSHIP.

Palm Beach County, FL

In this motor vehicle negligence/wrongful death case, the plaintiffs, parents of a 14-year-old girl, asserted that the defendant driver struck their daughter with his truck with such force that it caused her death. The defendant failed to answer or appear and was found in default as to negligence.

The plaintiffs contended that the defendant failed to see the decedent and struck her with his truck. The defendant failed to yield to a pedestrian; failed to maintain a reasonable distance between his truck and children walking to the bus stop; failed to reduce the speed of his vehicle when approaching children walking to a school bus stop; failed to brake in a timely manner and failed to maintain control or take evasive actions to minimize the impact of collision with the plaintiffs' decedent. The decedent was survived by her mother and father.

The plaintiffs filed a motion for default against the defendant. The matter proceeded to trial only as to damages.

The jury awarded damages in the amount of $80,000,000 plus costs of $3,668 and post-judgment interest.

REFERENCE

Davis vs. Johnson. Case no. 2019CA004418; Judge Carolyn Bell, 01-18-22.

Attorneys for plaintiff: Daniel Lustig and Robert C. Johnson of Pike & Lustig, LLP in West Palm Beach, FL.

$6,142,203 VERDICT – MOTOR VEHICLE NEGLIGENCE – UNSAFE LANE CHANGE – DEFENDANT OPERATES VEHICLE UNDER INFLUENCE OF ALCOHOL/DRUGS CAUSING COLLISION WITH PLAINTIFF'S VEHICLE RESULTING IN LIFE-ALTERING INJURIES TO BACK – MULTIPLE SURGICAL PROCEDURES – PERMANENT IMPAIRMENT.

Davis County, UT

The plaintiff in this vehicular negligence action was lawfully operating his vehicle on a Utah Interstate when the defendant operating a vehicle owned and controlled by the defendant company sideswiped the plaintiff's vehicle while the defendant was under the influence of alcohol or drugs. Consequently, the plaintiff sustained severe and catastrophic injuries including a broken back requiring multiple surgical procedures and resulting in permanent impairment. The defendants denied that the driver was under the influence and maintained that the plaintiff was driving in the defendant's blind spot when the accident occurred.

The plaintiff maintained that the defendant was negligent in failing to safely and properly operate and control her vehicle, traveling at an excessive and dangerous rate of speed, failing to maintain a proper lookout, driving under the influence of alcohol and negligently making an unsafe lane change. The plaintiff maintained that the defendant Lube management corporation was vicariously liable for the acts of the defendant driver.

The jury awarded the plaintiff compensatory damages totaling $3,642,202.64. The jury awarded the plaintiff's wife loss of consortium in the amount of $500,000. The jury also awarded the plaintiff punitive damages against the defendant Lube Management Corporation in the amount of $2,000,000 for a total verdict of $6,142,202.64.

REFERENCE

Timothy D. Symes and Amy Symes vs. Shanice Burch and Lube Management Corporation. Case no. 180701236; Judge Michael DiReda, 07-01-22.

Attorney for plaintiff: Jeffrey J. Steele of Steele Adams & Hosman in Sandy, UT. Attorney for defendant: Joseph E. Minnock of Morgan, Minnock, Rice & Miner, L.C. in Salt Lake City, UT. Pike & Lustig, LLP in West Palm Beach, FL.

$1,050,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – INTERSECTION COLLISION – PLAINTIFF CLAIMS DEFENDANT DRIVER NEGLIGENT IN FAILING TO OBEY STOP SIGN AND CO-DEFENDANT OWNER OF COMMERCIAL TRUCK BEING DRIVEN BY DEFENDANT LIABLE FOR ACTIONS OF DEFENDANT DRIVER – FRACTURED RIGHT WRIST; COMPLEX REGIONAL PAIN SYNDROME IN RIGHT WRIST AND HAND AND RIGHT SHOULDER IMPINGEMENT – 2 SURGERIES FOR WRIST: CLOSED REDUCTION AND ORIF WITH PLATE AND 3 GANGLION BLOCK INJECTIONS FOR SHOULDER – PERMANENT ATROPHY OF RIGHT ARM.

Middlesex County, NJ

In this motor vehicle negligence case, the plaintiff asserted that the defendant driver, driving the co-defendant's commercial truck, ran a stop sign and struck the plaintiff's vehicle with such force that it caused significant, permanent injury. The plaintiff sustained a fractured right wrist that required 2 surgeries including closed reduction and then open reduction with internal fixation with plate. The plaintiff developed complex regional pain syndrome in the right wrist and hand. The plaintiff also suffered right shoulder impingement for which she had 3 ganglion block injections. The defendants denied negligence and alleged that the plaintiff had her right blinker on, but instead of making a right, went straight as the defendant driver was making a left turn, whereupon the vehicles collided.

The plaintiff claimed permanent atrophy of the right arm. The plaintiff made no lost wage claim or claim for outstanding medical bills. The defendants' IME opined that the plaintiff had excellent results from the ORIF procedure and only had mild functional limitations in the right wrist, hand and shoulder.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 100% liability to the defendant with damages of $650,000. The arbitration was not confirmed and the matter proceeded to trial.

The jury awarded damages in the amount of $1,142,932 broken down as follows: $1,050,000 in damages and $92,932 in prejudgment interest.

REFERENCE

Kiln vs. Shiwratan. Docket no. L -004101-20; Judge Aravind Aithal, 05-05-23.

Attorney for plaintiff: Mark V. Kuminski of Levinson Axelrod in Jamesburg, NJ. Attorney for defendant: Susan A. Lawless of Florio, Perrucci, Steinhardt, Cappelli, Tipton & Taylor, LLC in Bethlehem, PA.

PREMISES LIABILITY

$1,000,000 POLICY LIMIT RECOVERY – PREMISES LIABILITY – NEGLIGENT SECURITY – DECEDENT SHOT IN HOTEL PARKING LOT – WRONGFUL DEATH AT AGE 24.

Palm Beach County, FL

This was a wrongful death/negligent security case stemming from the murder of a 24-year old man at a Holiday Inn in West Palm Beach, Florida in 2021. The plaintiff asserted that the shooting resulted from the negligence of the defendant hotel owner and operator in failing to provide adequate security at the premises. The defendants maintained that no similar crimes had previously occurred at the property and the shooting was not foreseeable.

Witnesses stated that the trespasser spent time within the hotel making loud noises near the front desk. Yet, the plaintiff contended that the defendant's hotel

staff still ignored him. Shortly before 11:00 p.m., the decedent and other partygoers were outside of the hotel. The trespasser approached them and asked if they saw the woman he was seeking. While the party attendees had not seen the woman, they asked the man why he was walking through the parking lot, looking into car windows. The trespasser reportedly became irritated by the question. Soon thereafter, he returned, confronted the decedent and the others and ultimately shot the decedent. The decedent was pronounced dead at the scene.

The case was settled for the full insurance policy limits of $1,000,000.

REFERENCE

The Estate of Jamal Drummond vs. Metrolodging, LLC d/b/a Holiday Inn Express West Palm Beach Metro Centre. Case no. 50-2022-CA-0102270XXXX0MB; Judge Scott Kerner, 08-08-23.

$695,000 RECOVERY – PREMISES LIABILITY – FALL DOWN – PLAINTIFF FALLS IN POTHOLE IN PARKING LOT OF DEFENDANTS' STRIP MALL – CUTS FROM BROKEN GLASS; NECK INJURY; HIP INJURY AND RIGHT KNEE INJURY – PHYSICAL THERAPY FOR KNEE; EPIDURAL INJECTIONS FOR KNEE AND NECK – CERVICAL FUSION SURGERY – KNEE SURGERY – HIP REPLACEMENT SURGERY – PERMANENT LIMITATIONS AND SURGICAL SCARRING.

Passaic County, NJ

In this premises liability case, the plaintiff, a 62-year-old woman, asserted that she fell in a hole in the defendants' commercial parking lot. As a result of the fall, the plaintiff landed on the broken glass, sustaining cuts and bleeding from the side of her abdomen. An ambulance was called to the scene and the plaintiff was taken to the hospital. The co-defendants denied negligence and each claimed the other was liable for maintenance of the parking area of the property.

The plaintiff maintained that the defendants did not maintain the premises in a reasonably safe condition; did not exercise proper care; caused a dangerous and hazardous condition to exist; failed to provide proper, safe and clear access for those persons using and accessing the premises; failed to provide safeguards or warnings; failed to properly inspect the premises and were negligent.

The plaintiff's cuts were glued and she was released. The plaintiff continued to suffer pain in her right knee and sought physical therapy. The plaintiff also had pain in her neck and back for which she received epidural injections. Eventually, the plaintiff could no longer stand the pain in her knee and got injections in the knee.

After several delays in the progress of the case, the parties agreed to forego trial and enter into binding arbitration with a high/low agreement of $700,000/$275,000 with all parties waiving the right to appeal and pre-judgment interest. As a result of the arbitration, the arbitrator awarded gross damages to the plaintiff of $695,000 broken down as follows: $660,000 in damages to the plaintiff and $35,000 for loss of consortium to the plaintiff husband. The award was reduced by 15% for the plaintiff's comparative negligence, pre-existing conditions, and as a result of information from the surveillance video. Thus the plaintiff's net damages were $596,000 comprising $561,000 in damages to the plaintiff and $35,000 for the loss of consortium claim.

REFERENCE

Johnson vs. Segal Development Associates, et al. Docket no. L-000489-18; Judge Raymond A. Reddin.

Attorney for plaintiff: Gregg A. Wisotsky of Law Offices of Gregg A. Wisotsky in Parsippany, NJ. Attorney for defendant property owner: John M. Sapata of McDermott & McGee, LLP in Millburn, NJ.

ADDITIONAL VERDICTS OF PARTICULAR INTEREST

Construction Site Negligence

$15,500,000 VERDICT – CONSTRUCTION SITE NEGLIGENCE – PLAINTIFF SUFFERS ELECTRICAL BURNS WHEN ELECTRICITY ARCED BETWEEN POWER LINES AND CRANE – PLAINTIFF WALKED NEXT TO CRANE AND ELECTRICITY CAME UP GROUND INTO PLAINTIFF – SEVER ELECTRICAL BURNS – PAIN – IMPAIRED MOBILITY – IRRETRIEVABLE LOSS OF LIFE'S PLEASURES.

Philadelphia County, PA

The plaintiff in this negligence action sued many defendants alleging that they were responsible for allowing electricity to arc between power lines and a crane removing a large tree. While the plaintiff was working for the tree removal company, he was electrocuted as he walked next to the energized crane. The plaintiff suffered severe burns across his body that left him with long-term scarring, pain and difficulty breathing due to the accident. Specifically, he suffered burns to over 60% of his body including severe third degree burns on over 10% of his body. All of the defendants generally denied all allegations of negligence and injury.

An order dismissed with prejudice claims and cross-claims against 7 defendants in the case and marked as settled actions against 6 more defendants.

The jury found negligence against the defendant Vito Braccia Construction, LLC only. The jury awarded the plaintiff's total damages in the amount of $15,500,000. Over $8 million was allocated to pain and suffering and over $4 million was for lump sum medical expenses.

REFERENCE

Brian Feldman vs. Vito Braccia Construction, LLC, Southeastern Pennsylvania Transportation Authority, National Railroad Passenger Corporation d/b/a Amtrak, Bozzuto Construction Company, Altino Concrete Construction, LLC, Cross Properties Realty, LLC, CP Acquisitions 25, LLC, and 10 Union Avenue Associates, L.P. Case no. 200500942; Judge Angelo Foglietta, 10-28-22.

Attorneys for plaintiff: Robert Mongeluzzi, Andrew Duffy, Aidan Carickhoff, David Kwass and Davis Jacob Langsam of Saltz, Mongeluzzi, Barrett & Bendesky in Philadelphia, PA. Attorney for defendant: Gregory Mallon of Zarwin Baum in Philadelphia, PA. Attorney for defendant: Charles M. Adams, Jr. of Thomas, Thomas & Hafer in Ambler, PA. Attorney for defendant: Kenneth S. Fair of Naulty, Scaricamazza & McDevitt in Philadelphia, PA. Attorney for defendant: Benjamin C. Frommer of Thomas Thomas & Hafer, LLP in Ambler, PA. Parsippany, NJ.

Defamation

$1,400,000 VERDICT – DEFAMATION – LIBEL/SLANDER – DEFENDANT POSTS LENGTHY BLOG ACCUSING PLAINTIFFS OF FAILING TO TAKE SERIOUSLY ALLEGATIONS OF SEXUAL ABUSE AT RENAISSANCE FAIRS WHERE PLAINTIFFS WERE DIRECTORS – DAMAGED REPUTATION TO MALE DENTIST AND WIFE – LOSS OF REPUTATION AND FINANCIAL OPPORTUNITIES AS DENTIST.

Allentown County, PA

The plaintiffs in this libel/slander defamation action maintained that the defendant ruined their good reputation by posting lies about them as directors of 2 local Renaissance Fairs. The defendant wrote that the plaintiffs were horrible and mean people who allowed sexual assaults to occur under their supervision and did nothing when the assaults were reported to them. The defendant stated she wrote what she was told by her sources who" and "a monster" and accused him of racism, sexism, ableism and fat shaming.

In addition, the defendant stated that the female plaintiff was abused by the male plaintiff and laughed at a cast member who accused another member of rape and told the victim "she should grow up". The plaintiffs denied all of the defendant's claims and argued that her statements constituted liable and slander. The plaintiffs maintained that the defendant had a previous romantic relationship with person the defendant maintained committed the sexual assaults under the plaintiffs' supervision and argued that the defendant was out for revenge.

The jury found in favor of the plaintiff Dr. Amor and awarded him compensatory damages of $750,000 and punitive damages in the amount of $250,000. The jury awarded the plaintiff Patti Amor compensatory damages of $300,000 and punitive damages of $100,000 for a total verdict of $1,400,000.

Following the verdict, the defendant motioned the court to amend or correct the jury verdict. The court denied the defendant's motion to reverse the judgment at to liability but granted the defendant's motion for new trial or acceptance of remittitur, reducing Dr. Amor's compensatory to $50,000 and punitive award to $1,000 and reducing Patti Amor's compensatory award to $20,000 and punitive award to $500 for a total of $71,500.

REFERENCE

James Michael Amor, DDS and Patti Amor vs. Courtney Conover. Case no. 21-cv-5574; Judge John M. Gallagher, 10-14-22.

Attorney for plaintiff: Timothy M. Kolman in Penndel, PA. Attorney for defendant: Pro Se.

Landlord Negligence

$1,300,000 VERDICT – LANDLORD NEGLIGENCE – NEGLIGENT MAINTENANCE – PLAINTIFF COMPLAINS OF BROKEN TILES IN APARTMENT RENTED FROM DEFENDANT PROPERTY OWNER AND MAINTAINED BY CO-DEFENDANT PROPERTY MANAGEMENT COMPANY; PLAINTIFF ALSO MAKES MULTIPLE COMPLAINTS ABOUT BED BUGS PLAINTIFF FALLS AND SUSTAINS INJURY DUE TO BROKEN TILE – POST RIGHT ANKLE SPRAIN OF INVERSION NATURE WITH SECONDARY RIGHT SINUS TARSI SYNDROME AND AGGRAVATION OF PRE-EXISTING NECK CONDITION – ANTERIOR CERVICAL DISCECTOMY AND FUSION AT C3-4,C4-5, C5-6 – RIGHT ANKLE AND JOINT ARTHROSCOPY WITH DEBRIDEMENT; RIGHT FOOT GASTROC-RECESSION.

Volusia County, FL

This was a negligence claim brought by the plaintiff, a renter, against the defendant owner of the property and the co-defendant property management company for damages arising from injuries caused by a trip and fall on the property and exposure to bed bugs. After the fall, the plaintiff went to the hospital to complain of both foot pain and numerous bed bug bites. The plaintiff was ultimately diagnosed with a post right ankle sprain of an inversion nature with secondary right sinus tarsi syndrome and aggravation of pre-existing neck condition. The plaintiff treated with pain management; anterior cervical discectomy and fusion at C3-4,C4-5, C5-6; right ankle and joint arthroscopy with debridement; right foot gastroc-recession Achilles tendon debridement; peroneal tendon repair and physical therapy. The defendant failed to answer or appear and was found in default.

The plaintiff argued that the defendants negligently failed to maintain the property in a safe condition and to remedy defects in the property of which they had actual or constructive notice. Furthermore, the plaintiff contended that the defendants did nothing about the numerous complaints of bed bugs infesting her apartment. The defendant eventually appeared and filed a motion to set aside the default but the motion was denied and the matter moved forward.

The court determined as a matter of law that the defendants were negligent in their maintenance of the premises that they leased to the plaintiff by failing to maintain the premises in a reasonably safe condition; specifically, by failing to correct damaged and protruding floor tiles located inside the apartment when the defendants knew that they were in need of repair and by failing to exterminate or otherwise address the infestation of bed bugs in the premises leased to the plaintiff. The case proceeded to trial as to damages only.

The jury awarded damages in the amount of $1,300,000 broken down as follows: $300,000 in future medical expenses; $500,000 in past non-economic damages and $500,000 in future non-economic damages.

REFERENCE

Anderson vs. The Virgil and Ellen Rosenfeld Family Trust, et al. Case no. 2020 30871 CICI; Judge Dennis Craig, 01-10-23.

Attorneys for plaintiff: Rico D. Lively and Aaron Papero of Felice Trial Attorneys in West Palm Beach, FL. Attorney for defendant: Victoria C. Zinn, Esq. in Daytona Beach, FL.

Municipal Liability

$120,000,000 VERDICT – MUNICIPAL LIABILITY – MOTOR VEHICLE NEGLIGENCE – PLAINTIFF PASSENGER IN VEHICLE STRUCK IN INTERSECTION BY DEFENDANT CITY EMPLOYEE WHO RAN STOP SIGN – PLAINTIFF PARALYZED FROM CHEST DOWN AND REQUIRES LIFELONG MEDICAL CARE.

Alachua County, FL

In this case, the plaintiff, a 20-year-old man, asserted that the defendant driver, in the course of employment with the defendant city, violated a stop sign and struck the vehicle in which the plaintiff was a passenger with such force that it caused debilitating, permanent injury. As a result of the collision, the plaintiff was paralyzed from the chest down. The plaintiff will be in a wheelchair and require medical care and assistance with daily activities for the remainder of his life. The defendant city argued that the defendant driver was off duty at the time of the accident and thus the defendant city was not liable for his actions. The defendant driver maintained that he was in the course of his employment when the accident occurred.

The plaintiff claimed past medical bills of $484,118; future medical requirements of $3,323,287; future loss of earnings between $392,040 and $576,840; present value loss of household services of $649,094 and present value medical expenditures of $4,568,060.

The jury found in favor of the plaintiff and awarded damages in the amount of $120,000,000 broken down as follows: $484,181 in past medical expenses; $4,200,000 in future medical expenses; $635,000 in loss of future household services; $15,000,000 in past non-economic damages and $99,680,829 in future non-economic damages.

REFERENCE

Rodgers vs. Stormant, et al. Case no. 2016-CA-000659; Judge Donna M. Keim.

Attorney for plaintiff: Jeffrey J. Humphries of Morgan & Morgan in Jacksonville, FL. Attorneys for defendant driver: Bradford D. Kimbro and Joseph H. Varner, III of Holland & Knight, LLP in Tampa, FL. Attorneys for defendant city: Brian W. Franklin and Daniel Nee of Office of the City Attorney in Gainesville, FL.

Racial Discrimination

$1,000,000 VERDICT – RACIAL DISCRIMINATION – DEFENDANT'S GAS STATION ATTENDANT REFUSES SERVICE TO WOMAN OF COLOR PLAINTIFF – CIVIL RIGHTS VIOLATION – FAILURE TO DISCIPLINE GAS STATION ATTENDANT.

Multnomah County, OR

In this discrimination case, the plaintiff was refused service at the defendant's gas station due to her race. The defendants then failed to discipline the attendant who discriminated against the plaintiff. The defendants denied all allegations of wrongdoing.

On March 12, 2020, the 63-year-old female African-American plaintiff in this Civil Rights action alleged that she attempted to get gas at the defendant's Beaverton, Oregon, gas station and was ignored by the gas station attendant. When the plaintiff confronted the attendant asking why white customers were being helped and she was not, she was told by the defendant attendant "I don't serve blacks" and he laughed at the plaintiff.

The plaintiff then filed a complaint at the defendant's corporate office. The defendant corporation did not discipline the attendant for racial discrimination and instead disciplined him for failing to serve customers in the order of their arrival. The plaintiff then sued the gas station attendant, the franchise and franchise owner, and the gas company civilly claiming racial discrimination. The defendants denied that the plaintiff was racially discriminated against and argued that after reviewing surveillance tape the defendant gas station simply failed to serve the customers in the order in which they appeared at the station.

The jury found for the plaintiff and awarded her $1,000,000 in damages which included $550,000 in punitive damages.

REFERENCE

Rose Wakefield vs. Pacwest Energy, LLC, Jacksons Food Stores, Inc., Ashley Hughes, John Doe, Nigel Powers. Case no. 20CV36224; Judge Michael Greenlick, 01-24-23.

Attorney for plaintiff: Jason Llewellyn Kafoury of Kafoury & McDougal in Portland, OR. Attorney for defendant: Kevin M. Coles of Jackson Lewis, P.C. in Portland, OR.

Religious Discrimination

$1,610,003 VERDICT – RELIGIOUS AND DISABILITY DISCRIMINATION – EMPLOYMENT DISCRIMINATION – PLAINTIFF EMPLOYEE CLAIMS DEFENDANT TOWNSHIP EMPLOYER SYSTEMATICALLY DISCRIMINATED AGAINST AND HARASSED HER ON BASIS OF HER RELIGION AND ANXIETY DISORDER AND FURTHER RETALIATED AGAINST HER ON SAME BASIS – SEVERE PAIN, SUFFERING AND PERMANENT INJURIES – PHYSICAL HEALTH ISSUES, SEVERE EMOTIONAL DISTRESS, HUMILIATION, PSYCHOLOGICAL HARM AND ANXIETY.

Ocean County, NJ

In this workplace discrimination case, the plaintiff employee of the defendant township asserted that the defendant's employees, supervisors of the plaintiff, repeatedly violated New Jersey Law Against Discrimination in their interactions with the plaintiff. The plaintiff claimed religious discrimination, hostile work environment based on religious discrimination and disability discrimination, and retaliation. The defendant denied the plaintiff's claims and countered that the plaintiff's performance was substandard and that she was often absent for long periods of time on the claim of FMLA.

The plaintiff was a Jewish female suffering from anxiety and was employed by the defendant since 2002. From the onset of her employment and through to the present, the plaintiff claimed that multiple employees of the defendant township, in supervisory capacities or upper management, engaged in a severe and pervasive pattern of mentally abusive and offensive behavior directed at the plaintiff for being of the Jewish faith and being disabled. The plaintiff alleged that this conduct was intended to punish the plaintiff for being Jewish and disabled.

The plaintiff was caused to expend money for professional care and treatment. At trial, the plaintiff presented an expert psychologist who testified that the main specific symptoms related to the plaintiff's day-to-day employment caused her to experience tremendous anxiety and panic when she went to the office and that she lived in a high state of anxiety or anticipation because she didn't know what to expect when she went into the office. His diagnosis included moderate depressive disorder, acute stress disorder, post-traumatic stress disorder, generalized anxiety disorder and panic attacks.

The jury found that the defendant mayor, business administrator and recreation department director aided and abetted the defendant township in violation of the NJLAD and were liable individually and personally for these violations. The jury awarded the plaintiff compensatory damages of $500,001 for emotional distress and $110,000 for economic loss. The jury further found the plaintiff proved that the harm caused to her because of the violation of her rights under the NJLAD was the result of conduct that was malicious or was done in wanton and willful disregard of her rights and awarded the plaintiff $1,000,002 in punitive damages for a total award of $1,610,003.

REFERENCE

Reuter vs. Berkeley Township, et al. Docket no. L - 002806-18; Judge James Den Uyl, 05-25-23.

Attorneys for plaintiff: Crystal Dozier and William R. Stoltz of Law Offices of Rosemarie Arnold, LLP in Fort Lee, NJ. Attorneys for defendant: Brigit Zahler and Christopher A. Khatami of Dasti & Staiger Attorneys at Law in Forked River, NJ.