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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

$2,750,000 VERDICT – PREMISES LIABILITY – FALL DOWN – PLAINTIFF SLIPS AND FALLS ON GREASE ON FLOOR WHILE WALKING TO RESTROOM IN DEFENDANT'S RESTAURANT – HIP FRACTURE – OPEN REDUCTION AND INTERNAL FIXATION.

U.S.D.C. - District of New Jersey

This action for premises liability arose when the plaintiff, her husband and some friends were dining at the defendant's restaurant in New Jersey. The plaintiff was walking to the restroom when she slipped and fell on grease on the floor. The plaintiff was unable to get up and was taken from the scene to a local hospital by EMS. The plaintiff maintained the defendants were negligent and allowing a hazardous condition to exist on the floor. The defendant stipulated liability.

On October 18, 2018, the female plaintiff was a lawful business invitee of the defendant restaurant located in Green Brook, New Jersey. As the plaintiff was walking to the restroom, she slipped and fell on a greasy substance suffering significant injuries.

The plaintiff maintained she slipped and fell in the area outside of the kitchen where servers enter and exit with food and beverages. The plaintiff maintained the defendant restaurant was negligent in failing to keep the premises free and clear of grease, failing to make proper inspections to the premises and allowing a defective and dangerous condition to exist on the floor. The plaintiff suffered a displaced and comminuted fracture of her left upper femur, also referred to simply as the hip, and underwent open reduction internal fixation surgery. Her husband made a claim for loss of consortium.

A jury found in favor of the plaintiff awarding her damages of $2,500,000 and awarding her husband $250,000 for loss of consortium. A judgment was later entered which included interest and the total judgment was $292,846.59.

REFERENCE

Plaintiff's engineer expert: Scott D. Moore, PE, CSP from Voorhees, NJ.

Deborah and Roger Nagy vs. Outback Steakhouse of Florida, LLC. Docket no. 19-cv-18277; Judge Robert Kirsch, 04-04-24.

Attorney for plaintiff: Alex Steven Capozzi of Brach Eichler in Roseland, NJ. Attorney for defendant: Norman William Briggs of Briggs Law Office, LLC in Marmora, NJ.

COMMENTARY

The plaintiff provided expert testimony from a licensed engineer who specializes in slip resistance testing and walkway safety. This expert inspected the site of the plaintiff's fall and stated that the installed flooring appeared to be visibly dirty and in some areas visibly greasy and slippery despite being dry. He also observed that the floors had not been cleaned in days as the trap at the bottom of the floor drain was dry allowing sewer gas to infiltrate the space. This testimony directly contradicts the testimony of the restaurant's manager who testified that the floors were cleaned every night.

The plaintiff's expert performed slip resistance testing on the flooring and determined that the flooring in both wet and dry conditions did not meet the standard of care in the industry for slip resistance. He further concluded that the risk of slipping would be exacerbated with the introduction of a surface contaminant and noted that several witnesses at the restaurant on the day of the incident testified that there was a greasy substance on the floor.

$1,200,000 VERDICT – PREMISES LIABILITY – MUNICIPAL LIABILITY – FALL DOWN – PLAINTIFF TRIPS AND FALLS ON UNEVEN SIDEWALK OWNED AND MAINTAINED BY DEFENDANTS WHILE JOGGING – FAILURE TO REPAIR DEFECTIVE SIDEWALK – RIGHT RADIUS ULNA FRACTURE – SURGERY – FUTURE SURGERY REQUIRED.

Union County, NJ

The plaintiff in this premises liability action alleged she suffered serious and permanent injury to her right wrist when she was jogging and tripped and fell on an uneven sidewalk controlled and maintained by the defendants.

Each defendant denied being negligent and blamed the other defendant and the plaintiff for the incident.

On June 22, 2019, the 56-year-old female plaintiff was jogging and was lawfully proceeding south along East Second Street on the sidewalk of the commer-

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cial building owned by defendant Lince Group, LLC in the co-defendant town of Scotch Plains, New Jersey. The plaintiff tripped over a raised sidewalk slab and fell sustaining a serious injury to her right wrist.

The plaintiff maintained that the defective sidewalk was improperly maintained by the defendants. The defendant Lince argued the sidewalk was not theirs as it was 4 feet north of Lince's property line. They maintained that the plaintiff tripped on property owned and controlled by the defendant Township of Scotch Plains. The defendant Township argued that regardless of the cause of the lifted and or damaged sidewalk, the municipal ordinance requires that the abutting commercial property owner repair and or replace unsafe and or defective sidewalk surfaces.

As a result of the fall, the plaintiff sustained a right distal radius fracture which required open reduction and internal fixation. Her hardware then had to be removed. In addition, the plaintiff suffered a frozen right shoulder. She will likely require future surgery for her injuries.

The case had previously been arbitrated and the plaintiff was awarded $280,000 reduced by her comparative negligence of 25% for a net of award of $210,000. The plaintiff attorney made a request for de Novo trial and this jury trial followed. The jury awarded the plaintiff pain and suffering damages of $1,200,000. The jury apportioned liability at 90% against the defendant Lince and 10% against the plaintiff. The award was then reduced accordingly to $1,080,000. Prejudgment interest brought the total award to $1,219,234.20. Originally the tenants of the multi unit commercial building were named as defendants in the case but the claims against the tenants did not make it to trial. Post trial activity is pending on the docket.

REFERENCE

Plaintiff's engineering expert: James Kennedy from Red Bank, NJ.

Ellen and Keith English vs. Lince Group, LLC, and The Township of Scotch Plains. Docket no. UNN L000219-20; Judge John G. Hudak, 02-06-24.

Attorney for plaintiff: Patrick Flinn of Levinson Axelrod, PA in Raritan, NJ. Attorney for defendant: Richard Guss of DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C. in Warren, NJ. Attorney for defendant: Neil A. Tortora of Morrison Mahoney, LLP in Parsippany, NJ.

COMMENTARY

The plaintiff's engineering expert testified that the subject sidewalk slab, forming the raised edge that the plaintiff tripped upon, was within both the E 2nd Street right of way and the public way associated with Tarquins Alley, both of which abutted the property owned by the defendant Lince. According to the engineer's report, the abrupt change in elevation that caused the plaintiff to trip was the result of a section of the concrete sidewalk that became elevated above the adjoining sidewalk. The change in elevation measured 1 and 3/8th inches to 1 and 5/8th inches. The expert noted that "Lince, as property owner, failed to properly maintain the subject sidewalk area in a manner which met Township ordinances, State regulations, adopted technical standards, as well as accepted consensus engineering standards, and thereby maintained a hazardous condition causing the plaintiff to trip, fall, and sustain injury.
Municipal property maintenance regulations, State regulations, adopted technical standards, as well as accepted consensus engineering standards require the property owner to maintain this area in a proper state of repair, free from hazardous conditions such as this non-planar sidewalk interface. Had Lince maintained this portion of the exterior property in a proper state of repair; free from hazardous conditions, the plaintiff would not have sustained injury while jogging.

$300,000 ARBITRATION AWARD – MOTOR VEHICLE NEGLIGENCE – INTERSECTION COLLISION – PLAINTIFF'S VEHICLE STRUCK BROADSIDE BY DEFENDANT'S VEHICLE AFTER DEFENDANT DISREGARDS STOP SIGN – LEFT HAND FRACTURE – RIGHT RADIUS FRACTURE – MULTIPLE RIB FRACTURES.

Bergen County, NJ

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

On March 2, 2022, the plaintiff's vehicle was traveling north on South Summit Avenue, at or near its intersection with Standish Avenue in Hackensack, New Jersey. At this time, the plaintiff's vehicle was stopped for a stop sign at the subject intersection and was preparing to proceed straight. At the same time, the defendant's vehicle was traveling west on Standish Avenue, toward the same intersection. At the time of the incident, the plaintiff was attempting to proceed through the intersection when the defendant disregarded a stop sign and struck the plaintiff's vehicle broadside.

The plaintiff maintained that the defendant was negligent in failing to obey a stop sign, failing to remain adequately attentive, and failing to yield. Consequently, the plaintiff sustained injuries, including a left hand fracture, a right radius fracture, and multiple rib fractures.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $300,000. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on September 3, 2024. However, the parties entered into a settlement for an unspecified amount prior to the initial hearing. A stipulation of dismissal was submitted on August 8, 2024.

REFERENCE

Scott Garino vs. Joseph Ruffino. Docket no. BERL006274-22; Judge William C. Soukas, 08-08-24.

Attorney for plaintiff: Kathleen M. Reilly of Brady, Brady & Reilly, LLC in Kearny, NJ. Attorney for defendant: Thomas A. Morrone of Chasan Lamparello Mallon & Cappuzzo, PC in Secaucus, NJ.

$225,000 ARBITRATION AWARD – MOTOR VEHICLE NEGLIGENCE – RECKLESS DRIVING – SIDESWIPE COLLISION – PLAINTIFF'S VEHICLE STRUCK IN SIDE AND PUSHED INTO BARRIER BY DEFENDANT'S VEHICLE ENTERING PLAINTIFF'S LANE – LEFT KNEE MENISCUS TEAR – LEFT HAND FRACTURE – MULTIPLE DISC HERNIATIONS – EPIDURAL INJECTIONS – KNEE SURGERY REQUIRED.

Morris County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the side and pushed into a barrier by the defendant's vehicle, after the defendant lost control and veered into the plaintiff's travel lane. The plaintiff sustained serious injuries requiring surgery as a result. The defendant generally denied all allegations of negligence.

On May 29, 2021, the plaintiff's vehicle was traveling southbound in the left lane Route 23 in Pequannock, New Jersey. At the same time, the defendant's vehicle was also traveling southbound on route 23, in the right lane parallel to the plaintiff's vehicle. At the time of the incident, the defendant suddenly lost control of his vehicle. The defendant's vehicle then veered abruptly into the left lane, striking the plaintiff's vehicle in the side. The impact caused the plaintiff's vehicle to be pushed into a barrier wall, causing the plaintiff to become injured.

The plaintiff maintained that the defendant was negligent in failing to remain in the correct lane of travel, failing to obey traffic conditions, and failing to merge properly. Consequently, the plaintiff sustained injuries, including a left knee meniscus tear which required surgery to repair, as well as a left hand fracture, and multiple disc herniations. Aside from knee surgery, the plaintiff's injuries were treated relatively conservatively, with epidural injections. A doctor for the defendant alleged that the plaintiff only sustained soft tissue injuries and did not sustain a permanent injury.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $225,000. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on March 11, 2024. However, the parties entered into a settlement for an unspecified amount on February 23, 2024. A stipulation of dismissal was submitted the same day.

REFERENCE

Roel Pinnock vs. Claude Richardson. Docket no. MRSL000325-22; Judge Marcy M. McMann, 03-02-24.

Attorney for plaintiff: Edward C. Lutz of Edward C. Lutz, LLC in Parsippany, NJ. Attorney for defendant: Stephen G. Sobocinski of Selective Insurance.

Verdicts By Category

DOG ATTACK

$125,000 SETTLEMENT

Dog attack – Minor plaintiff attacked and bitten on face by defendant's dog – Failure to keep violent dog away from visitors – Partially avulsed laceration of upper lip – Sutures required.

Gloucester County, NJ

In this dog bite action, the minor plaintiff was attacked and bitten on the face by the defendant's dog. The minor plaintiff became injured as a result. The defendant generally denied all allegations of negligence.

On May 15, 2021, the minor plaintiff was a lawful visitor at the defendant's home, located on the premises of 19 Wright Loop in Williamstown, New Jersey. At this time, the minor plaintiff was traversing inside the defendant's home when she was approached by the defendant's dog. Suddenly and without warning, the dog became agitated and began to attack the minor plaintiff, biting her on the face.

The plaintiffs maintained that the defendant was negligent in failing to warn of the dog's violent tendencies, failing to keep the violent dog away from visitors and strangers, and failing to leash or otherwise restrain the dog. Consequently, the minor plaintiff sustained injuries, including a partially avulsed laceration of the upper lip.

Prior to arbitration, the parties in this case quickly entered into a friendly conference, which was scheduled for March 22, 2024, and then rescheduled for April 3, 2024, at which time the parties reported that they had arrived at a settlement amount of $125,000. On April 3, 2024, the Honorable Anne McDonnell ordered that the plaintiff's settlement amount be entered as a final judgment.

REFERENCE

Rheanna Edwards vs. Samantha Scrivana. Docket no. GLOL000115-24; Judge Samuel J. Ragonese, 04-03-24.

Attorney for plaintiff: David J. Cowhey of The New Jersey Dog Bite Lawyer in Egg Harbor Township, NJ.

LANDLORD NEGLIGENCE

$37,500 NET ARBITRATION AWARD

Landlord negligence – Plaintiff tenant trips and falls over hole in grass at apartment residence – Failure to address and fill hole in yard – Right ankle soft tissue injury.

Bergen County, NJ

In this action, the plaintiff tenant tripped and fell over a hole in the grass at her apartment residence, causing her to sustain injuries. The defendant landlord generally denied negligence.

On August 5, 2021, the plaintiff was lawfully traversing in a grass yard on the premises of 67 Irving Avenue in Englewood Cliffs, New Jersey, where she was a tenant and resident. At this time, the premises was owned, operated, and maintained by the defendant landlord. On this day, while she was walking in the grass, the plaintiff tripped and fell over a large hole in the ground. The plaintiff had noticed the hole before and had reported it to the defendant landlord, but it had not been fixed.

The plaintiff maintained that the defendant was negligent in failing to address and fill the hole in the yard, failing to remedy a tripping hazard on the premises, and failing to provide safe passage on the premises. Consequently, the plaintiff sustained injuries, including a right ankle soft tissue injury. The plaintiff's injuries were treated with arthroscopy and synovectomy procedures. A doctor for the defendant opined that the plaintiff would not need future treatment and only had mild residuals.

The arbitrator in this case found the defendant 75% liable for the accident and the plaintiff 25% liable. The arbitrator reported a net award for the plaintiff in the amount of $37,500. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on September 3, 2024. However, on July 15, 2024, the parties entered into a settlement prior to the initial hearing. A stipulation of dismissal was submitted on July 23, 2024.

REFERENCE

Valerie Locke vs. Esther Barsella. Docket no. BERL005364-22; Judge William C. Soukas, 07-23-24.

Attorney for plaintiff: John Weischel of John L. Weischel, Esq. in Hackensack, NJ. Attorney for defendant: John C. Ciabattari of Law Offices of Pamela D. Hargrove in Clark, NJ.

MOTOR VEHICLE NEGLIGENCE

Auto/Pedestrian Collision

DEFENDANT'S VERDICT

Motor vehicle negligence – Auto/pedestrian collision – Plaintiff pedestrian struck by defendant's vehicle while crossing street – Left foot fracture – Surgery required.

Bergen County, NJ

In this motor vehicle negligence action, the plaintiff pedestrian was struck by the defendant's vehicle while crossing the street, causing him to become injured. The defendant denied negligence.

On October 22, 2019, the plaintiff was a pedestrian walking on Essex Street, close to its intersection with Arcadia Road in Hackensack, New Jersey. At this time, the plaintiff was attempting to cross the street in the middle of the block before the subject intersection. At the same time, the defendant's vehicle was traveling on Essex Street, toward the subject intersection. As the plaintiff was crossing the street, he was suddenly struck by the defendant's vehicle. The plaintiff maintained that the defendant was negligent in failing to observe the plaintiff pedestrian, failing to remain adequately attentive, failing to yield, and failing to wait for the plaintiff pedestrian to finish crossing the street. Consequently, the plaintiff sustained injuries, including a left foot fracture as well as bruising. The plaintiff's left foot fracture was treated with an open reduction and internal fixation surgical procedure. The defendant generally denied all allegations of negligence on the grounds that the plaintiff had entered the roadway unexpectedly and in the middle of the block.

The arbitrator in this case found the defendant 60% liable for the accident and the plaintiff 40% liable. The arbitrator then reported an award for the plaintiff in the amount of $128,000 total. Following arbitration, the defendant's counsel requested a trial de novo, which took place on March 25th, 26th, and 27th, as well as April 1st, 2nd and 3rd of 2024. The jury returned a verdict in favor of the defendant, determining 6-0 that the defendant was not negligent in regard to the accident in this case. A final judgment in favor of the defendant was submitted on April 12, 2024.

REFERENCE

Emil Gruber vs. Danielle Seixas. Docket no. BERL005263-20; Judge Lina P. Corriston, 05-28-24.

Attorney for plaintiff: Steven Benvenisti, Esq. of Davis, Saperstein & Salomon, P.C. in Teaneck, NJ. Attorney for defendant: Renee Rivas of Travelers Insurance.

Intersection Collision

$75,000 ARBITRATION AWARD

Motor vehicle negligence – Intersection collision – Plaintiff's vehicle struck by defendant's vehicle after defendant ignores stop sign – 2 cervical disc herniations – Disc herniation at L4-5 – Concussion.

Bergen County, NJ

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

On March 21, 2021, the plaintiff's vehicle was traveling on Utter Avenue, toward its intersection with Victor Place in Hawthorne, New Jersey. At the same time, the defendant's vehicle was traveling on Victor Place, toward the same intersection. At this time, Victor Place was controlled by a stop sign, while Utter Avenue was not. As such, the plaintiff attempted to proceed straight through the intersection without stopping. At the time of the incident, the defendant ignored the stop sign controlling Victor Place and also attempted to proceed straight through the intersection without stopping. The defendant's vehicle then struck the plaintiff's vehicle.

The plaintiff maintained that the defendant was negligent in failing to keep a proper lookout, failing to exercise due care, failing to obey a stop sign, failing to obey traffic signals, failing to remain adequately attentive, failing to wait, failing to yield the right-of-way, failing to observe traffic conditions, failing to operate the vehicle at a reasonable rate of speed, failing to apply the brakes in a timely manner, failing to slow or stop, and failing to avoid striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries, including 2 cervical disc herniations, a disc herniation at L4-5, and a concussion.

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

REFERENCE

Kawa vs. Camacho. Docket no. L003758-22; Judge Peter G. Geiger, 04-20-24.

Attorney for plaintiff: Michael W. Carr of Michael W. Carr, Esq. in North Arlington, NJ. Attorney for defendant: Manuel J. Almeida of Rudolph and Kayal Counselors at Law, P.A. in Manasquan, NJ.

$37,500 ARBITRATION AWARD

Motor vehicle negligence – Intersection collision – Plaintiff's vehicle struck broadside by defendant's vehicle after defendant disregards stop – Left shoulder tear – Lumbar disc herniation.

Bergen County, NJ

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

On December 31, 2020, the plaintiff's vehicle was traveling northbound on Grove Street, at its intersection with E Cliff Street in Somerville, New Jersey. At this time, the plaintiff's vehicle was preparing to proceed straight through the subject intersection. At the same time, the defendant's vehicle was traveling westbound on E Cliff Street, toward the same intersection. At the time of the incident, the plaintiff attempted to proceed through the intersection, when the defendant disregarded a stop sign and struck the plaintiff's vehicle broadside.

The plaintiff maintained that the defendant was negligent in failing to obey a stop sign, failing to remain adequately attentive, and failing to yield the right-of-way. Consequently, the plaintiff sustained injuries, including a left shoulder tear and lumbar disc herniation. A doctor for the defendant opined that the plaintiff only sustained soft tissue injuries and that the plaintiff's back injury was degenerative.

The arbitrator in this case found the defendant 90% liable for the accident and the plaintiff 10% liable. The arbitrator reported a net award for the plaintiff in the amount of $33,750. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on September 23, 2024. However, on July 23, 2024, the parties entered into a settlement for an unspecified amount. A stipulation of dismissal was submitted on August 27, 2024.

REFERENCE

Edison Krushova vs. Damien Moye. Docket no. BERL002479-22; Judge Michael N. Beukas, 07-22-24.

Attorney for plaintiff: Nicholas A. Mattera of Law Offices of Nicholas A. Mattera, LLC in Paterson, NJ. Attorney for defendant: Julie H. Robinson of The Law Office of Alphonso H. Ibrahim in Scranton, PA.

$30,000 SETTLEMENT

Motor vehicle negligence – Intersection collision – Defendant disregards red light and enters intersection striking plaintiff's vehicle lawfully in intersection – Concussion – Mood disorder.

Gloucester County, NJ

In this action for motor vehicle negligence, the plaintiffs were lawfully traveling through an intersection when the vehicle was struck on the driver's side by the defendant who entered the same intersection against a red light. The plaintiff driver and her minor child were injured in the collision. The defendant denied entering the intersection against a red light and maintained it was the actions of the plaintiff that caused the collision.

On February 1, 2020, the female adult plaintiff was traveling southbound on Hurffville Crosskeys Road through its intersection with the Crosskeys Bypass, in Washington Township, New Jersey. The defendant was traveling westbound on the Crosskeys Bypass when he unexpectedly disregarded a red traffic signal violently striking the front driver's side of the plaintiff's vehicle, propelling the vehicle into a median, and then again impacting the plaintiffs' vehicle in the rear.

The plaintiff maintained the defendant was negligent in failing to have the motor vehicle under such control as the situation warranted, operating the motor vehicle at a high and excessive rate of speed under the circumstances, operating the motor vehicle in complete disregard of the point and position of the plaintiffs' vehicle, failing to keep a proper lookout, and disregarding a red traffic signal. The plaintiff driver suffered a traumatic symptomatic lumbar disc displacement, including L2-3 and L3-4 disc bulging, L4-5 and L5-S1 disc herniations impinging upon the ventral thecal sac, traumatic symptomatic aggravation of asymptomatic lumbar facet osteoarthritis, acute and chronic L5 radiculopathy, chronic S1 radiculopathy, traumatic symptomatic cervical disc displacement, including C2-3 through C5-6 disc bulging impinging upon the ventral thecal sac, acute and chronic C7 and C8 radiculopathy, chronic C6 radiculitis, bilateral carpal tunnel syndrome, bilateral ulnar neuropathy, post-traumatic stress disorder, and internal derangement of the knees bilaterally. The minor plaintiff passenger suffered a concussion, post-concussion syndrome, anxiety, and mood disorder. The defense argued that the negligence of the plaintiff was greater than the negligence of the defendant, which negligence is denied. In addition, the defense denied that the plaintiffs' allegations of injuries.

A settlement was reached in this action with the parties agreeing to a $30,000 award for the minor. The adult plaintiff's claim was settled out of court.

REFERENCE

Christina Iannetta Individually and as png of Salvatore Iannetta vs. Sheridan Kyle. Docket no. L000016-22; Judge Timothy W. Chell, 08-02-23.

Attorney for plaintiff: Stephen W. Bruccoleri of Bruccoleri Law, LLC in Voorhees, NJ. Attorney for defendant: Beth M. Csontos of Law Offices of Nancy L. Callegher in Oklahoma City, OK.

$23,900 ARBITRATION AWARD

Motor vehicle negligence – Intersection collision – Plaintiff's vehicle struck in side by defendant's vehicle after defendant disregards red light – Cervical disc bulges from C3-C6 with radiculopathy at C5-6 – Lumbar disc herniation with radiculopathy at L5-S1.

Morris County, NJ

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

On October 23, 2020, the plaintiff's vehicle was traveling westbound on Quaker Church Road, at or near its intersection with CR670 in Randolph, New Jersey. At this time, the plaintiff's vehicle was attempting to proceed straight through the subject intersection with a green light in his favor. At the same time, the defendant's vehicle was traveling northbound on CR670, and was approaching a red light at the same intersection. At the time of the incident, the defendant's vehicle ran the red light and proceeded into the intersection as the plaintiff's vehicle was proceeding through. The defendant's vehicle then struck the plaintiff's vehicle. The plaintiff maintained that the defendant was negligent in failing to failing to obey a red light, failing to obey traffic signals, and failing to yield. Consequently, the plaintiff sustained injuries, including cervical disc bulges from C3-6 with radiculopathy at C5-6, as well as lumbar disc herniations with radiculopathy at L5-S1. The plaintiff's injuries were treated with two cervical epidural steroid injections and 2 lumbar epidural steroid injections, as well as one lumbar medial branch block procedure. The plaintiff declined a recommendation for surgery of the lumbar spine. A doctor for the defendant disputed the permanency of the plaintiff's injuries. The defendant maintained that any injuries or damages sustained by the plaintiff were the result of the plaintiff's own contributory negligence.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $23,900. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on February 26, 2024. However, the parties entered into a settlement for an amount not specified on the docket on February 21, 2024. A stipulation of dismissal was submitted on February 23, 2024.

REFERENCE

Jonathan Cordero-Campos vs. Paige Portis. Docket no. MRSL001294-21; Judge Stephan C. Hansbury, 02-21-24.

Attorney for plaintiff: Brent Bramnick of Bramnick Rodriguez Grabas Arnold & Mangan, LLC in Scotch Plains, NJ. Attorney for defendant: James Michael Merendino of Voss Nitsberg DeCoursey & Hawley in Iselin, NJ.

ARBITRATION IN FAVOR OF DEFENDANT

Motor vehicle negligence – Intersection collision – Defendant disregards posted stop sign and enters intersection lawfully occupied by plaintiff striking plaintiff's vehicle – Trochanteric syndrome – Shoulder impingement – Lumbar sprain.

Gloucester County, NJ

The plaintiff in this motor vehicle negligence action maintained that the defendant disregarded a posted stop sign, entering an intersection and striking the plaintiff's vehicle. Consequently, the plaintiff sustained injuries. The defendant denied being liable and claimed the plaintiff caused the collision.

On February 4, 2020, the 44-year-old female plaintiff was lawfully proceeding on sough on Route 45 at its intersection with Tomlin Station Road in Woolwich Township, New Jersey. At the same time the defendant was heading east on Tomlin Station Road. The defendant entered the intersection without stopping at a stop sign impacting the plaintiff's vehicle.

The plaintiff's allegations of negligence against the defendant were failing to stop for a stop sign, failing to yield the right-of-way, and failing to make proper observations of traffic conditions. The plaintiff suffered a right hip contusion with sprain and tendonitis resulting in trochanteric syndrome, cervical sprain and strain with radiculitis, right shoulder contusion with impingement and lumbar injury. The plaintiff underwent an L4-L5 epidural injection performed twice with minimal relief. The defendant denied all allegations of negligence and claimed it was the actions of the plaintiff that caused the collision, and the defendant was faced with a sudden emergency and could not avoid striking the plaintiff's vehicle.

The arbitrators found that the plaintiff failed to meet the verbal threshold and maintained there was no cause of action on damages.

REFERENCE

Marcala Diggs vs. Stephen Sulvetta. Docket no. L000011-22; Judge Timothy W. Chell, 04-13-23.

Attorney for plaintiff: Jordan R. Irwin of Begelman & Orlow, P.C. in Cherry Hill, NJ. Attorney for defendant: Tina Karkera of Earl R. Uehling & Associates in Mt. Laurel, NJ.

Left Turn Collision

$80,000 ARBITRATION AWARD

Motor vehicle negligence – Left turn collision – Plaintiff and defendant traveling in opposite directions when defendant makes left turn into plaintiff's vehicle – Concussion – Cervical/thoracic and lumbar injuries.

Atlantic County, NJ

The plaintiff in this vehicular negligence action was knocked unconscious when his vehicle was struck by the defendant as the defendant attempted a negligent left-hand turn at an intersection. The defendant denied all allegations of negligence and claimed comparative or contributory negligence.

On March 15, 2020, the male plaintiff was operating a vehicle on the Black Horse Pike near its intersection with Noah's Rd. in Pleasantville, New Jersey. The defendant was proceeding in the opposite direction when the defendant attempted a left turn causing her vehicle to impact the plaintiff's vehicle the plaintiff maintained the defendant failed to yield the right of way, failed to keep a proper lookout and failed to avoid striking the plaintiff's vehicle.

Consequently, the plaintiff alleged he suffered a concussion w/loss of consciousness, soft tissue injuries to the cervical, thoracic and lumbar spine regions, bilateral ankle sprains and pain in his right knee. Futures surgery has been recommended including an anterior cervical discectomy and fusion, and a lumbar laminectomy, discectomy and instrumented lumbar fusion. The defendant denied all liability and claimed the actions of the plaintiff, or a superseding cause contributed or caused the accident. The defendant also argued that there was no objective evidence of any permanent injuries related to the crash.

The arbitrator found the defendant to be 100% liable for the plaintiff's injuries and awarded the plaintiff $80,000.

REFERENCE

Jose Santiago vs. Thomas and Maya Seymour. Docket no. ATLL000034-22; Judge Ralph A. Paolone, 04-19-23.

Attorney for plaintiff: Dominic Roman DePamphilis of D'arcy Johnson Day in Egg Harbor Township, NJ. Attorney for defendant: Barbara J. Davis of Marshall, Dennehey, Warner, Coleman & Goggin in Mt. Laurel, NJ.

Multiple Vehicle Collision

$175,000 ARBITRATION AWARD

Motor vehicle negligence – Multi-vehicle rear end collision – Defendant strikes rear of plaintiff's stopped vehicle pushing middle vehicle into rear of vehicle in front of plaintiff's vehicle – Cervical injury – Carpal tunnel – Lumbar injuries – Contusions.

Gloucester County, NJ

The plaintiff i this action for motor vehicle negligence maintained she suffered significant disc injuries to her neck and back causing radiculopathy when her vehicle was struck in the rear by a vehicle that had been struck by in the rear by the defendant. The defendant denied generally denied the plaintiff's allegations and maintained that the plaintiff's injuries did not pierce the threshold for recovery.

On January 16, 2020, the female plaintiff was traveling north on Fries Mill Road when she came to a stop at its intersection with Pitman Downer Road behind another vehicle. While stopped, the plaintiff's vehicle was struck in the rear the defendant, who was traveling at a high rate of speed. The plaintiff's vehicle was pushed into the vehicle in front of her.

The plaintiff maintained that the defendant was negligent in traveling at a high and excessive rate of speed, failing to keep a proper lookout and failing to maintain an assured clear distance. Consequently, the plaintiff suffered a cervical strain and sprain with radicular numbness down the right arm to fingertips, carpal tunnel of the right wrist, lumbar disc herniation at L3-4 with lumbar strain and sprain and radicular pain which is sharp going down her right side into her right leg, left knee contusion and pain into buttocks. The plaintiff made a wage loss claim in the amount of $437,566.00 per an expert report. The defendant denied that the plaintiff's injuries pierce the Limitation on Lawsuit Threshold and argued that the plaintiff had a prior motor vehicle accident in 2018 and has a history of prior cervical injuries/herniations.

The board of arbitrators awarded the plaintiff damages totally $175,000.

REFERENCE

Sylvia Worley vs. Sara Masciocchi. Docket no. L000028-22; Judge Samuel J. Ragonese, 10-03-24.

Attorney for plaintiff: Ronald DeSimone of Law Offices of Ronald DeSimone in Turnersville, NJ. Attorney for defendant: Robert Nicodemo, III of Law Office of Nicodemo & Connell in Haddonfield, NJ.

$30,000 ARBITRATION AWARD

Motor vehicle negligence – Multi-vehicle rear end collision – Plaintiff's vehicle struck in rear during chain-reaction collision caused by defendant's vehicle – Disc herniations from C4-T1 – Disc herniations from L2-S1.

Hudson County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear during a chain-reaction collision caused by the primary defendant's vehicle. The plaintiff became injured as a result. The defendants denied negligence.

On April 8, 2022, the plaintiff's vehicle was traveling eastbound near 100 Skyway in Jersey City, New Jersey. At this time, the primary defendant's vehicle was traveling in the same area, two cars behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle began slowing down to accommodate traffic. As traffic slowed, the primary defendant's vehicle struck the secondary defendant's vehicle in the rear, causing the secondary defendant's vehicle to strike the plaintiff's vehicle in the rear.

The plaintiff maintained that the defendants were negligent in failing to maintain a safe distance from other vehicles, failing to remain adequately attentive, and failing to apply the brakes in a timely manner. Consequently, the plaintiff sustained injuries, including disc herniations from C4-T1, as well as disc herniations from L2-S1. The plaintiff's injuries were treated with 2 epidurals and 2 facet joint injections. The primary defendant denied all allegations of negligence, maintaining that any injuries or damages sustained by the plaintiff were the result of the plaintiff's own contributory negligence.

The arbitrator in this case found the primary defendant 100% liable for the accident and the secondary defendant 0% liable. The arbitrator also reported an award for the plaintiff in the amount of $30,000. Following arbitration, the parties entered into a settlement for $30,000, confirming the arbitration award amount. A stipulation of dismissal was submitted on August 21, 2024.

REFERENCE

Dio Braxton vs. April Foley. Docket no. HUDL003919-22; Judge Anthony V. Delia, 07-02-24.

Attorney for plaintiff: Andrew Park of Law Offices of Andrew Park, PC in New York, NY. Attorney for defendant: Glenn A. Montgomery of Montgomery Fetten in Bridgewater, NJ.

Parking Lot Collision

$90,000 ARBITRATION AWARD

Motor vehicle negligence – Parking lot collision – Plaintiff's parked vehicle struck in side by defendant's vehicle backing out of parking space – Disc herniations at C4-5 and C5-6.

Middlesex County, NJ

In this motor vehicle negligence action, the plaintiff's parked vehicle was struck in the side by the defendant's vehicle backing out of a parking spot, causing the plaintiff to become injured. The defendant generally denied all allegations of negligence, maintaining that any injuries or damages sustained by the plaintiff were the result of the plaintiff's own contributory negligence.

On April 20, 2017, the plaintiff was seated in her parked vehicle in a parking lot located in East Brunswick, New Jersey. At the same time, the defendant's vehicle was also parked in the same lot, in an adjacent parking spot. At the time of the incident, the defendant attempted to back his vehicle out of his parking spot and exit the lot. As the defendant's vehicle was backing out, it collided with the side of the plaintiff's parked vehicle.

The plaintiff maintained that the defendant was negligent in failing to safely and properly back out of a parking spot, failing to remain adequately attentive, and failing to wait for clearance before backing out. Consequently, the plaintiff sustained injuries, including disc herniations at C4-5 and C5-6 with cord impingement. The plaintiff's injuries were treated with epidural injections and future surgery was recommended. A doctor for the defendant opined that the plaintiff did sustain a new disc herniation at C4-5, but that there was no cord impingement.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $90,000. Following arbitration, the defendant's counsel requested a trial de novo. The trial was scheduled to begin on February 26, 2024, but the parties entered into a settlement for an amount not specified on the docket on February 22, before the trial could begin. A notice of settlement was submitted on the same day, and a stipulation of dismissal was submitted on March 5, 2024.

REFERENCE

Heather Panitch vs. Matthew Cidoni. Docket no. MIDL000705-19; Judge Joseph Rea, 03-05-24.

Attorney for plaintiff: Herbert Ellis of Law Offices of Herbert I. Ellis, PC in Freehold, NJ. Attorney for defendant: Cory Bonk of Goldberg, Miller, & Rubin, PC in Fairfield, NJ.

Parking Lot Exit Collision

$45,000 ARBITRATION AWARD

Motor vehicle negligence – Parking lot exit collision – Defendant attempts left turn exiting parking lot and broadsides passenger side of plaintiff's vehicle – Negligently operating vehicle without valid driver's license – Vicarious liability.

Cumberland County, NJ

The plaintiff driver and her passenger were injured in this motor vehicle negligence action when the defendant operated a vehicle for the defendant company out of a parking lot, turning left and broad siding the plaintiff's' vehicle. The defendants claimed the plaintiff driver was comparatively negligent in causing the collision.

On February 12, 2020, the female plaintiff, Jefferson, was traveling northbound on South Main Road, in the Township of Vineland, New Jersey. The plaintiff Cannon was a passenger in the plaintiff's vehicle. At the same time and place, the defendant was the operator of a vehicle owned by defendant excavating company. He was exiting a parking lot located on South Main when he in an attempt to make a left-hand turn, pulled out onto South Main Road and struck the passenger side of the plaintiffs' vehicle.

The plaintiffs maintained the defendant was negligent in operating the vehicle without a driver's license, failing to make proper observations, failing to keep his/her vehicle under control, traveling at an excessive rate of speed for the conditions then and there prevailing and failing to use his/her braking apparatus. The plaintiff driver suffered a cervical herniation at C5-6, radiculopathy at C6-8, 2 epidurals, and a cervical discectomy has been recommended. The plaintiff passenger suffered right knee medial/lateral tears with fraying requiring right knee arthroscopy.

The defense argued that any and all injuries or damages alleged to have been suffered by the plaintiffs were the result of the contributory/comparative negligence of the plaintiffs and should be reduced accordingly. The claims asserted are barred or otherwise diminished by the negligence of the plaintiffs pursuant to the provisions of the New Jersey Comparative Negligence Act.

The board of arbitrators found for the plaintiffs and awarded the plaintiffs $45,000. The defense motioned the court for trial de novo following arbitration and the docket states that the case then settled prior to hearing.

REFERENCE

Ruth Johnson and Bernice Cannon vs. Rafines Excavating, LLC and Martin Rafine. Docket no. L000122-22; Board of Arbitrators, 12-07-23.

Attorney for plaintiff: Paul A. Sochanchak of Lundy Law in Cherry Hill, NJ. Attorney for defendant: Stephen G. Sobocinski of Zirulnik, Demille & Flynn in Mount Laurel, NJ.

Rear End Collision

$95,000 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while stopped at red traffic light – Head injury – Neck pain – Back pain – Right shoulder rotator cuff tear – Surgery required.

Essex County, NJ

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

On August 2, 2018, the plaintiff's vehicle was traveling northbound on Washington Avenue, at or near its intersection with Division Avenue in Belleville, New Jersey. At this time, the plaintiff's vehicle was stopped at the aforementioned intersection for a red traffic light. At the same time, the defendant's vehicle was also traveling on Washington Avenue, toward the same intersection and directly behind the plaintiff's vehicle. At the time of the incident, the defendant's vehicle struck the plaintiff's vehicle in the rear.

The plaintiff maintained that the defendant was negligent in failing to maintain a safe distance from other vehicles, failing to remain adequately attentive, and failing to obey a red light. Consequently, the plaintiff sustained injuries, including head injury, neck pain, back pain, and a right shoulder rotator cuff tear. The plaintiff was treated with chiropractic care as well as a surgical procedure to the right shoulder, which a doctor for the defense opined was unrelated to the accident.

The arbitrator in this case found the primary defendant 100% liable for the accident, and reported an award for the plaintiff in the amount of $95,000. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on June 19, 2023. However, a stipulation of dismissal written on April 3, 2023, stated that the parties had entered into a settlement for an amount not specified on the docket. The stipulation of dismissal was submitted April 21, 2023.

REFERENCE

Celene Marin vs. Carol M. Cyrus, Audelino Serrano. Docket no. ESXL002335-20; Judge Keith E. Lynott, 04-21-23.

Attorney for plaintiff: Richard L. Kuhrt of Kuhrt, Femia & Kuhrt, LLC in Elizabeth, NJ. Attorney for defendant: Thomas W. Matthews of Soriano, Henkel, Biehl & Matthews in Roseland, NJ.

$77,000 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while slowing for traffic – Tear at L5-S1 – Lumbar disc herniation at L1-2 – Lumbar disc bulges from L3-L5 – Grade 1 sprain of ACL and MCL with tendonitis and joint effusion.

Bergen County, NJ

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

On June 14, 2018, the plaintiff's vehicle was traveling westbound on Route 3 in East Rutherford, New Jersey. At the same time, the defendant's vehicle was also traveling westbound on Route 3, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle began to slow down to accommodate traffic ahead. As the plaintiff's vehicle slowed down, it was suddenly struck in the rear by the defendant's vehicle.

The plaintiff maintained that the defendant was negligent in failing to maintain a safe distance from other vehicles, failing to remain adequately attentive, and failing to observe traffic conditions. Consequently, the plaintiff sustained injuries, including a tear at L5-S1, lumbar disc herniation at L1-2, lumbar disc bulges from L3-L5, and a grade 1 sprain of the right ACL and MCL with tendonitis and joint effusion. The plaintiff's injuries were treated with physical therapy, and at the time of arbitration the plaintiff had epidural injections scheduled. A doctor for the defendant conceded that the plaintiff had sustained herniations, bulges, and sprains, but maintained that they were not traumatic.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $77,000. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to begin on February 5, 2024. However, the docket indicates that the parties entered into a settlement prior to the initial hearing, on February 1, 2024.

REFERENCE

Adel Hanna vs. Michael Jelinsky. Docket no. BERL003102-20; Judge John D. Odwyer, 02-03-24.

Attorney for plaintiff: Nova Damouni of Law Offices of Rosemarie Arnold, LLP in Fort Lee, NJ. Attorney for defendant: Keith A. Bursack of Goldberg, Miller, & Rubin in Fairfield, NJ.

$55,000 VERDICT

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while slowing for traffic – Thoracic disc herniation at T11-12 – Cervical, thoracic and lumbar sprain/strain – Headaches and concussion – Bilateral knee pain.

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 slowing for traffic causing the plaintiff to sustain injuries. The defendant generally denied all allegations of negligence.

On June 30, 2017, the plaintiff's vehicle was traveling southbound on the Garden State Parkway in Middletown Township, New Jersey. At the same time, the defendant's vehicle was also traveling southbound on the Parkway, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff noticed heavy traffic ahead, and began to slow down. While the plaintiff was slowing down to accommodate traffic, his vehicle was suddenly struck in the rear by the defendant's vehicle.

The plaintiff maintained that the defendant was negligent in failing to remain adequately attentive, failing to maintain a safe distance from other vehicles, and failing to obey traffic conditions. Consequently, the plaintiff sustained injuries, including thoracic disc herniation at T11-12, cervical, thoracic, and lumbar sprain/strain, headaches and concussion, and bilateral knee pain. A doctor for the defendant disputed the causation and permanency of the plaintiff's injuries.

The arbitrators in this case found the defendant 100% liable for the accident, and reported an award for the plaintiff in the amount of $55,000. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on May 22, 2023. However, on April 26, 2023, the parties entered into a settlement for an amount not specified on the docket. A stipulation of dismissal was submitted on May 25, 2023.

REFERENCE

Andres Hualpa vs. Chandrapaul Harrycharran. Docket no. ESXL004417-19; Judge Richard T. Sules, 05-25-23.

Attorney for plaintiff: Andrew F. Garruto of Garutto & Calabria, LLC in Nutley, NJ. Attorney for defendant: Mary S. Khym of Hughes & Associates in Hackensack, NJ.

$42,500 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while slowing for traffic – Thoracic disc herniation at T8-9 – Cervical and lumbar soft tissue injuries.

Bergen County, NJ

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

On September 27, 2019, the plaintiff's vehicle was traveling southbound on the Garden State Parkway, at Mile Post 159.1 in Bloomfield, New Jersey. At this time, the defendant's vehicle was also traveling southbound on the Garden State Parkway, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle began to slow down to accommodate heavy traffic ahead. As the plaintiff's vehicle slowed down, it was suddenly struck in the rear by the defendant's vehicle.

The plaintiff maintained that the defendant was negligent in failing to obey traffic conditions, failing to remain adequately attentive, and failing to maintain a safe distance from other vehicles. Consequently, the plaintiff sustained injuries, including thoracic disc herniation, as well as cervical and lumbar soft tissue injuries. A doctor for the defendant disputed the causality and permanence of the plaintiff's injuries.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $42,500. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on March 4, 2024. However, the parties entered into a settlement prior to the hearing. A stipulation of dismissal was submitted on February 3, 2024.

REFERENCE

Anna Rybka vs. Gloria Reyes. Docket no. L003079-21; Judge Michael N. Beukas, 02-03-24.

Attorney for plaintiff: Francesca Nicholas of Law Office of Rosemarie Arnold in Fort Lee, NJ. Attorney for defendant: Julie H. Robinson of Ibrahim and Jackson in Scranton, PA.

$15,000 ARBITRATION AWARD

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while stopped at red traffic light – Cervical disc herniation at C5-6 – Lumbar radiculopathy at L5.

Hudson County, NJ

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

On April 6, 2018, the plaintiff's vehicle was traveling on Baldwin Avenue, at or near its intersection with High Street, in Jersey City, New Jersey. At this time, the plaintiff's vehicle was stopped at a red traffic light at the subject intersection. At the same time, the defendant's vehicle was also traveling on Baldwin Avenue and was approaching the subject intersection, directly behind the plaintiff's vehicle. While the plaintiff's vehicle was stopped at the red traffic light, it was suddenly struck in the rear by the defendant's vehicle.

The plaintiff maintained that the defendant was negligent in failing to obey traffic signals, failing to remain adequately attentive, and failing to maintain a safe distance from other vehicles. Consequently, the plaintiff sustained injuries, including cervical disc herniation at C5-6 and lumbar radiculopathy at L5. Future surgery was recommended to the plaintiff for the cervical disc herniation, but at the time of arbitration the plaintiff had not yet pursued it. A doctor for the defendant opined that the plaintiff did not sustain a permanent injury.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $15,000. Following arbitration, the defendant's counsel requested a trial de novo, which was scheduled to take place on May 8, 2023. However, the parties entered into a settlement conference on April 20, 2023, before the trial could begin. On the same day, the Honorable Joseph A. Turula ordered that the case be dismissed, due to the parties entering into a settlement for an unspecified amount.

REFERENCE

Ahlam Youssef vs. Zoila Gavidia. Docket no. HUDL003213-19; Judge Christine M. Vanek, 04-29-23.

Attorney for plaintiff: Richard Del Vacchio of Del Vacchio O'Hara, PC in Flemington, NJ. Attorney for defendant: Bruno K. Brunini of Tango, Dickinson, Lorenzo McDermott & McGee, LLP in Millburn, NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle at intersection – Cervical disc herniations at C3-4, C4-5, C5-6, and C6-7 – Lumbar disc herniations at L2-3, L3-4, L4-5, and L5-S1 – Cervical disc bulge at C7-T1 – Lumbar disc bulge – Right shoulder tear – Neck pain – Back pain.

Bergen County, NJ

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

On April 3, 2019, the plaintiff's vehicle was traveling on Route 9 West, at Mile Post No. 007.01, near its intersection with Glen Goin Drive in Alpine, New Jersey. At this time, the defendant's vehicle was also traveling on Route 9 West at Mile Post No. 007.01, directly behind the plaintiff's vehicle. At the time of the incident, the plaintiff's vehicle was attempting to proceed toward and through the subject intersection. At the subject intersection, the plaintiff's vehicle was suddenly struck in the rear by the defendant's vehicle.

The plaintiff maintained that the defendant was negligent in failing to maintain a safe distance from other vehicles, failing to remain adequately attentive, and failing to obey traffic conditions. Consequently, the plaintiff sustained injuries, including cervical disc herniations at C3-4, C4-5, C5-6, and C6-7, lumbar disc herniations at L2-3, L3-4, L4-5, and L5-S1, cervical disc bulge at C7-T1, lumbar disc bulge at L1-2, right shoulder tear, neck pain, and back pain. The plaintiff's injuries were treated conservatively and with epidural steroid injections. A doctor for the defendant opined that the plaintiff's injuries resolved without permanency, and that some were degenerative.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $60,000. Following arbitration, the defendant's counsel requested a trial de novo. The trial took place from February 5, 2024, to February 8, 2024, before a jury that returned a verdict of no cause for action in favor of the defendant. On February 27, 2024, the Honorable Anthony Suarez ordered that the verdict be entered as a judgment against the plaintiff and in favor of the defendant.

REFERENCE

John Park vs. Robert Brobeck. Docket no. L001566-21; Judge Nicholas Ostuni, 02-27-24.

Attorney for plaintiff: Nicholas R. Farnolo, Esq. of Napoli Shkolnik, PLLC in New York, NY. Attorney for defendant: Ellen Camburn of Chasan Lamparello Mallon & Cappuzzo, PC in Secaucus, NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Rear end collision – Plaintiff's vehicle struck in rear by defendant's vehicle while stopped at red light – Disc herniation at L5-S1 – Cervical disc bulge at C2-3 – Aggravation of disc bulges at C4-7 and L3-5 – Neck and back pain – Pain down left leg.

Middlesex County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the rear by the defendant's vehicle while stopped at a red light causing the plaintiff driver and passenger to sustain injuries. The defendant generally denied all allegations of negligence.

On November 18, 2018, the plaintiff's vehicle was traveling northbound on Route 27, at or near its intersection with Plainfield Avenue in Edison, New Jersey. At this time, the plaintiff's vehicle was stopped at a red light at the aforementioned intersection. At the same time, the defendant's vehicle was also traveling northbound on Route 27, directly behind the plaintiff's vehicle. At the time of the incident, the defendant's vehicle struck the plaintiff's vehicle in the rear while it was stopped at the subject intersection. The plaintiff maintained that the defendant was negligent in failing to obey traffic signals including a red light, failing to maintain a safe distance from other vehicles, and failing to remain adequately attentive. Consequently, the plaintiff sustained injuries, including a disc herniation at L5-S1, a cervical disc bulge at C2-3, aggravation of disc bulges from a previous motor vehicle accident at C4-7 and L3-5, neck and back pain, and pain down the left leg. A plaintiff passenger also sustained injuries, including a lumbar disc herniation at L4-5 and a disc bulge at L5-S1. The defendant maintained that any and all damages or injuries sustained by the plaintiff were the result of a third party over which the defendant had no control.

The arbitrator in this case found the defendant 100% liable and reported an award for the plaintiff in the amount of $35,000. Following arbitration, the defendant's counsel requested a trial de novo. The trial took place from March 25-26, 2024, as well as April 1-3, 2024, at which time the jury returned a unanimous verdict that the plaintiff did not sustain a permanent injury proximately caused by the subject motor vehicle accident. On April 18, 2024, the Honorable Christopher Rafano ordered that a judgment of no cause for action be entered in favor of the defendant.

REFERENCE

Jorge Martinez-Ramos vs. Eva Naumiuk. Docket no. MIDL006803-20; Judge Ana C. Viscomi, 04-03-24.

Attorney for plaintiff: Eugene S. Wishnic of Wishnic & Jerushalmy Law Group in New Brunswick, NJ. Attorney for defendant: John A. Camassa of Camassa Law Firm, PC in Wall, NJ.

Reckless Driving

$45,000 ARBITRATION AWARD

Motor vehicle negligence – Reckless driving – Defendant attempts to pass plaintiffs' vehicle on left negligently striking driver's side front of plaintiffs' vehicle – Various injuries to plaintiff driver and 2 minor passengers.

Atlantic County, NJ

In this action for motor vehicle negligence, the plaintiff driver and her 2 minor children were in a vehicle that was struck on the driver's side when the defendant driver negligently attempted to pass the plaintiffs' vehicle on the left. The plaintiffs suffered various injuries. The defendant argued it was the actions of the plaintiff driver that caused the collision.

On January 31, 2020, the adult plaintiff was operating a vehicle traveling northbound on Cape May Ave., also known as Route 50, at its intersection with 7th St. in Mays Landing, New Jersey. The minor plaintiffs were passengers in the vehicle. The plaintiff driver was attempting a lawful left turn when the defendant attempted to pass the plaintiffs' vehicle on the left striking the front driver side of the plaintiffs' vehicle.

The plaintiffs alleged that the defendant negligently attempted to pass on the left, failed to have the vehicle under proper and adequate control and failed to operate the vehicle in accordance with traffic lanes, patterns and conditions. The plaintiff driver suffered a concussion, left knee pain, aggravation of cervical and lumbar with radiculopathy requiring pain injections, headaches, insomnia and inability to continue her job as a cocktail waitress.

The 14-year-old minor plaintiff suffered neck and back strain and sprain with some continued discomfort. The 15-year-old minor plaintiff suffered neck and back strain and sprain with no lingering symptoms. The defendant denied being negligent and argued that he was traveling straight in the travel lane when plaintiff attempted to merge into his lane. In addition, the defendant maintained that the plaintiff complained of similar complaints from a prior accident.

The arbitrator found the defendant to be 100% liable for the collision. The arbitrator awarded the plaintiff $35,000 and each minor plaintiff $5,000 for a total award of $45,000. Following the arbitration, the defense requested trial de Novo which the court granted. The minor who suffered no ongoing injury from the accident settled with the defendant for $4,000. The plaintiff driver and the second minor's claims are still pending.

REFERENCE

Jade Lopez, individually, Andrea Clay-Lopez, by and through her parent and legal guardian, Jade Lopez and Tatiana Lopez, by and through her parent and legal guardian, Jade Lopez vs. James L. Grams, III. Docket no. ATLL000011-22; Judge Danielle J. Walcoff, 03-06-24.

Attorney for plaintiff: L. Richard Leclair, III of Law Offices of Richard Stoloff in Linwood, NJ.

Sideswipe Collision

$35,000 ARBITRATION AWARD

Motor vehicle negligence – Sideswipe collision – Plaintiff's vehicle struck in side by defendant's vehicle after defendant enters plaintiff's lane – Cervical disc herniations and radiculopathy.

Essex County, NJ

In this motor vehicle negligence action, the plaintiff's vehicle was struck in the side by the defendant's vehicle after the defendant entered the plaintiff's lane of travel. The plaintiff became injured as a result. The defendant generally denied all allegations of negligence.

On February 17, 2019, the plaintiff's vehicle was traveling westbound on 14th Street in Jersey City, New Jersey. At the same time, the defendant's vehicle was also traveling westbound on 14th Street, in close proximity to the plaintiff's vehicle. At the time of the incident, the defendant's vehicle swerved into the plaintiff's lane and sideswiped the plaintiff's vehicle before fleeing the scene.

The plaintiff maintained that the defendant was negligent in failing to remain in the correct lane of travel, failing to observe the plaintiff's vehicle, and failing to remain adequately attentive. Consequently, the plaintiff sustained injuries, including cervical disc herniations and radiculopathy, all of which were treated conservatively. A doctor for the defendant disputed causation and permanency.

The arbitrator in this case found the defendant 100% liable for the accident and reported an award for the plaintiff in the amount of $35,000. Following arbitration, the plaintiff's counsel requested a trial de novo, which was scheduled for September 16, 2024. However, the parties entered into a settlement on June 28, 2024. A stipulation of dismissal was submitted on August 20, 2024.

REFERENCE

Ahmed Abougarbouh vs. Henry Delos Santos, American United Transportation. Docket no. ESXL001149-21; Judge L. Grace Spencer, 08-20-24.

Attorney for plaintiff: Edward F. Szep, Esq. of Ginarte Gallardo Gonzalez & Winograd, L.L.P. in Newark, NJ. Attorney for defendant: Michael Kelly of Ronan, Tuzzio & Giannone in Tinton Falls, NJ.

MUNICIPAL LIABILITY

$60,000 GROSS ARBITRATION AWARD

Municipal liability – Hazardous condition – Minor plaintiff collides with wall playing basketball on defendant's property in game organized by defendant – Trimalleolar fracture – 3 surgeries.

Atlantic County, NJ

The minor plaintiff in this action suffered a serious injury to his right ankle which required multiple surgeries when he ran into a wall while playing basketball on the defendant city's premises in a game organized by the defendant city. The defendants denied being liable and argued that it was the actions of the plaintiff that caused the incident and damages.

On January 8, 2020, the 13-year-old male minor was lawfully on the defendant's premises participating in a youth basketball game organized by the defendant Atlantic City Policed Athletic League. During the game, the plaintiff attempted to block another player from scoring and was caused to crash into the wall behind the basket resulting in serious injuries. The plaintiff maintained that distance between the end of the basketball court and the wall was insufficient and the court was in too short a space so that it created a dangerous and unsafe condition. Additionally, the padding on the wall where the incident occurred was not sufficient or of a safe kind and increased the risk of harm to the plaintiff.

As a result, the plaintiff's foot hit the wall and he suffered a trimalleolar fracture of the right ankle that required 3 surgeries. The plaintiff was unable to participate in all activities for several months, and claimed permanent significant disfigurement from surgical scars, ongoing pain and discomfort, reduced function, and continued swelling. The defendant argued that it was the actions of the plaintiff that caused the incident. In addition, the defendants stipulated that the plaintiff has some residual swelling, and stiffness, but argued that the plaintiff has returned to playing basketball and other weight bearing activities, and that the plaintiff has recovered "extremely well and is back to being very active".

The arbitration panel found the defendant 50% liable and the plaintiff 50% liable. The panel awarded the plaintiff $60,000 which was reduced accordingly to $30,000. The defense made a request for De Novo Trial and a trial was scheduled for December of 2024. The parties settled out of court in October of 2024.

REFERENCE

Mason Forte a minor by and through his png Dennis Forte vs. City of Atlantic City and Atlantic City Police Athletic League. Docket no. ATLL000039-22; Judge John C. Porto, 07-31-24.

Attorney for plaintiff: Michael Ruggieri of Michael Ruggieri, LLC in Newtown Square, PA.

PERSONAL NEGLIGENCE

$125,000 ARBITRATION AWARD

Personal negligence – Plaintiff business invitee injured when employee strikes him with stock cart at defendant hardware store – Lumbar disc bulge at L4-5 – Disc osteophyte at C5-6 and C6-7 – Lumbar radiculopathy.

Essex County, NJ

In this personal injury action, the plaintiff was injured while visiting the defendant hardware store when an employee struck him with a stock cart. The defendants generally denied all allegations of negligence.

On August 13, 2019, the plaintiff was a lawful business invitee visiting the defendant hardware store, which was located on the premises of 2438 U.S. Highway 22E in Union, New Jersey. On this day at approximately 11:00 am, the plaintiff was traversing the aisles inside the store. At the time of the incident, an employee pushing a loaded stock cart approached the plaintiff from behind. The employee then struck the plaintiff with the stock cart, causing him to become injured.

The plaintiff maintained that the defendants were negligent in failing to properly train employees and failing to ensure safe conditions on the premises of the store. Consequently, the plaintiff sustained injuries, including a lumbar disc bulge at L4-5, disc osteophyte at C5-6 and C6-7, and lumbar radiculopathy. The plaintiff's injuries were treated with epidural injections as well as discectomy and decompression surgery at L4-5. A doctor for the defendants opined that the plaintiff's injuries were degenerative.

The arbitrator in this case found the defendants 100% liable for the accident and reported an award for the plaintiff in the amount of $125,000. Following arbitration, the plaintiff's counsel requested a trial de novo, which was scheduled to take place on July 1, 2024. Then, a settlement conference was scheduled for June 14, 2024, but was cancelled. On October 10, 2024, a stipulation of dismissal was submitted, which indicated that the matter had been amicably adjusted between the parties.

REFERENCE

William Hibbler vs. Harbor Freight Tools. Docket no. ESXL005543-21; Judge Robert H. Gardner, 10-10-24.

Attorney for plaintiff: Ricky E. Bagolie of Bagolie-Friedman, LLC in Jersey City, NJ. Attorney for defendant: Todd Harris of Goldberg Segalla, LLP in Newark, NJ.

PREMISES LIABILITY

Fall Down

$150,000 ARBITRATION AWARD

Premises liability – Fall down – Plaintiff slips and falls on wet floor in hotel bathroom when toilet overflows with soapy water – Aggravation of degeneration of left knee – Left arm injury – Left hip injury – Lower back pain.

Atlantic County, NJ

In this premises liability action, the plaintiff slipped and fell in a hotel bathroom when the toilet overflowed with soapy water, causing him to fall and become injured. The defendants generally denied all allegations of negligence.

On June 23, 2019, the plaintiff was a lawful invitee and guest staying at the defendant hotel, located on the premises of 123 S Indiana Avenue in Atlantic City, New Jersey. The hotel was owned, operated, and maintained by the defendants at this time. On this day, the plaintiff was in his hotel room, when the toilet in the bathroom suddenly and inexplicably began to overflow with "soapy water", which began to cover the floor. The plaintiff then went into the bathroom and slipped on the substance.

The plaintiff maintained that the defendants were negligent in failing to maintain safe and adequate conditions on the premises, failing to inspect the premises, and failing to ensure that the subject toilet was in proper working order for hotel guests. Consequently, the plaintiff sustained injuries, including aggravation of a degenerative condition of the left knee which will likely require knee replacement surgery to repair. Additionally, the plaintiff sustained a left arm injury, left hip injury, and lower back pain. The plaintiff received multiple injections to the left knee. A doctor for the defendants argued that the plaintiff's injuries were degenerative.

The arbitrator in this case found the defendants 100% liable for the accident and reported an award for the plaintiff in the amount of $150,000. Following arbitration, the plaintiff's counsel requested a trial de novo, which was scheduled to take place on May 20, 2024. However, the trial was cancelled and a stipulation of dismissal was submitted on April 22, 2024, indicating that the parties had come to an unspecified settlement amount.

REFERENCE

Frank Ferraro vs. Claridge Hotel Casino. Docket no. ATLL001751-21; Judge Ralph A. Paolone, 04-27-24.

Attorney for plaintiff: Thomas J. Vesper of Westmoreland Vesper Quattrone & Beers, P.A. in West Atlantic City, NJ. Attorney for defendant: James J. Law of Dengler & Lipski.

$90,000 ARBITRATION AWARD

Premises liability – Fall down – Plaintiff trips and falls over raised ramp near entrance of defendant supermarket – Nondisplaced fracture of fifth metacarpal.

Bergen County, NJ

In this premises liability action, the plaintiff tripped and fell over a raised ramp near the entrance of the defendant supermarket. The plaintiff became injured as a result. The defendants generally denied all allegations of negligence.

On November 26, 2021, the plaintiff was a lawful visitor and business invitee at the defendant supermarket, located on the premises of 574 West Englewood Avenue in Teaneck, New Jersey. At this time, the plaintiff was traversing near the front entrance of the store, by a ramp that led up to the doors. At the time of the incident, the plaintiff encountered a raised section of the ground in the area of the ramp and tripped, causing him to fall.

The plaintiff maintained that the defendants were negligent in failing to prevent a tripping hazard on the premises, failing to warn of a tripping hazard on the premises and failing to provide safe passage on the premises. Consequently, the plaintiff sustained injuries, including a nondisplaced fracture of the fifth metacarpal. Future fusion surgery was recommended. A doctor for the defendants opined that the plaintiff did not need fusion surgery and that he would not develop arthritis. The defendants maintained that any injuries or damages sustained by the plaintiff were the result of the plaintiff's own contributory negligence.

The arbitrator in this case found the defendants 90% liable for the accident and the plaintiff 10% liable. The arbitrator reported an award for the plaintiff in the amount of $90,000. Following arbitration, the defendants' counsel requested a trial de novo, which was scheduled to take place on September 9, 2024. However, the parties instead entered into a settlement conference with a judge on July 15, 2024, at which time the parties agreed on a settlement amount not specified on the docket.

REFERENCE

Toby Smith vs. Trader Joe's Company. Docket no. BERL003557-22; Judge Peter G. Geiger, 07-15-24.

Attorney for plaintiff: Daniel N. Epstein of Epstein Ostrove, LLC in Edison, NJ. Attorney for defendant: Gary J. Intoccia of McGivney, Kluger, Clark & Intoccia, P.C. in Florham Park, NJ.

$67,300 ARBITRATION AWARD

Premises liability – Fall down – Plaintiff trips and fall over exposed metal bracket on defendant's hotel walkway – Negligently allowing hazardous condition to exist – Right rotator cuff tear.

Atlantic County, NJ

The plaintiff in this premises liability action maintained that the defendants created, caused or allowed a hazardous condition to exist on the hotel's walkway which caused the plaintiff to trip and fall and suffer injuries. The defendants denied all allegations of negligence.

On February 2, 2020, the 63-year-old male plaintiff was a lawful invitee of the defendants' hotel/motel premises when he was caused to trip and fall on an exposed metal bracket or fixture which was embedded in the concrete of the exterior walkway, approximately 2 inches above the ground. The plaintiff maintained the metal caused or created a tripping hazard and that there was no warning of the hazardous and dangerous condition. As he fell, his right hand was jammed back into his right shoulder.

The plaintiff maintained he suffered a right rotator cuff tear with biceps tendon instability, mild supraspinatus muscle effusion extending through a full thickness rotator cuff tear into the bursa, acromioclavicular joint osteoarthritis with bone spur and pain to the right shoulder. The defendants Knights Inn Franchise and Red Lion, denied any liability for this incident on basis that, at the time, defendants Maisuria and HR "solely owned the property and the same was solely in [their] custody, control, and responsibility." Defendants Maisuria and HR generally denied all the plaintiff's allegations and argued that the plaintiff's own actions caused or contributed to the incident and the resulting damages.

The arbitrator found that the defendants Maisuria and HR Hospitality were 100% liable for the incident. The arbitrator awarded the plaintiff $67,300.

REFERENCE

Edward D'Amico vs. Knights Inn Atlantic City, Knights Inn, Knights Franchise Systems, Inc. Red Lion Hotels Corporation, HR Hospitality and Randhir Maisuria. Docket no. ATLL000038-22; Judge John C. Porto, 05-01-24.

Attorney for plaintiff: Joseph Lukomski of Rovner Allen Rovner Zimmerman in Cherry Hill, NJ. Attorney for defendant: Frank Fusco of Law Offices of Frank Fusco in Clifton, NJ.

DEFENDANT'S VERDICT

Premises liability – Fall down – Plaintiff slips and falls on ice cube on steps of defendant's drug treatment facility – Right ankle fracture.

Ocean County, NJ

The plaintiff in this premises liability action was lawfully using the steps of the defendant's drug treatment center when he slipped and fell on an ice cube sustaining injury. The defendant denied being negligent and argued the plaintiff simply misstepped when exiting the property causing him to fall.

On January 28, 2020, the male plaintiff was lawfully on the defendant's premises located on New York Avenue in Trenton, New Jersey. This facility is a drug treatment facility in which Mr. Pettersson was a patient, and thus would be considered an invitee under the law. Suddenly and without warning, the plaintiff was caused to slip and fall on a wet floor containing ice cubes.

The plaintiff maintained that the defendant was negligent in failing to properly maintain the premises and failing to warn of the dangerous condition. He testified that when there is no line, he enters the healthcare clinic, goes to the medicine window, drinks the medicine, and leaves. At the deposition, Mr. Pettersson testified that he was walking down the steps leaving the healthcare facility when he slipped, and his right ankle twisted causing an ankle fracture. The defendant denied all allegations and alleged that the plaintiff had a misstep leaving the premises on January 28, 2020, causing a minor injury to his ankle.

The defense motioned the court for summary judgment, arguing they were entitled to summary judgment as the plaintiff is unable to make a prima facie showing in this case, which the court granted.

REFERENCE

Michael Petterson vs. Recovery Health Centers. Docket no. OCNL000003-22; Judge Valter Must, 05-26-23.

Attorney for plaintiff: Brian Mark Harrison of Harrison & Christos in Lakewood, NJ. Attorney for defendant: Ryan T. Garrison of Marshall Dennehey in Roseland, 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

$44,894,878 VERDICT – MEDICAL MALPRACTICE – HOSPITAL NEGLIGENCE – DEFENDANT HOSPITAL DISCHARGES PLAINTIFF WITH SEVERE DYSPHAGIA – PLAINTIFF ASPIRATES ON MASHED POTATOES – HYPOXIC RESPIRATORY FAILURE – CARDIAC ARREST RESULTING IN NEUROLOGIC INJURY.

Philadelphia County, PA

The plaintiff in this medical malpractice action maintained that the defendant hospital negligently discharged the plaintiff while he suffered from severe dysphagia as a result of a gunshot wound to the neck. Due to the dysphagia, the plaintiff aspirated on mashed potatoes 2 days after discharge, resulting in a hypoxic injury, cardiac arrest, encephalopathy and myoclonic jerks. The defense argued that it treated the plaintiff properly and that the plaintiff failed to follow proper discharge instructions.

The plaintiff maintained that the defendant hospital was negligent in failing to perform a follow-up swallow study on the plaintiff, discharging the plaintiff with severe dysphagia, deviating from the standards of care, and issuing discharge instructions permitting the eating of mashed potatoes for a patient with severe dysphagia. Due to his hypoxic injury and cardiac arrest, the plaintiff requires constant care and supervision.

The jury found that the defendant was negligent and their negligence a factual cause of the plaintiff's injuries. The jury also determined that although the plaintiff was comparatively negligent, his negligence was not a factual cause of his injuries. The jury awarded the plaintiff past damages in the amount of $1,051,750.70 and $43,843,127.30 in future damages for a total of $44,894,878. The plaintiff's demand was $32,000,000, and the defense offered $500,000.

REFERENCE

Dylan Hernandez vs. Temple University Hospital, Inc. Case no. 211001422; Judge Glynnis Hill, 08-05-24.

Attorney for plaintiff: Thomas Duffy of The Duffy Law Firm, PLLC in Philadelphia, PA. Attorneys for defendant: Joe Tucker and Rebecca Waddell of The Tucker Law Group, LLC in Philadelphia, PA.

$10,000,000 SETTLEMENT ($7,000,000 OVER POLICY) – MEDICAL MALPRACTICE – RADIOLOGY – MISREAD MRI LEADS TO RUPTURED BRAIN ANEURYSM – INABILITY TO COMMUNICATE – PERMANENT FEEDING TUBE – LIFETIME LONG-TERM CARE.

Middlesex County, NJ

In this action for medical malpractice, the plaintiff had a family history of cerebral aneurysms, so she requested a brain scan at age 45 and underwent an MRI angiogram by neuroradiologist Dr. Lam of Associated Radiologists which was later acquired by University Radiology. 5 years later at the age of 50, the aneurysm ruptured, and she now lives in an extended care facility where she does not communicate and is fed with a stomach tube. The defendant doctor testified that at depositions that she still does not see the aneurysm and the defense argued that the aneurysm was in a location that was difficult to visualize.

The defense further argued that there were risk factors to perform the surgical repair and those risk factors outweighed the risk of rupture. The plaintiff countered with experts that opined that the aneurysm was detectable and that the argument that a surgical repair would not have been done should not even be permitted as a matter of law.

The case settled on the first day of trial with the assistance of Judge Cresitello before the in limine motions were heard. The plaintiff insisted on having the group that acquired the practice pay millions over the policy and after a year of negotiation on this demand, the case settled for $10 million which was $7 million over the policy.

REFERENCE

Cremone vs. Lam. Docket no. MID-L-3241-19.

Attorneys for plaintiff: Bruce H. Nagel and Susan Connors of Nagel Rice, Roseland, NJ (Trial and Settlement Counsel) of Nagel Rice, LLP in Roseland, NJ. Attorney for plaintiff: Roy Konray of Tobin, Kessler in Clark, NJ.

$4,200,000 SETTLEMENT – MEDICAL MALPRACTICE – ANESTHESIOLOGY – ANESTHESIOLOGIST FAILS TO STOP ROUTINE IUD REMOVAL WHEN PATIENT SHOWS SIGNS OF DISTRESS INCLUDING DROP IN BLOOD PRESSURE AND DIMINISHED OXYGEN LEVELS – WRONGFUL DEATH OF 46-YEAR-OLD MOTHER OF 2.

Essex County, NJ

In this medical malpractice action, the estate of the decedent maintained that she suffered a medical emergency after the anesthesiologist did not stop the non-emergent procedure to remove an embedded IUD when she showed signs of distress. She experienced a drop in blood pressure and diminished oxygen levels and the anesthesiologist still did not stop the procedure. She never regained consciousness and died a month later. The defense contended that she died of an unforeseen heart attack, despite the fact that she was cleared for surgery and had no history of heart issues.

The decedent's estate contended that the drop in blood pressure and lack of oxygen was the cause of her death. She was married, the mother of 2 children, and much admired school teacher.

The carrier tended the $2 million policy which was rejected. The plaintiff pursued the excess demand against Mednax, the large group that had purchased American Anesthesia of New Jersey. Mednax paid $2.2 million over the coverage, which is not common in the medical malpractice cases.

REFERENCE

Crisafulli vs. Scala, et al. Docket no. ESX-L-57-20.

Attorneys for plaintiff: Bruce H. Nagel and Susan Connors of Nagel Rice, LLP in Roseland.

Attorney for plaintiff: Icaza, Burgess & Grossman, PC in Newark, NJ. Attorney for defendant: Decker & Magaw in Westfield, NJ.

PRODUCT LIABILITY

$7,094,612 VERDICT – PRODUCT LIABILITY – FAILURE TO WARN – ASBESTOS – PLAINTIFF DEVELOPS MESOTHELIOMA AFTER EXPOSURE TO ASBESTOS FROM EX-HUSBAND'S WORK AS MECHANIC ON DEFENDANTS' AUTOMOTIVE PRODUCTS CONTAINING ASBESTOS – MALIGNANT PERITONEAL MESOTHELIOMA – SURGERY AND CHEMOTHERAPY – SHORTENED LIFESPAN.

Miami-Dade County, FL

In this product liability case, the plaintiff asserted that the defendant auto manufacturer and dealer employed asbestos products in their vehicles and failed to warn of the dangers of asbestos in their automotive products. The plaintiff's former husband worked with the defendants' products and the plaintiff developed mesothelioma as a result of secondary exposure to asbestos via her ex-husband. The plaintiff's current husband also filed a claim for loss of consortium. The defendants maintained that their products contained warnings from approximately 1985 onwards and included the time period that the plaintiff's ex-husband worked with their materials.

The plaintiff claimed that her former husband worked as an auto mechanic in several settings and through that work was exposed to chrysotile asbestos-containing friction products and unknowingly brought that material home on his person and his clothing and exposed the plaintiff to the collection of fibers over the years that they lived together.

As a result of secondary exposure, via her former husband's working with asbestos products, the plaintiff developed malignant peritoneal mesothelioma. The plaintiff underwent extensive treatment for her disease including significant surgery and chemotherapy. The plaintiff's surgery was unable to remove all of her cancerous tumors and, thus, she will require extensive future treatment as well. The plaintiff asserted that she has a shortened life expectancy due to her diagnosis with an incurable disease.

The jury found in favor of the plaintiff, finding that the defendant Volkswagen Group of America 50% responsible and defendant Warren Henry Volkswagen Subaru 50% responsible. The jury awarded damages in the amount of $7,094,612 broken down as follows: $94,612 in past medical expenses; $2,000,000 in past pain and suffering; and $5,000,000 in future pain and suffering.

REFERENCE

Mills, et al. vs. AISIN U.S.A. Mfg., Inc. et al. Case no. 2021-006438-CA-01; Judge Jose Rodriguez, 06-08-23.

Attorney for plaintiff: Dawn M. Besserman of Maune Raichle Hartley French & Mudd, LLC in Tampa, FL. Attorneys for defendant Volkswagen Group of America, Inc.: Daniel A. Garcia, Ari Shapiro, David M. Gersten, Rebecca C. Kibbe and Gordon Rees of Scully Mansukhani, LLP in Miami, FL.

MOTOR VEHICLE NEGLIGENCE

$3,079,233 ARBITRATION AWARD – MOTOR VEHICLE NEGLIGENCE – SNOWPLOW/ PEDESTRIAN COLLISION – PLAINTIFF WALKING TO CAR IN PARKING LOT STRUCK BY DEFENDANT'S SNOWPLOW – CERVICAL AND THORACIC SPINAL DISC HERNIATIONS, BILATERAL HIP INJURY, SEVERE LEFT SHOULDER PAIN AND BILATERAL KNEE INJURIES – CERVICAL SPINE DISC REPLACEMENT SURGERY, LEFT HIP ACETABULAR LABRAL TEAR SURGERY AND RIGHT KNEE SURGERY – PAIN AND LIMITATIONS.

Suffolk County, NY

In this motor vehicle negligence case, the plaintiff brought suit for serious injuries she sustained as a pedestrian when she was struck by a snowplow owned by the defendant. As a result of the collision, the plaintiff suffered multiple cervical and thoracic spinal disc herniations, bilateral hip injury, severe left shoulder pain, and bilateral knee injury. The plaintiff underwent cervical spine disc replacement surgery, left hip acetabular labral tear surgery and right knee surgery. She continues to have pain and limitations in her mobility and she uses a cane to walk. The defendant failed to answer or appear before the court.

A default judgment was entered as to liability against the defendant on December 21, 2021.

The matter was set down for inquest as to damages. Following the inquest, the court awarded the plaintiff $3,079,233 consisting of $2,000,000 in past pain and suffering; $500,000 in future pain and suffering; $195,682 reimbursement for lost wages; and $383,551 reimbursement for past medical bills.

REFERENCE

Lopez vs. MFC & Sons-Snowforce, Inc. Index no. 600081/2021; Judge C. Stephen Hackelling, 12-15-23.

Attorney for plaintiff: Adam C. Raffo of Weitz & Luxenberg, P.C. in New York, NY.

$1,200,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – REAR END COLLISION – DEFENDANT STRIKES REAR OF PLAINTIFF'S STOPPED VEHICLE – INJURIES TO NECK, BACK, HIP AND SHOULDER – INJECTIONS AND SHOULDER AND HIP SURGERY.

Cherokee County, GA

In this action for motor vehicle negligence, the plaintiff, a lawyer, was driving home from work and was lawfully stopped in a line of traffic when his vehicle was struck in the rear by the defendant. The plaintiff suffered serious injuries to his neck, back, hip and left shoulder. He required pain injections and eventual shoulder and hip arthroscopic surgery. He is limited in movement and lifting which impacts his daily activities of living. The defendant stipulated liability but denied that the plaintiff sustained any serious or permanent injury in the collision.

The plaintiff maintained that the defendant driver was negligent and following the plaintiff's vehicle too closely, failing to keep a proper and adequate look-out, and failing to make a proper and timely application of the brakes.

The jury awarded the plaintiff past medicals in the amount of $600,000, past pain and suffering in the amount of $250,000, future medicals in the amount of $200,000 and future pain and suffering in the amount of $150,000 for a total of $1,200,000.

REFERENCE

James M. Watson vs. Todd F. Blackburn. Case no. 18SC0380; Judge Michelle Leigh Helhoski, 06-09-23.

Attorneys for plaintiff: Joseph Wilson and Nick Rowley of Trial Lawyers for Justice in Atlanta, GA. Attorney for defendant: Russell B. Davis of Downey & Cleveland, LLP in Marietta, GA.

$750,000 SETTLEMENT – MOTOR VEHICLE NEGLIGENCE – INTERSECTION COLLISION – INJURIES TO CERVICAL AND LUMBAR SPINE – POST-TRAUMATIC HEADACHES – AGGRAVATION AND EXACERBATION OF PRE-EXISTING INJURIES – SURGERY.

Kings County, NY

In this motor vehicle negligence case, the plaintiff contended that the defendant driver struck her vehicle with such force that it caused significant, permanent injury. The plaintiff claimed disc herniation at C5-C6 with cord compression; disc bulge at C4-C5, C6-C7 with cervical radiculopathy; L5-S1 bilateral facet hypertrophy; and right lumbar radiculopathy. The plaintiff underwent trigger point injections to cervical paraspinal muscles; surgical vertebrectomy of the cervical hemisphere C5 and C6; anterior cervical discectomy C5-6; and intervertebral implant, arthrodesis C5-6, anterior instrumentation C5-6.The defendant contested the plaintiff's

damages. The defendant argued that the plaintiff's injuries were pre-existing and not caused by the subject collision.

The plaintiff also claimed the need for future physical therapy; orthopedic care; pain management and future surgery. The defendant presented expert testimony from an independent medical examination that found only pre-existing bulges and herniations with no evidence to suggest that an acute traumatic injury was sustained.

The parties settled prior to trial in the amount of $750,000.

REFERENCE

Jagger vs. Genthe. Index no. 511069/2021; Judge Pt 57, Lawrence Knipel, 06-08-23.

Attorneys for plaintiff: Michael Levitz and Paul Ajlouny of Paul Ajlouny & Associates, P.C. in Garden City, NY. Attorney for defendant: Joseph Baiocco of Baker, McEvoy & Moskovits, P.C. in Brooklyn, NY.

PREMISES LIABILITY

$2,400,000 SETTLEMENT – PREMISES LIABILITY – FALL DOWN – DEFENDANT FAILED TO ADEQUATELY REMOVE SNOW AND ICE FROM SIDEWALK ADJACENT TO ITS PROPERTY RESULTING IN PLAINTIFF FALLING ON SIDEWALK – LUMBAR DISC HERNIATION AT L5-S1 – FRACTURE OF LEFT WRIST – EXTERNAL FIXATION OF WRIST AND LAMINECTOMY AND MICRODISCECTOMY AT L5-S1 – MULTIPLE EPIDURAL STEROID INJECTIONS AND INSERTION OF SPINAL CORD STIMULATOR.

Bronx County, NY

This action for premises liability arose on December 16, 2013 when the plaintiff sustained serious injury while she was walking on the sidewalk along Cincinnatus Avenue in the Bronx on her way to a supermarket housed in the defendant real estate conglomerate's shopping plaza and she slipped on accumulated snow and ice that had not been removed after a storm several days earlier. As a result of the fall, the plaintiff was taken by ambulance to the hospital sustaining a fracture of the left wrist. The plaintiff treated her wrist injury with external fixation of the left wrist and permanent deformity of the wrist with pain on attempts at twisting things such as doorknobs or jar lids. The defendant individual argued that he was an out-of-possession landlord and thus did not owe a duty to the plaintiff. The defendant real estate company denied negligence and asserted that the plaintiff's damages were caused by her own comparative negligence, assumption of risk, or culpable conduct.

The plaintiff first began complaining of back pain approximately 6 months post accident and ultimately claimed a lumbar disc herniation at L5-S1 with exacerbation of prior back pain. The plaintiff treated her back injury with laminectomy and microdiscectomy at L5-S1 as well as multiple epidural steroid injections and insertion of spinal cord stimulator.

The matter went to trial and the parties settled the matter just prior to closing statements in the amount of $2.4 million.

REFERENCE

Martinez vs. Anonymous major real estate conglomerate. Index no. 303276/14; Judge Doris M. Gonzalez, 03-22-24.

Attorneys for plaintiff: Lora H. Gleicher and Howard Schatz of Silbowitz, Garafola, Silbowitz, & Schatz, LLP in Great Neck, NY. Attorney for defendant owner/major real estate conglomerate: Ralph Vincent Morales of Barker Patterson Nichols, LLP in Garden City, NY. Attorney for defendant tenant/supermarket: Darnisha A. Lewis-Bonilla of Brooks & Berne, PLLC in Elmsford, NY.

ADDITIONAL VERDICTS OF PARTICULAR INTEREST

Construction Site Negligence

$2,500,000 SETTLEMENT – CONSTRUCTION SITE NEGLIGENCE – PLAINTIFF FELL DUE TO DEFENDANTS' DEFECTIVE SCAFFOLDING ON JOB SITE – INJURIES TO LEFT KNEE, LUMBAR SPINE, RIGHT KNEE, AND BILATERAL HIPS – KNEE SURGERY WITH COMPLETE SYNOVECTOMY, PARTIAL MENISCECTOMY OF MEDIAL AND LATERAL MENISCUS – EPIDURAL INJECTIONS; ORTHOPEDIC TREATMENT, CHIROPRACTIC TREATMENT AND PHYSICAL THERAPY – NEED FOR FUTURE SURGERIES.

Kings County, NY

In this construction site negligence case, the plaintiff, a 53-year-old mason, asserted that the defendant housing development and the defendant general contractor were negligent in managing the safety of workers and equipment on the subject job site in violation of labor laws. Due to the defendants' negligence in erecting a scaffold, the plaintiff fell. The plaintiff was diagnosed with contusion to the left hip; tear of the superior acetabular labrum of the right hip; intrameniscal tear in the body of the medial meniscus and the anterior horn of the lateral meniscus in the right knee; torn medial and lateral meniscus of the left knee and disc bulges at L3-4, L4-5 and L5-S1 with L4-S1 bilateral radiculopathy. The plaintiff treated with lumbar epidural injections; left knee surgery with complete synovectomy, and partial meniscectomy of medial and lateral meniscus. The defendant denied negligence and argued that the evidence directly contradicted the plaintiff's version of events, and indicated that the overlapping planks collapsed because the plaintiff personally removed the nails which had secured them.

The defendant pointed to the testimony of the plaintiff's foreman who confirmed that approximately one hour before the accident, he personally inspected the scaffolding planks and confirmed that the planks were properly installed, properly overlapping, secured together with nails, and safe for use.

The case settled on the eve of trial in the amount of $2,500,000.

REFERENCE

Elibox vs. Nehemiah Spring Creek IV Mixed Income Housing Development Fund Company Inc., et al. Index no. 507800/2019E; Judge Pamela L. Fisher, 09-06-23.

Attorney for plaintiff: Darren T. Moore of Law Offices of Darren T. Moore, P.C. in New York, NY. Attorney for defendant: David B. Franklin of London Fisher, LLP in New York, NY.

Employer Liability

$9,123,000 VERDICT – EMPLOYER LIABILITY – PLAINTIFF'S DECEDENT, GOLF PRO, CRUSHED UNDER FALLEN TREE DURING SEVERE THUNDERSTORM AT DEFENDANT'S GOLF COURSE – FAILURE TO REMOVE HAZARDOUS STAND-ALONE TREE ON PREMISES – WRONGFUL DEATH OF 38-YEAR-OLD MALE.

Philadelphia County, PA

In this case, the plaintiff alleged that their decedent was struck and killed by a large red oak tree that fell onto a cart barn on the defendant's golf course where the decedent was a golf pro. The decedent was putting carts away when the storm hit causing the tragedy. The plaintiff maintained that the defendants should have removed the tree for safety, but they did not remove the tree in order to save costs. The defendants denied any negligence and argued that the incident was caused by an "Act of God".

The estate of the decedent alleged that the defendants failed to adequately and properly inspect, maintain and or remove the subject tree, failed to warn all persons lawfully on the property of the condition of the tree, and chose to defer remediation and or tree removal as a means of saving money at the expense of the safety of its membership, guests and all other persons lawfully on the property. The defendants denied liability arguing that the storm was an "Act of God", a defense that states that the defendants were not liable for the unpreventable catastrophe.

The decedent is survived by his mother, girlfriend and a minor son who was born shortly after the decedent's death. The plaintiff named the tree care service as a defendant in the case arguing they were negligent in failing to remove the dangerous tree.

The jury found each golf defendant to be 33 1/3 liable. The jury awarded the estate damages under the Survival Act of $2,623,000 and damages under the Wrongful Death Act to the decedent's infant son in

the amount of $6,500,000 for a total verdict of $9,123,000. No liability was found against the tree service company.

REFERENCE

Katherine Hannon, as Personal Representative and Co-Administrator of the Estate of Justin Riegel vs. Concert Golf Management, LLC, Concert Philmont, LLC and Concert Golf Partners Holdco, LLC and Shreiner Tree Care. Case no. 220501260; Judge Damaris Garcia, 08-29-24.

Attorneys for plaintiff: David Kwass, Michael J. Zettlemoyer and Robert J. Mongeluzzi of Saltz Mongeluzzi & Bendesky in Philadelphia, PA. Attorney for defendant: Glenn M. Campbell of Post & Schell, P.C. in Philadelphia, PA. Attorney for defendant: John J. Snyder of Rawle & Henderson, LLP in Philadelphia, PA.

Landlord Negligence

$320,000 ARBITRATION AWARD – LANDLORD NEGLIGENCE – PLAINTIFF SLIPS AND FALLS ON ICE ON EXTERIOR STEPS AT HER APARTMENT RESIDENCE – FAILURE TO REMOVE ICE AND SNOW FROM PREMISES – AGGRAVATION OF STENOSIS AT L4-5 – DOUBLE FUSION AT L4-L5 AND L5-S1.

Hudson County, NJ

In this action, the plaintiff tenant slipped and fell on an accumulation of ice on the exterior steps at her apartment residence. Consequently, the plaintiff sustained injuries, including aggravation of stenosis at L4-5, which required a double-fusion procedure at L4-5 and L5-S1 to repair. The defendants generally denied all allegations of negligence.

The plaintiff maintained that the defendants were negligent in failing to remove ice and snow on the premises, failing to ensure the safety of the exterior stairs, and failing to provide safe passage on the premises. A doctor for the defendants opined that the plaintiff only sustained soft tissue injuries which were not permanent.

The arbitrator in this case found the defendants 80% liable for the accident and the plaintiff 20% liable, and reported a net award for the plaintiff in the amount of $320,000.

Following arbitration, the plaintiff's counsel requested a trial de novo, which was scheduled to take place on August 14, 2024. However, the parties entered into a settlement for an amount not specified on the docket on July 27, 2024. The Honorable Anthony V. Delia ordered that the case be dismissed on July 29, 2024.

REFERENCE

Wanda Cadiz vs. 820-824 Ave C Bayonne, LLC. Docket no. HUDL003531-22; Judge Jane L. Weiner, 07-29-24.

Attorney for plaintiff: Dean R. Maglione of The Maglione Firm, PC in Farmingdale, NJ. Attorney for defendant: Kevin J. Conyngham of Zimmerer, Murray, Conyngham & Kunzier in Saddlebrook, NJ.

Municipal Liability

$2,000,000 SETTLEMENT – MUNICIPAL LIABILITY – FATAL DROWNING AT CITY OF MIAMI BEACH YOUTH CENTER – WRONGFUL DEATH AT AGE 28.

Miami-Dade County, FL

This wrongful death action against the City of Miami Beach arose from the drowning death of a 28-year-old recreation leader at the City's Scott Rakow Youth Center. The plaintiff alleged that the defendant negligently failed to provide adequate life guarding and supervision at the Youth Center pool, thereby leading to the decedent's death.

Evidence showed that lifeguards at the city's pools were strictly prohibited from using their cell phone while on the stand and were prohibited from even having their cell phone on their person when on the stand. Despite this clear policy, the plaintiff claimed that an on-duty lifeguard was playing on his phone for the majority of his rotation. More importantly, the plaintiff alleged that the lifeguard was on his phone when the decedent was pushed into the pool. The plaintiff contended that, while the decedent was drowning, the lifeguard was looking down at his phone, saw nothing and did nothing.

The defendant City of Miami Beach agreed to a $2,000,000 settlement. $300,000 of the settlement is payable pursuant to the sovereign immunity statute. Plaintiff's counsel will file a claims bill for approval by the Florida Legislature and the Governor for the balance of the settlement.

REFERENCE

Nicole Mathurin, et al, as personal representatives of The Estate of Peniel Janvier vs. City of Miami Beach. Case no. 2023-013411-CA-01; Judge Tanya Brinkley, 06-11-24.

Attorneys for plaintiff: Douglas McCarron and Mark Brumer of The Haggard Law Firm in Coral Gables, FL.