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SUMMARIES WITH TRIAL ANALYSIS

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A monthly review of New Jersey State and Federal Civil Jury Verdicts with professional analysis and commentary.

The New Jersey cases summarized in detail herein are obtained from an ongoing monthly survey of the State and Federal courts in the State of New Jersey.

VERDICTS BY CATEGORY

Summaries with Trial Analysis

$2,940,000 PRE-SUIT RECOVERY – MOTOR VEHICLE NEGLIGENCE – PLAINTIFF DRIVER STRUCK IN REAR BY DUMP TRUCK AND PROPELLED INTO ON-COMING TRAFFIC WHERE HE IMPACTS ANOTHER CAR – CERVICAL FRACTURE – PLAINTIFF PARALYZED FROM CHEST DOWN.

Sussex County, NJ

This was a motor vehicle negligence case involving a plaintiff driver in his mid 50s who was struck in the rear by the driver of a dump truck on Route 23 and propelled into on-coming traffic where he impacted with another driver, who was not alleged to be negligent. The plaintiff contended that he suffered a cervical fracture that left him with permanent paralysis below the level of the chest. The plaintiff was not working at the time of the accident.

The evidence disclosed that the plaintiff was placed in a medically induced coma for 42 days during an approximate 6-week hospitalization. The plaintiff then spent approximately three months in a rehabilitation hospital.

The plaintiff asserted that prior to the accident, he and his wife were very active in their lake community, enjoying such endeavors as hiking, fishing, motorcycle riding and were very involved with their church. The evidence revealed that after the collision occurred, the church members rallied behind him and volunteered in retrofitting his house, enabling him to live at home with the assistance of an LPN. The plaintiff also requires very frequent physician visits.

The plaintiff would have presented a number of individuals from his church who would have testified as to the work performed and the manner in which the plaintiff and his wife are very well loved in the community. The plaintiff has also obtained a handicap accessible van. The evidence further disclosed that because of extended times in his wheelchair, the plaintiff developed a decubitus ulcer and required surgery.

The plaintiff also would have presented blow ups of imaging studies which clearly showed the damage to the spinal cord. The plaintiff would have further presented a day-in-the life video which depicted the plaintiff receiving extensive day-to-day help, including being transferred from bed to wheelchair.

The case settled prior to suit being filed for $2,940,000.

REFERENCE

Plaintiff's life care planning expert: Diana Dunn-Roberts, RN from Medivest, Oviedo, FL.

DeMario vs. Supreme Mulch. 07-30-20.

Attorney for plaintiff: Lauren D. Fraser of Javerbaum Wurgaft Hicks Kahn Wikstrom & Sinins, PC in Morristown, NJ.

COMMENTARY

The plaintiff initially ascertained that the defendant primary coverage of $1,000,000. The defendant also had a $2,000,000 excess policy. Several weeks before the accident, the excess policy, which specifically identified the vehicles in the defendant's fleet, renewed. The renewed policy did not specifically identify the vehicle involved in the accident, although the other vehicles in the fleet were identified. The excess carrier initially took the position that the incident wasn't covered. The plaintiff countered that the technical mistake was not material. The excess carrier then conceded there was coverage, and besides the $60,000 paid to the driver of the car that impacted with the plaintiff after the plaintiff was propelled into the on-coming lane, the plaintiff obtained the full excess policy before suit was filed.
During negotiations, the plaintiff argued that it was highly probable that a jury would render an award that was at least as large as the $3,000,000 in coverage, and that there was little point in the excess carrier incurring the added expense in defending the case. It should be noted that the case settled prior to the institution of suit.

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$1,700,000 RECOVERY – MOTOR VEHICLE NEGLIGENCE– AUTO/MOTORCYCLE COLLISION – DEFENDANT AUTOMOBILE DRIVER EXITS PARKING LOT IN PATH OF PLAINTIFF MOTORCYCLIST – FEMUR FRACTURE – NON-UNION DESPITE INITIAL SURGERY – PLAINTIFF ULTIMATELY ACHIEVE UNION AFTER 2 ADDITIONAL OPERATIONS – PLAINTIFF FORMER AUTOMOBILE MECHANIC RETURNS TO SCHOOL AND BECOMES PUBLIC ADJUSTER – NO FUTURE INCOME CLAIMS.

Morris County, NJ

This action motor vehicle negligence involved a then-27-year-old plaintiff motorcyclist in which the plaintiff contended that the defendant driver negligently exited a parking lot that in his path, causing the accident. The plaintiff asserted that he sustained a severe femur fracture. The plaintiff suffered a non-union and required 2 additional surgeries. The defendant would have maintained that the plaintiff failed to pay adequate attention and was comparatively negligent.

The plaintiff suffered a fracture to the left femur and underwent an initial open reduction, internal fixation. The evidence reflected that the plaintiff suffered a non-union and that the hardware was removed approximately 9 months later. The plaintiff underwent a third surgery approximately 6 months thereafter and ultimately achieved union.

The plaintiff had worked as an automobile mechanic and contended that he can no longer spend the extensive time on his feet that is required for this type of work and the plaintiff, who earned approximately $35,000 per year, made a claim for 2 years loss of income. The plaintiff has since returned to school and has obtained a license as a public adjuster. The plaintiff, who is currently working temporary jobs, hopes to obtain a job a public adjuster and the plaintiff made no future income claims.

The defendant asserted that the plaintiff ultimately made a good recovery and can return to working as a mechanic. The evidence would have disclosed that the plaintiff's projected earnings as a public adjuster is at least as high as that earned by a mechanic. The plaintiff is unmarried and has no children.

The defendant had $2,250,000 in coverage. The case settled shortly before the automobile arbitration for $1,700,000.

REFERENCE

Plaintiff's orthopedic surgeon expert: Mark Adams, M.D. from Newark, NJ.

Priessnitz vs. Roe. Docket no. MRS-L-1027-18, 05-19.

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

COMMENTARY

The plaintiff obtained this recovery prior to the automobile arbitration. The defendant did not dispute that the plaintiff suffered a non-union and that the surgeries were indicated. Additionally, the plaintiff emphasized during negotiations that although he can no longer spend the extensive time on his feet required of a mechanic, he returned to school, obtained a license as a public adjuster and the plaintiff, who made no future income claims, would have argued that he has done everything reasonable to mitigate his damages. Moreover, the plaintiff would have stressed that he will experience extensive pain and suffering for the remainder of a lengthy life expectancy.

$2,000,000 RECOVERY – PRODUCT LIABILITY – FAILURE TO WARN – ADULTERATED WEIGHT LOSS SUPPLEMENT CAUSES LIVER FAILURE AND NEED FOR LIVER TRANSPLANT – NO INCOME LOSS.

Middlesex County, NJ

In this action for product liability, the defendant was criminally charged in connection with the product (a weight loss supplement) and the civil case was stayed until 5 defendants pleaded guilty. The plaintiff maintained that after taking the defendant's supplement, he will require anti-rejection drugs for the remainder of his life. The plaintiff was able to return to his job as a Senior Associate – Equity Trade Support at Lord Abbett, LLC.

In the summer of 2013, the plaintiff began taking the supplement for the purpose of losing weight and adding muscle tissue. The evidence reflected that several months earlier, the FDA warned the defendant that the manufacture was not proper. The plaintiff asserted that shortly thereafter, the plaintiff began to experience liver difficulties, and his liver failed in October necessitating a liver transplant. Approximately 1 month later, the defendant acknowledged that there was a link between the substance and liver difficulties and the defendant recalled the product. The plaintiff contended, however, that the damage was already done.

Shortly thereafter, reports reflected that the substance was indeed related to liver damage and the FDA, finding that the product was adulterated, ordered the defendant to take the supplement off the market. The defendant declined, contending that the damage was related to counterfeit versions of the substance. The plaintiff brought suit in April, 2014.The DOJ brought a criminal action in Texas in January 2015 and that April, the defendant company and 5 individuals pleaded guilty to felonies. The plaintiff asserted that the defendant acted in a wanton and willful manner and that punitive damages were appropriate.

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

REFERENCE

Plaintiff's transplant expert: Lewis Pepperman, M.D. from Hofstra University, Long Island, NY.

Viloria vs. U.S P. Labs. Docket no. MID-L-L-2374-14, 04-27-20.

Attorney for plaintiff: Matthew Mendelsohn of Mazie Slater Katz & Freeman, LLC in Roseland, NJ.

COMMENTARY

The plaintiff has taken anti-rejection drugs and the plaintiff contended that he will be permanently required to take such medication. The evidence did not reflect that the plaintiff has developed significant side effects as of the time of the settlement.

The plaintiff emphasized that a connection between the use of the supplement and liver damage was found by the FDA. Additionally, although the plaintiff had discarded the supplement prior to bringing suit and testing was not performed on the actual supplement, the plaintiff established that samples that were tested showed a causal connection. Moreover, a significant number of cases that were related to the substance had been brought and, as a practical matter, the defendant's case was complicated by the voluminous material discussed during discovery.

$2,000,000 POLICY LIMIT RECOVERY – PREMISES LIABILITY – NEGLIGENT SECURITY – PLAINTIFF CONCERT PATRON STANDING NEAR STAGE BECAUSE OF "MOSHING" OF AUDIENCE STRUCK IN HEAD BY UNIDENTIFIED STAGE DIVER – SEVERE CERVICAL DISC INJURIES – TEMPORARY PARALYSIS OF ALL 4 LIMBS RESOLVES IN AMBULANCE – TOTAL AND PARTIAL CORPECTOMIES – FUSION FROM C3-5 – NO INCOME CLAIMS.

Monmouth County, NJ

This premises liability action was brought by a plaintiff in his mid 40s against a concert promoter and organizer of a punk rock show in which the plaintiff contended that the defendant permitted "Stage diving" to occur during the concert. The plaintiff asserted that as a result, an unidentified stage diver struck him directly on top of the head, causing severe disc injuries that temporarily prevented him from having feelings in all 4 limbs. The plaintiff's sensation in the limbs returned while the plaintiff was being brought to the hospital by ambulance. The plaintiff suffered cervical disc injuries required a corpectomy at one level, a partial corpectomy at another level and a fusion from C3-5.

The plaintiff contended that prior to the incident, he was very active, having enjoyed endeavors such as skiing and long bicycle rides. The plaintiff claimed that although he can continue in these activities to some degree, he is limited. The plaintiff was a police officer who retired prior to the incident and the plaintiff made no income claims. The venue itself was named and had a contractual indemnification agreement from the promoter.

The plaintiff maintained that the defendants were aware or reasonably should have been aware of people jumping off the stage at both this event and prior similar events. The plaintiff was injured towards the end of the subject concert and the evidence would have reflected that such stage diving had been going on for approximately 10 minutes before the plaintiff was injured. The plaintiff indicated that

because people were pushed up against the stage, he would have great difficulties upon any attempt to move back. The plaintiff asserted that the defendant should have formulated a plan on how to respond to acts common at these types of shows, such as stage diving, communicated this plan to security personnel and made sure this plan was appropriately implemented to ensure security personnel acted appropriately in preventing individuals from stage diving, thus rendering the premises safer.

The evidence disclosed that upon being struck, the plaintiff initially lost all feeling in his arms and legs until sensation returned as the plaintiff was being transported to the hospital. The plaintiff's expert neurosurgeon related that the plaintiff suffered cervical disc injuries that were impinging on the cord. The physician would have testified that the plaintiff required a partial corpectomy at C3, a total corpectomy at C4 and the spine was fused from C3 to C5.

The plaintiff maintained that he has been forced to limit his activities, notwithstanding that he has continued to some degree despite the pain and limitation. The plaintiff would have also argued that the jury should consider that the plaintiff will suffer the effects of the injuries for the remainder of a relatively lengthy life expectancy.

The defendant had $1,000,000 in primary coverage and a $1,000,000 umbrella. The case settled after the plaintiff's deposition and following mediation with the Honorable Kenneth J. Grispin, P.J.Cv. (retired) for the insurance limits of $2,000,000.

REFERENCE

Plaintiff's neurosurgeon expert: Nirav Shah, M.D. from Princeton, NJ.

Kooken vs. Asbury Audio, Inc., 09-21-20.

Attorney for plaintiff: Mark W. Morris of Clark Law Firm, PC in Belmar, NJ.

COMMENTARY

The individual who dove off the stage, striking the plaintiff in the head, was not identified and the plaintiff obtained this recovery from the concert promoter/organizer who had a contractual indemnification agreement with the venue. The plaintiff would have stressed that the promoter was on notice, both from prior similar events, and stage diving, which had gone on this night for approximately 10 minutes, that action to protect patrons was needed. Additionally, the plaintiff would have argued that the promoter, who was aware or reasonably should have been aware of previous similar behavior, had the obligation to formulate a plan to take action to protect patrons.
Regarding damages, it should be noted that the plaintiff, who was a retired police officer, made no income claims. Additionally, the plaintiff emphasized that he was previously very active, and greatly enjoyed endeavors such as skiing and bicycle riding. The plaintiff has resumed these activities on a restricted basis. In this regard, the objective nature of the injuries and the surgeries required clearly would have rendered the plaintiff as appearing to refuse to permit the injuries to have a greater impact on his life than necessary. Finally, the highly unusual and traumatic nature of the incident that occurred when an individual dove from the stage, striking the plaintiff, would have undoubtedly create a strong jury response if the case had been tried.

$1,359,786 VERDICT – RACIAL DISCRIMINATION – PLAINTIFF CLAIMS DEFENDANT TRANSIT AUTHORITY DISCRIMINATED AGAINST HER IN DENYING HER EMPLOYMENT BASED ON RACE AND AGE – DEFENDANT DENIES DISCRIMINATING AGAINST PLAINTIFF AND ASSERTS SHE WAS NOT QUALIFIED FOR POSITION.

Essex County, NJ

In this Law Against Discrimination case, the plaintiff asserted that the defendant denied her promotional opportunities because of her race and age. The defendant denied any discrimination against the plaintiff.

The plaintiff, a 48-year-old African-American woman, began her career with the defendant in 1991, as a Grants and Compliance Coordinator. The following year she was promoted to the position of Senior Grants and Compliance Administrator, a position she held for approximately 11 years. In 2003, the plaintiff became the Manager of Capital Programming. In 2011, the plaintiff became the Manager of Homeland Security, as a result of her prior position being eliminated. This was considered a lateral move. The plaintiff's position at the time of filing was Manager, Capital Project and Capital Control.

The plaintiff claimed that, while the defendant has a policy against discrimination, it does not enforce that policy, or did not in the case of the plaintiff's complaint. In 2013, the plaintiff applied for the position of Senior Director, Capital Programming and Administration. Prior to her interview, the plaintiff heard that there was an intended candidate already selected for the position. 5 candidates, including the plaintiff, were interviewed and scored across several categories. The position was given to the highest scoring of the candidates, a white male in his 30s. That person stayed in the position for approximately 2 months before taking another position within the organization. The position was then given to another of the candidates, a 38-year-old white woman, who had gone through the original interview process.

The plaintiff claimed that this process was discriminatory on the basis of race and age. The plaintiff also claimed that she suffered retaliation for her complaints of discrimination when, in 2015, she was assigned additional responsibilities for which she alleged she was not compensated. The defendant argued that it maintains and enforces a policy prohibiting discrimination on the basis of race and/or age. Specifically, the defendant asserted that it is the policy of NJ Transit to promote equal opportunity through its employment practices which ensure the

full realization of equal opportunity without regard to race or age. The defendant also issued a policy statement providing that it "Is committed to providing every NJT employee … with a work and service environment free from discrimination or harassment based on … race [or] age." The defendant put forth that such discrimination was prohibited by policy and was considered "Zero tolerance."

The defendant's policy applies to recruitment, hiring and promotion. According to the defendant, individuals are specifically advised that "All applicants and employees have the right to file complaints alleging discrimination." The defendant also claimed that it provides multiple avenues for employees who believe that they have been discriminated against to file complaints including submission of a generally available online form. The defendant argued that the plaintiff utilized these avenues and made complaints regarding some of the issues raised in this lawsuit, and that the plaintiff's complaints were assigned an investigator, were investigated, and were found to be unsubstantiated. The defendant asserted that the plaintiff did not get the position because she was less qualified than other candidates.

The jury found in favor of the plaintiff and awarded damages in the amount of $180,500 for back pay; $217,862 for front pay; $450,000 for emotional distress, plus attorney's fees of $511,424, for a total jury award to the plaintiff in the amount of $1,359,786.

REFERENCE

Adderley vs. New Jersey Transit. Docket no. L-004851-16; Judge Keith E. Lynott, 05-19-20.

Attorney for plaintiff: Raymond L. Hamlin of Hunt, Hamlin & Ridley in Newark, NJ. Attorney for defendant: Craig J. Smith of Deputy Attorney General of New Jersey in Trenton, NJ.

COMMENTARY

During the course of the trial, plaintiff's counsel conducted direct examination of his client, and defense counsel then cross-examined her. Plaintiff's counsel engaged in re-direct and then advised the Court he had no further questions. The jury was then asked whether it had any questions for the plaintiff and submitted approximately 8 written questions to the Court. Proceedings were then adjourned for the weekend before the jury's questions had been put to the plaintiff. On Monday, plaintiff's counsel advised the Court he wished to re-open his direct examination of the plaintiff to cover two areas he had forgotten to cover on Friday: her age and how long she intended to keep working for New Jersey Transit, areas that defense counsel contended, were not within the scope of the cross-examination of the plaintiff. Over the objection of the defense, the Court permitted plaintiff's counsel to re-open his direct examination of his client. At the close of the plaintiff's case, the defendant moved for directed verdict, which was denied. At the close of all the evidence in the case, the defendant again moved for judgment at trial, which was denied.

On October 11, 2019, by a vote of 7-1, the jury returned its verdict, finding that plaintiff had proven by a preponderance of the evidence that the defendant had engaged in intentional discrimination based on age and/or race in denying her the 2 promotions and that the plaintiff had proven by a preponderance of the evidence that New Jersey Transit had retaliated against the plaintiff by placing her on a PIP and/or the subsequent transfer to a different unit. The defendant moved for a new trial on the argument there was no evidence produced at trial of racial or age animus by the defendant and no evidence that plaintiff's race or her age were motivating factors for why she did not get the promotions she sought; the 2019 PIP and the assertion it was retaliatory should not have been admitted into the trial, there was no evidence of a causal connection between plaintiff's 2019 PIP and her complaints in 2015 and 2016 of discrimination, nor any evidence she suffered an adverse employment action in retaliation for any protected activity. Without the PIP, not only would there have been no evidence of retaliation, the award of $450,000 in emotional distress damages likely would have been much smaller. The defendant argued that both the discrimination and retaliation verdicts were against the weight of the evidence and that it was improper to admit into evidence the PIP and the claim that it represented present retaliation without affording the defense the opportunity to conduct discovery on the new claim which raised credibility questions of defense witnesses who were unable to respond to questions asking them to point to documentary evidence supporting the legitimate reasons for the PIP "as you sit here today."

The defendant maintained that it was improper to permit plaintiff's counsel a second direct examination of his client to allow him to introduce necessary elements of her front pay claim where he had not done so during the first direct examination of plaintiff. In this case, the PIP issue was not injected into the litigation via any response to interrogatory, paper discovery, or in any deposition testimony, was not ever raised prior to summary judgment, nor could it have been since the factual underpinnings of the claim did not begin to occur until February, 2019 and continued for several months thereafter as the PIP conferences continued. It was an entirely new factual and legal claim raised for the first time in a pre-trial exchange in March, 2019, after the Summary Judgment motion had been resolved. The defendant had no practical opportunity to engage in discovery or otherwise challenge the basis for the new claim being asserted at trial. Through the introduction of this evidence over the defense objection, the defense claimed it was materially prejudiced, and the denial of the motion in limine was reversible error requiring a new trial as the entire verdict is rendered questionable with the improper introduction of this evidence.

The court denied the defendant's motion for new trial and affirmed the jury verdict. In part, the court's opinion stated that the defendant correctly asserted that there was no document, email or text message that referred explicitly or implicitly to age or race in a manner that itself established or permitted an inference of discriminatory intent. But, the court opined, it was clear in the law and approved jury instructions that a plaintiff may establish discriminatory intent via circumstantial proof. And, in this case, the facts and inferences permitted the factfinder to reasonably conclude that the defendant was prepossessed in its determination to select another candidate over the plaintiff for the position, that management ignored or overrode its own human resources policies and procedures in accomplishing the desired result; and that age and/or race was a material factor in such decisions. Moreover the court found, on the basis of the evidence a rational trier of the facts could reasonably choose not to believe the defendant's proffered explanation for its actions and to find the same was pretextual.

As to the retaliation claim, the defendant contended that there was not proof of retaliatory animus in the decision to place the plaintiff on a PIP. The defendant claimed this was not to punish the plaintiff, but instead to establish a formal process for setting performance goals and timeframes in order to address perceived deficiencies; and that the plaintiff was never demoted, docked or otherwise disciplined. Here again, the court opined, however, the evidence permitted a different conclusion. A rational juror could conclude that a PIP is a significant adverse employment action that can lead to termination. In her many years of employment with the defendant, the plaintiff had never been placed on a PIP. The court also noted that the timing of the action permitted a conclusion that the action was retaliatory.

DEFENDANT'S VERDICT – PERSONAL NEGLIGENCE – DURING ALTERCATION, PLAINTIFF DRAGGED BY DEFENDANT'S VEHICLE AND SUBSEQUENTLY STRUCK BY THIRD-PARTY VEHICLE – FRACTURED SKULL; FRACTURED NOSE AND FRACTURED LEFT WRIST – 3 SURGERIES AND POSSIBLE FUTURE FUSION SURGERY ON WRIST – ECONOMIC AND PUNITIVE DAMAGES SOUGHT.

Passaic County, NJ

This action for personal negligence arose from an incident which occurred on February 11, 2016 when the plaintiff and defendant were involved in an altercation at a gas station on Paterson Avenue in Little Falls. Both parties then left the scene and, a little further down the road, the defendant saw the plaintiff's vehicle in a parking lot and attempted to take pictures of the plaintiff and his license plate. The plaintiff confronted the defendant and, at one point, had his hand on the front passenger door of the defendant's vehicle as the defendant attempted to leave. The plaintiff pursued the defendant's vehicle on foot. The plaintiff testified that his jacket got caught in the plaintiff's door handle. The plaintiff claimed he was dragged approximately 15 feet by the defendant and then stumbled and fell. The plaintiff asserted that the defendant's passenger window was open at the time and he was shouting at her through the window. A witness to the event came to the plaintiff's aid and attempted to get him to remain seated until emergency personnel arrived. The plaintiff got to his feet and stepped into the southbound lane of Patterson Avenue where he was struck by the co-defendant third-party driver traveling southbound in the roadway, causing significant, serious, permanent injury to the plaintiff. The defendants denied liability and contended that the plaintiff put himself in harm's way and caused the incident wherein he was injured.

As a result of the incident, the plaintiff sustained a fractured skull; fractured nose and fractured left wrist. The plaintiff required 3 surgeries including open reduction with internal fixation on the wrist with a subsequent surgery for removal of hardware. The plaintiff may require a future fusion surgery on the wrist. The plaintiff sought punitive damages in addition to economic damages.

The first defendant, with whom the plaintiff had the altercation, asserted that the defendant charged her vehicle aggressively and held the door handle while pounding on the passenger window, in contradiction of the plaintiff's claim that the window was open. Video footage obtained from a security camera showed the defendant holding the door handle and that the window was closed as he struck it with his hand. The defendant stated that she feared for her safety and drove away. The plaintiff, chasing her on foot, stumbled and fell after he had let go of the door handle. The defendant, having seen the plaintiff fall in her rearview mirror, turned around and returned to the scene to make sure the plaintiff was safe, but stayed inside her vehicle waiting for police to arrive.

The defendant asserted that she had nothing to do with him falling, getting back up and walking into the roadway where he was struck by the co-defendant driver. The co-defendant argued that the plaintiff was disoriented and lurched in front of her vehicle suddenly, without warning and the defendant could not avoid impact. The defendants asserted that the plaintiff was at fault for any and all damages sustained. The second co-defendant driver was released on summary judgment prior to trial.

The jury found the plaintiff 60% at fault and the defendant 40% at fault; thus, returning a verdict of no cause of action in favor of the defendant. Following the verdict, the plaintiff moved for new trial.

REFERENCE

Bucci vs. DeLuca. Docket no. L-000464-17; Judge Frank Covello, 06-27-19.

Attorney for plaintiff: Angela M. Roper of Roper & Thyne, LLC in Totowa, NJ. Attorney for defendant Janel DeLuca: John P. Gilfillan of Kennedys CMK in Basking Ridge, NJ. Attorney for defendant Janel DeLuca: Mario A. Batelli of Foster & Mazzie, LLC in Totowa, NJ. Attorney for defendant Joan E. Strothers: Harry D. Norton of Norton Murphy, Sheehy & Corrubia, P.C. in Woodland Park, NJ.

COMMENTARY

The plaintiff moved for a new trial arguing that the jury verdict was clearly against the weight of the evidence. The plaintiff put forth that the jury overlooked or undervalued crucial evidence regarding the defendant having initiated the second encounter with the plaintiff and compounding her negligent conduct by continuing to operate her vehicle, and in fact, accelerating while the plaintiff was running alongside her car, causing the plaintiff to lose his balance and fall to the street. Plaintiff's counsel argued that, if the defendant did not initiate the second encounter with the plaintiff, the incident never would have happened. Thus, the plaintiff argued, the verdict was against the weight of the evidence.

Secondly, the plaintiff maintained that the trial court erred in denying the plaintiff's request to charge the jury on the defendant's duty pursuant to N.J.S.A. 39:4-129 to prevent further harm to the plaintiff. After the plaintiff fell to the ground, the defendant continued driving and admitted that she saw the plaintiff lying on the ground. The defendant continued driving and then made a U-turn and headed back towards where the plaintiff was lying on the ground, but turned into a side street and waited there until the police arrived. Despite seeing the plaintiff obviously hurt and lying on the pavement near the traveled portion of Paterson Avenue, the defendant did nothing to aid the plaintiff nor prevent a foreseeable risk of further harm. Plaintiff's counsel asserted that the defendant violated her statutory duty by failing to return to the scene of the accident; failing to notify police that she was involved in an accident; failing to provide her name and address and other required information to the plaintiff; and by failing to render aid to the plaintiff knowing that he was obviously hurt

and lying on the pavement near the traveled portion of the road. The plaintiff argued that the breach of this duty resulted in additional harm because, as he attempted to get up and stumble away from the location of the initial collision with the defendant's car, dazed and confused, he stumbled into the street and was struck by a car operated by the dismissed co-defendant. The denial by the court to permit the jury to evaluate the totality of the defendant's actions, according to plaintiff's counsel, resulted in extreme prejudice to the plaintiff and a miscarriage of justice warranting a new trial.

The defendant opposed the motion asserting that the plaintiff provided very little in the way of specific facts as to his first claim of the impropriety of the verdict or bolstering the contention that the jury got things so fatally wrong as to warrant a new trial. Instead, the defendant argued, the plaintiff simply seemed unhappy with the result and the fact that the jury did not accept his arguments, and wanted the court to put aside because things didn't go his way. Defense counsel maintained that, in the instant matter, the jury was asked to consider only the liability of the plaintiff and defendant that led to the plaintiff's fall. After hearing the testimony of 3 witnesses, listening to the deposition read-ins and, most importantly, watching the video of the incident itself, the jury returned a verdict wherein it unanimously found that the plaintiff was 60% responsible for the incident and the defendant was 40% responsible.

Defense counsel argued that this verdict could hardly be seen as a result that should shock the conscience of the court. To the contrary, the defendant put forth, the allocation of 40% responsibility to the defendant should be seen as immutable proof that the jury overlooked nothing and, instead, accepted many of the arguments proffered by the plaintiff. As to the charge that the plaintiff failed to prevent further harm to the plaintiff, defense counsel countered that the court got it right when it precluded the plaintiff from pursuing these theories of negligence at trial. The defendant asserted that the plaintiff's attempt to advance these theories was improper from a procedural and timing standpoint as it was outside the scope of the liability-only trial, and it was flawed as a matter of law. The defendant maintained that the theory of the defendant's negligence for failure to give aid to the plaintiff or to prevent further harm to the plaintiff was a last minute addition to the case. The defendant argued that this claim was essentially mooted by the facts of the case. As the court rightly noted, the defendant's alleged failure to rush to the plaintiff's side could never be seen as a proximate cause of any harm to the plaintiff.

3 different individuals came to the plaintiff's aid after he fell. They called the police and attempted to keep him on the ground until help arrived. 1 of these men was heard by the jury at trial and communicated those facts. In light of the presence of the 3 individuals at the scene tending to the plaintiff and looking to keep him safe, there was nothing the defendant could have done that was not already being done. Consequently, defense counsel asserted, these claims were improper from a proximate cause standpoint, and had no relevance to this liability-only trial.

The court denied the plaintiff's motion for new trial.

VERDICTS BY CATEGORY

MEDICAL MALPRACTICE

Ob/Gyn

$600,000 VERDICT

Medical malpractice – Ob/Gyn – Deviation from standard of care in treatment of vaginal bleeding; failure to obtain informed consent – Serious, permanent and disabling injuries, including substantial loss of portion of bowel and other medical complications – Plaintiff recovers $600,000 per high/low agreement.

Passaic County, NJ

In this medical malpractice case, the plaintiff asserted that the defendant medical practitioners departed from the accepted medical standard in their treatment of the plaintiff and that such deviation or negligence was a proximate cause of injury sustained by the plaintiff. The defendants denied all allegations of negligence and contended that the care of the patient was proper and that nothing they did or did not do caused injury to the patient.

The plaintiff came under the care of the defendant gynecological surgeons in 2014. The plaintiff had a past medical history of renal failure, for which she was in dialysis, and that she had had a renal transplant in 2001 that had failed, and that she had been diagnosed with Lupus. The records reflected that the plaintiff presented to the defendants in June 2014 because of bleeding on and off all the time. The assessment at that time included a small ovarian cyst that had been noted on MRI, anemia and hyperprolactinemia. She was advised that the only way to treat her irregular bleeding was for her to have a hysterectomy. The plaintiff returned requesting the hysterectomy as she continued to have vaginal bleeding, and a hysterectomy was scheduled.

Thereafter, the plaintiff presented to the hospital on September 17, 2014, and on that date, underwent surgery that was performed by the defendants. The surgery was to have been a supracervical hysterectomy; instead, the defendants performed a total abdominal hysterectomy. The plaintiff developed significant abdominal pain, nausea and vomiting. As a result, she was transferred to another hospital where she was admitted through the emergency department on September 27, 2014. At St. Joseph's, the plaintiff underwent numerous evaluations and was found to have sepsis and a small bowel obstruction. She underwent urgent surgery. The surgeon found adhesions of the small bowel, and that the distal ileum and right colon were ischemic and necrotic - there was a significant amount of gangrene of the bowel and a significant amount, of loop twisted around itself in the area of the previous hysterectomy. The plaintiff underwent exploratory laparotomy, lysis of adhesions, abdominal washout, removal of the peritoneal dialysis catheter, removal of a segment of the ileum and the right colon, and an ileostomy, and a second surgery to revise the ileostomy stump because the stump appeared gangrenous; additionally the small bowel was resected.

The plaintiff remained hospitalized until she was discharged on November 5, 2014 to a rehabilitation center. The plaintiff was discharged to home from rehabilitation on November 26, 2014. The plaintiff experiences pain, tightness and pulling in and about her abdomen, particularly with movement. The areas of abdominal scars are very sensitive and have altered sensation. Any activity that involves carrying, lifting, bending or similar movements is limited because of abdominal pain and scarring. She also experiences regular bouts of diarrhea. In addition, the plaintiff developed scars about her left arm, left breast and legs, associated with calcium deposits, during her hospitalization.

The plaintiff maintained that the defendants failed to attempt to treat the condition with other alternative treatments that were less invasive and involved less risk, such as oral contraceptives, depo provera injections, Lysteda, use of Mirena or Liletta, and endometrial ablation. The defendants failed to inform the plaintiff that there were alternatives to the surgery they were recommending and intending to perform (that is, a supracervical hysterectomy), and thus, failed to obtain plaintiff's informed consent to that procedure, or to a total hysterectomy. The defendants failed to inform the plaintiff of the risks involved in performing the supracervical hysterectomy, or a total hysterectomy, including the risk that adhesions may be encountered or created during the surgery and necessitate other surgeries. The defendants performed a total abdominal hysterectomy, removing the plaintiff's cervix, when they had discussed with plaintiff only a supracervical hysterectomy.

The defendants also failed to evaluate plaintiff's elevated prolactin level, which is associated with menstrual irregularities and abnormal bleeding. The plaintiff maintained that the defendants' care of the

plaintiff in its totality was a deviation from the standard of care. The defendants maintained that the injuries the patient sustained would have occurred regardless of the treatment rendered due to her underlying conditions.

The parties entered into a pre-trial high/low agreement wherein the plaintiff would receive a maximum of $600,000 in the event of the jury awarding damages above that amount, and a minimum of $100,000 in the event of a defendant's verdict or an award below that amount. The jury found in favor of the plaintiff and awarded damages in excess of $600,000 thus the plaintiff recovered $600,000 in damages.

REFERENCE

Ortega, et al. vs. Saba, et al. Docket no. L-003268-16; Judge Bruno Mongiardo, 06-26-19.

Attorney for plaintiff: Kenneth F. D'Amato of Sunshine, Atkins, Minassian, Tafuri, D'Amato & Beane, P.A. in River Edge, PA. Attorney for defendant: Evan B. Magnone of Mattia, McBride & Grieco, P.C. in Fairfield, NJ.

Rehab Facility

UNDISCLOSED RECOVERY

Medical malpractice – Rehabilitation center negligence – Plaintiff's decedent falls while doing physical therapy at defendant facility – Femur shaft fracture requiring open reduction with internal fixation results in complications and wrongful death of plaintiff's decedent.

Essex County, NJ

In this medical malpractice case, the plaintiff asserted that the defendants were negligent in their care and treatment of the plaintiff's decedent in such fashion as to result in his wrongful death on February 17, 2014. The defendants denied any violation of the standard of care and denied the plaintiff's allegations of negligence, abuse and lack of training of employees.

The plaintiff's decedent was a resident at the defendant rehabilitation facility, being cared for by the defendant staff, from January 4, 2014 until February 4, 2014. The patient was recovering from extensive heart surgery and other medical conditions. On February 4, 2014, the patient fell while under the defendants' care. The plaintiff maintained that the defendants failed to provide an understandable explanation as to how the plaintiff's decedent fell and did not provide an incident report when requested.

As a result of the unnecessary fall on the defendant's premises, the plaintiff's decedent sustained injuries including severe femur shaft fracture. The patient was transferred to the hospital where she underwent orthopedic surgery. The patient developed complications including intraoperative hemorrhage from the femoral artery and sepsis. The plaintiff argued that the cumulative effects of those injuries, in combination with her prior medical condition, ultimately culminated in the death of the plaintiff's decedent.

The plaintiff argued that the defendants' negligence included permitting abuse of the decedent; failure to notify the physician and the decedent's family in a timely manner of action which affected the decedent plaintiff's safety; failure to hire a sufficient number of trained and competent staff; violating state statutes and regulations, as well as OBRA regulations; failure to adhere to the plan of care; failure to discharge employees when the facility knew or should have known of the employee's negligent care of patients; allowing untrained/unlicensed individuals to provide care to the decedent; failure to properly train employees to deal with geriatric residents who are subject to falls when unattended; failure to prevent decedent plaintiff from falls. The plaintiff maintained that the defendant and its agents and employees failed or neglected to perform the duties to provide reasonable and adequate health care to and for the decedent, who was unable to attend to her own health and safety and were ultimately responsible for her death.

The defendants asserted that the patient fell during a physical therapy session while a resident at the defendant facility, due to her own fault and not due to any fault of the defendants. The defendants argued that the injuries and damages, if any, sustained by the plaintiff's decedent were caused by their sole, contributory or comparative negligence and in plaintiffs' failure to make proper observations and exercise reasonable care under the existing circumstances. The individual defendants asserted that the negligence, if any, was committed by other defendants.

All parties settled the matter prior to trial for an undisclosed sum.

REFERENCE

Estate of Jessie Reese Hampton vs. South Mountain Healthcare and Rehabilitation Center, et al. Docket no. L-000877-16; Judge Thomas M. Moore, 11-08-19.

Attorney for plaintiff: Beverly G. Giscombe, Esq. in East Orange, NJ. Attorney for defendant: Ross V. Carpenter of Hardin, Kundla, McKeon & Poletto in Springfield, NJ.

Surgery

DEFENDANT'S VERDICT

Medical malpractice – Surgery – Gastroenterology – Plaintiff's decedent argues defendant surgeon deviated from standard of care and increased risk of sepsis in plaintiff's decedent – Defendant denies deviation and points to colonoscopy as likely source of patient's sepsis – Plaintiff's 43-year-old decedent ultimately dies of sepsis.

Essex County, NJ

In this medical malpractice case, the plaintiff asserted that the defendant surgeon deviated from the standard of care in treatment of the plaintiff's decedent, his 43-year-old wife, causing her death. This case was based on the malpractice claim against the primary defendant surgeon who oversaw the decedent's treatment. Multiple additional defendants were brought in under Respondeat Superior. The defendant denied any deviation from the standard of care and asserted that all treatment of the plaintiff's decedent was appropriate and timely.

On January 11, 2012, the plaintiff's decedent presented to the emergency room of the defendant hospital with complaints of dizziness, abdominal pain, fever, nausea, vomiting and diarrhea for 5 to 6 days. The decedent was treated by the defendant surgeon and others on staff at the hospital. The plaintiff maintained that the defendants failed to diagnose and appropriately treat extensive diverticular abscess. The plaintiff's decedent underwent exploratory laparotomy that included surgical resection of the leaking abscess and associated bowel with drainage of a pool or purulent drainage. The plaintiff remained hospitalized from January 11 until her death on January 24 of septic shock and fungemia.

The plaintiff presented the testimony of an expert who opined that decedent would have survived had the primary source of sepsis been identified and treated. The plaintiff's expert opined that the most important element in treating a patient with septic shock is primary source control and that source control was never acquired for the patient in this case. The plaintiff's expert stated that the patient was doing well early on January 22, but by later in the day, she developed fever, shock, tachycardia, respiratory distress, reduced level of consciousness and agonal breathing.

The defendant asserted that the "Point of no return" for treatment of the plaintiff's sepsis occurred between January 21st and 22nd. The plaintiff's expert testified that, had the decedent been diagnosed and received treatment for a diverticular rupture, abscess formation and subsequent related fungemia by January 22nd, via exploratory laparotomy and correct complementary medical care, it was medically likely that she would have survived her illness and would be alive today.

The plaintiff asserted that the defendant surgeon deviated from accepted standards for general surgical practice that he rendered to the decedent; that he increased the risk of harm posed by the patient's condition of diverticulitis; and that the increased risk of harm was a substantial factor in causing the death of the plaintiff's decedent. The defendant maintained that he treated the plaintiff for her presenting symptoms and that sepsis is a known risk of diverticular rupture. The defendant surgeon asserted that the patient's death was due to causes unrelated to the treatment rendered. The defendant also pointed to the patient's comorbidities of obesity, hypertension and diabetes as complicating, contributing factors to her failure to respond to treatment.

Further, the defendant asserted that a colonoscopy performed on the patient on January 17, by a different physician, increased the risk of harm to the patient. The defendant presented expert testimony that the colonoscopy was contraindicated and further weakened the patient's colonic wall, which contributed to the perforation that was ultimately found at autopsy. The defendant's expert opined that one of the general rules of gastroenterology is that in general a colonoscopy should not be performed on patients with acute diverticulitis.

Prior to trial, the plaintiff made an offer to take judgment in the amount of $1 million. The defendant declined and the matter went to trial. The jury found no cause of action and returned a verdict of no deviation from the standard of care in favor of the defendants.

REFERENCE

Ashplant vs. Anani, M.D. et al. Docket no. L-000211-14; Judge Thomas Vena, 10-21-19.

Attorney for plaintiff: Ty Sergio of Britcher Leone, LLC in Cedar Knolls, NJ. Attorney for defendant Chilton Hospital: Raymond J. Fleming of Rosenberg Jacobs Heller & Fleming, P.C. in Morris Plains, NJ. Attorneys for defendant surgeon, Lawrence Guarino, M.D.: Victoria R. Pontecorvo, Phillip Mattia and Haley Greico of Mattia, McBride & Grieco, P.C.

BUS NEGLIGENCE

$17,500 RECOVERY

Bus negligence – Plaintiff bus passenger injured when 2 school buses from same company collide – Severe cervical sprain/strain; thoracic sprain/strain – Bilateral knee sprain/strain – 3 months of chiropractic manipulation.

Passaic County, NJ

On June 9, 2017, the minor plaintiff was a passenger in the defendant's school bus operated by the defendant driver. The bus was traveling in a northerly direction on Route 17 at MacArthur Boulevard in Mahwah. A second bus, owned by the same defendant company and driven by a second defendant driver, was traveling on the same road and in the same direction as the bus on which the plaintiff was a passenger. The plaintiff maintained that the 2 buses collided and the minor plaintiff was caused serious injury and mental anguish. The defendants initially denied liability and contested the plaintiff's damages. Ultimately, the defendants settled the matter with the minor plaintiff.

As a result of the collision, the plaintiff sustained severe cervical sprain/strain; thoracic sprain/strain; and bilateral knee sprain/strain. The plaintiff treated with 3 months of chiropractic manipulation. The plaintiff's chiropractor reported that the plaintiff had no temporary or permanent disability as a result of her injuries at the point of termination of treatment.

The parties settled the matter prior to trial in the amount of $17,500 broken down as follows: $4,846 in attorney fees; $3,314 in medical costs and $9,340 in net damages to the minor plaintiff.

REFERENCE

Cayo vs. Williams, et al. Docket no. L-002235-18; Judge Frank Covello, 06-07-19.

Attorney for plaintiff: Brian B. Horan of Fusco & Macaluso Partners, LLC in Passaic, N.J.. Attorney for defendant: Kristin A. Rempusheski of Landman Corsi Ballaine & Ford, P.C. in Newark, NJ.

DOG BITE

$7,500 RECOVERY

Dog bite – Defendant's dog bites minor plaintiff's arm at campground – Traumatic injury requiring medical treatment.

Middlesex County, NJ

On August 29, 2017, the minor plaintiff was proceeding in the Oakland Valley Campground in Cuddebackville, New York. The defendant was the owner of a mixed breed German Shepard dog also on the premises of the campground. The plaintiff asserted that, as a direct and proximate result of the negligence, carelessness and recklessness of the defendant and the defendant's knowledge of the dog's vicious propensities, the defendant's dog bit the arm of the minor plaintiff causing him to suffer serious and permanent injury. The defendant denied liability and argued that the minor plaintiff was responsible for the attack or was at least contributorily negligent.

As a result of the dog bite, the plaintiff sustained traumatic injury requiring medical treatment, as well as past and future medical expenses and past and future mental and physical pain. The defendant argued that the dog bite was due to unavoidable circumstances beyond the control of the defendant.

The parties settled the matter prior to trial in the amount of $7,500 broken down as follows: $2,545 in attorney fees and $4,955 in net damages to the minor plaintiff.

REFERENCE

Finver vs. McLamore. Docket no. L-008462-18; Judge Gary Wolinetz, 07-07-19.

Attorney for plaintiff: Max J. Stagliano of Gill & Chamas, LLC in Woodbridge, NJ. Attorney for defendant: Erik M. Ortega of Law Office of Gerald F. Strachan in Woodbridge, NJ.

INSURANCE OBLIGATION

$100,000 GROSS RECOVERY

Insurance obligation – Motor vehicle negligence – Auto/pedestrian collision – Post-concussive syndrome – Post-concussive migraine headaches; attention deficits; permanent neurological, cognitive, educational and behavioral deficits.

Middlesex County, NJ

In this insurance obligation/motor vehicle negligence case, the minor plaintiff, a 12-year-old boy, asserted that the defendant driver failed to keep a proper lookout and negligently struck him while he was walking through a parking lot, causing him to sustain serious injuries. The defendants denied liability.

On August 26, 2016, the plaintiff was a pedestrian crossing a parking lot at Versailles Court in Hamilton Township, where he lived. The defendant was driving her vehicle east through the parking lot when she struck the minor plaintiff and he fell to the pavement. The plaintiff brought suit against the defendant driver and brought an underinsured motorist claim on his parent's automobile insurer.

As a result of the collision, the plaintiff sustained traumatic injury to the head. The plaintiff has ongoing post-concussive syndrome with post-concussive migraine headaches and attention deficits. The plaintiff's physician certified the plaintiff's neurological, cognitive, educational and behavioral deficits as permanent.

The defendant driver asserted that the plaintiff was at fault for failing to look out for oncoming cars in the parking lot as he was walking and that he darted in front of the defendant's vehicle without warning. The defendant driver claimed that she was traveling at a very low speed and that the passenger side view mirror was the only part of the vehicle that came into contact with the plaintiff. The defendants maintained that the impact was not significant enough to cause the injuries claimed by the plaintiff. The defendants pointed to the plaintiff's CT-scan following the accident which showed no sign of fracture or intracranial hemorrhage.

The parties settled the matter prior to trial in the amount of $50,000 from the defendant driver and $50,000 from the defendant insurer. The plaintiff received a total net recovery of $64,758.

REFERENCE

Ferrier vs. New Jersey Manufacturers Insurance Company, et al. Docket no. L-000453-18; Judge Christopher Rafano, 09-06-19.

Attorney for plaintiff: Nicholas J. Leonardis of Stathis & Leonardis, LLC in Edison, NJ. Attorney for defendant New Jersey Manufacturers Insurance Company: Robert S. Helwig of Hoagland, Longo, Moran, Dunst & Doukas, LLP in New Brunswick, NJ. Attorney for defendant Bianca Velazquez: Christopher W. Ferraro of Cooper Maren Nitsberg Voss & DeCoursey in Iselin, NJ.

MOTOR VEHICLE NEGLIGENCE

Auto/Bicycle Collision

$15,000 RECOVERY

Motor vehicle negligence – Auto/bicycle collision – Displaced fracture of distal radius – Ddisplaced ulnar styloid fracture – Casting – Permanent bump and residual injury.

Monmouth County, NJ

In this motor vehicle negligence case, the minor plaintiff, a 16-year-old girl, asserted that the defendant driver struck her as she was riding her bicycle and caused her to sustain permanent injury. The defendant filed a notice of appearance, but did not answer prior to settlement.

On October 4, 2017, the plaintiff was a legal bicyclist on a street in Red Bank. The plaintiff asserted that the defendant carelessly and recklessly operated her vehicle as to negligently strike the plaintiff causing her to fall from her bicycle and sustain injury. The plaintiff was taken from the scene of the accident by ambulance to the hospital where she was diagnosed with a serious wrist fracture.

As a result of the accident, the plaintiff sustained a displaced fracture of the distal radius and a displaced ulnar styloid fracture. The plaintiff was treated with external fixation in the form of a cast. The plaintiff's physician certified that the injury will leave a bump and some residual permanent injury.

The parties settled the matter prior to trial in the amount of $15,000 broken down as follows: $3,670 in attorney fees; $999 in medical expenses and $10,331 in net damages to the minor plaintiff.

REFERENCE

Bolanos-Montes vs. Roberts. Docket no. L-004558-18; Judge Linda Grasso Jones, 06-28-19.

Attorney for plaintiff: Robert D. Farber of Law Offices of Robert D. Farber in Ocean, NJ. Attorney for defendant: Amanda B. Tosk of Cooper Maren Nitsberg Voss & DeCoursey in Iselin, NJ.

Auto/Pedestrian Collision

$350,000 RECOVERY

Motor vehicle negligence – Auto/pedestrian collision – Plaintiff's decedent struck by automobile and killed as he is attempting to jump start disabled vehicle on shoulder – No evidence of physical pain and suffering – Pre-impact terror – Decedent estranged from wife and leaves 2 sons – UIM case.

Atlantic County, NJ

In this motor vehicle negligence case, the plaintiff contended that as the 52-year old decedent was traveling southbound on his commute to work at approximately 5:30 a.m., he noticed a car disabled on the right shoulder. The decedent pulled off, turned his pick-up truck around and prepared to jump start the disabled vehicle. The plaintiff maintained that as he was slightly onto the road in the southbound lane, he was struck and killed by the southbound underling driver, who had a $15,000 policy. The plaintiff settled with the driver for the policy and proceeded under a $500,000 UIM policy with $485,000 available.

There was no evidence of physical conscious pain and suffering. The plaintiff maintained that it was highly probable that the decedent suffered pre-impact terror as he saw the vehicle bearing down on him. There was no evidence of financial dependency. The decedent was estranged from his wife and had 2 sons. The plaintiff made a claim for the loss of guidance and advice by the sons. The defendant would have countered that there was little evidence of a close relationship or a basis for the Green/Bitner claim.

The case against the UIM carrier settled for$335,000, yielding a total recovery of $350,000.

REFERENCE

Chivalette vs. Carides, et al. Docket no. ATL-L-2758-19, 10-20.

Attorney for plaintiff: Robert Sandman of Hankin Sandman Palladino Weintrob & Bell in Atlantic City, NJ.

$297,500 RECOVERY

Motor vehicle negligence – Auto/pedestrian collision – Defendant distracted by adjacent road closure sign fails to observe plaintiff walking in crosswalk – Fractures to non-dominant hand – Knee tears – Arthroscopic surgery – Cervical herniation – Fusion.

Morris County, NJ

In this action for motor vehicle negligence, the 62-year-old plaintiff pedestrian, who was crossing the uncontrolled intersection in the crosswalk, contended that the defendant driver negligently failed to make observations and was distracted by an adjacent road closure, striking him, causing him to sustain injuries. The defendant denied that the accident caused permanent injury.

The plaintiff contended that as a result of the collision, he suffered fractures to the right, non-dominant hand, a lumbar herniation a cervical protrusion and a tear of the medial meniscus of the right knee. The plaintiff asserted that despite a cervical fusion and injections to the lumbar area and right knee, he will suffer very extensive pain and limitations permanently.

The defendant denied that the plaintiff met the verbal threshold, asserting that the alleged injuries were preexisting and degenerative in nature. The plaintiff countered that he had no prior symptoms or treatment.

The defendant had $250,000 in primary coverage and a $1,000,000 umbrella. The case settled prior to trial for $297,500.

REFERENCE

Moreno vs. Soto. Docket no. MRS-L-2334-18, 04-20-20.

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

Head-on Collision

$92,500 RECOVERY

Motor vehicle negligence – Head-on collision – Perforation of sigmoid colon – Surgery – No income claims – UIM case.

Morris County, NJ

In this action for motor vehicle negligence, the plaintiff driver, in his late 50s, contended that the defendant driver negligently crossed over the center line, causing the head-on crash which resulted in the plaintiff sustaining serious injuries.

The plaintiff maintained that he suffered a perforation of the sigmoid colon. The plaintiff asserted that the condition was monitored by CT-scan for a week before the plaintiff underwent surgery, which included a resection and a colostomy that was subsequently reversed. The plaintiff also developed an infection, extending his hospitalization, during which he received IV antibiotics. The infection substantially resolved.

The plaintiff made no income claims.

The defendant had a $15,000 policy, which was paid. The plaintiff had a $250,000 UIM policy and $235,000 was available. The case against the UIM carrier settled prior to trial for $77,500, yielding a total recovery of $92,500.

REFERENCE

Plaintiff's general surgeon expert: Kennedy O. Gabre, M.D. from Florham Park, NJ.

Nile vs. Winters, et al. Docket no. MRS-L-2145-18, 06-05-20.

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

$35,000 RECOVERY

Motor vehicle negligence – Head-on collision – Plaintiff passenger suffers bulging discs – 6 months chiropractic care – Ankle tear prompting surgery – Plaintiff misses 2 weeks from job as receptionist.

Passaic County, NJ

In this action for motor vehicle negligence, the 41-year-old plaintiff passenger contended that the defendant non-host driver negligently failed to maintain control of her vehicle, resulting in the head-on collision which caused her sustain multiple injuries. There was no evidence that the host driver was negligent. The defendant contended that the injuries resolved, and denied that the plaintiff met the verbal threshold.

The plaintiff contended that she suffered an ankle tear that required surgery. The plaintiff further maintained that she suffered a lumbar and cervical bulge that were confirmed by MRI and which prompted 6 months of chiropractic care. The plaintiff asserted that although she made a relatively good recovery, she will permanently suffer some pain in the foot and back areas.

The case settled prior to trial for $35,000.

REFERENCE

Davis vs. Constant. Docket no. PAS-L-3237-19, 05-22-20.

Attorney for plaintiff: Bert Siegel of Siegel & Siegel in Teaneck, NJ.

Left Turn Collision

DEFENDANT'S VERDICT

Motor vehicle negligence – Left turn collision – Internal derangement of shoulder – Multi-level herniations in cervical spine at C3-4, C4-5, C5-6, C6-7 and C7-T1 – Epidural injections and physical therapy – Jury finds liability by both defendants, but no permanent injury to plaintiff.

Cumberland County, NJ

In this motor vehicle negligence case, the plaintiff asserted that the defendant driver struck his vehicle from behind with such force that it caused significant, permanent injury. The defendants each held the other responsible for causing the collision.

On January 14, 2015, the plaintiff, a 43-year-old man, was a passenger in a vehicle traveling westbound on Maple Avenue in Vineland. As the plaintiff's vehicle was preparing to turn left onto Linwood Avenue, the driver employed her left turn signal, but steered the vehicle towards the right in order to make the left-hand turn. Simultaneously, the defendant driver was traveling westbound on Maple Avenue directly behind the plaintiff's vehicle. As a result of the collision, the plaintiff sustained permanent injury to his spine and shoulder, including internal derangement of the shoulder; multi-level herniations in the cervical spine at C3-4, C4-5, C5-6, C6-7 and C7-T1; radiculopathy; cervical, thoracic and lumbosacral subluxation. The plaintiff treated with epidural injections and physical therapy. The plaintiff was informed that, if the injections did not resolve the issue, he would be recommended for surgery.

The plaintiff maintained that the defendant negligently failed to make proper observations and attempted to pass the vehicle on the left causing her vehicle to strike the driver's side of the plaintiff's vehicle. The plaintiff brought suit against the driver of the vehicle in which he was a passenger and the driver of the vehicle that struck the plaintiff's vehicle. The defendants contested the plaintiff's damages. The defendants argued that the plaintiff's injuries were preexisting and not caused by the subject collision.

The jury found in favor of the plaintiff and against the defendants as to liability, apportioning 95% fault to the driver of the vehicle that struck the plaintiff's vehicle and 5% fault to the driver of the vehicle in which the plaintiff was a passenger. The jury found, by a vote of 6-1, that the plaintiff failed to prove by a preponderance of the medical evidence that he sustained a permanent injury as a result of the subject collision; as such, the plaintiff recovered $0 in damages.

REFERENCE

Cantie vs. Kundin and Rowley. Docket no. L-000009-17; Judge Jean S. Chetney, 07-24-19.

Attorney for plaintiff: Paul C. Jensen, Jr. of Folkman Law Offices, P.C. in Cherry Hill, NJ. Attorney for defendant Tanya Kundin: Anthony Young of Parker Young & Antinoff, LLC in Marlton, NJ. Attorney for defendant Nydirah Rowley: Victoria S. Harman of Law Offices of Francis D. Mackin in Marlton, NJ.

Rear End Collision

$200,000 RECOVERY

Motor vehicle negligence – Rear end collision – Cervical herniation – Radiculopathy – Difficulties sleeping – Surgery following PT and injections – No income claims.

Morris County, NJ

In this action for motor vehicle negligence, the 53-year-old plaintiff driver contended that the defendant driver struck her in the rear. The plaintiff maintained that she suffered cervical pain which continued to deteriorate despite physical therapy and steroid injections. The defendant produced no medical testimony.

The plaintiff maintained that a cervical herniation with right-sided radiculopathy was confirmed by MRI and EMG, and that approximately 1 ½ years following the accident, she underwent surgery. The plaintiff's neurosurgeon indicated that he is so far pleased with her surgical result and asserted that irrespective a relatively good surgical result, she will permanently suffer some symptoms

The plaintiff made no income claims. The plaintiff was not subject to the verbal threshold.

The defendant had a $500,000 CSL policy. The case settled prior to the scheduling of trial for $200,000.

REFERENCE

Plaintiff's neurosurgeon expert: John Cifelli, M.D. from Clifton, NJ. Plaintiff's radiology expert: Lisa Marie Sheppard, M.D. from Flemington, NJ.

Johnson vs. Pladick. Docket no. MRS-L-585-19, 03-27-20.

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

ARBITRATION FOLLOWED BY DISMISSAL

Motor vehicle negligence – Rear end collision – Broad-based disc herniations at L2-3, L3-4, C5-6; disc bulges at L5-S1, C4-5, C6-7; bilateral C5 and L3 radiculopathy – Chiropractic care and steroid injections – No lost wage claim – Arbitration sets liability at 100% fault to defendant and damages at $40,000.

Essex County, NJ

In this motor vehicle negligence case, the plaintiff, a 52-year-old female factory worker, asserted that the defendant driver struck the rear of her vehicle with such force that it caused significant, permanent injury. The defendant argued that the plaintiff's injuries were degenerative and not caused by the subject collision.

On February 16, 2016, the plaintiff was operating her vehicle southbound on Valley Road in Montclair. The defendant was also traveling southbound on Valley Road in Montclair. The plaintiff maintained that the defendant negligently failed to slow or stop behind the plaintiff's vehicle and struck her from the rear. As a result of the subject collision, the plaintiff sustained injuries to her lumbar and cervical spine with herniations in both. The plaintiff underwent X-rays, MRIs and EMG study. She was found to have sustained broad-based disc herniations at L2-3, L3-4, and C5-6; disc bulges at L5-S1, C4-5 and C6-7; bilateral C5 and L3 radiculopathy. She received chiropractic care and steroid injections. Her medical bills were paid by PIP coverage and there was no lost wage claim.

The defendant denied liability and asserted that the plaintiff was at least comparatively negligent. The defendant also contested the plaintiff's damages.

The parties submitted to arbitration prior to trial. The arbitrator assigned 100% liability to the defendant and set damages at $40,000. Following arbitration, neither party responded and the case was dismissed.

REFERENCE

Alvarez vs. Conway. Docket no. L-000391-18; Judge Bahir Kamil, 07-06-19.

Attorney for plaintiff: Raffi T. Khorozian of Law Office of Raffi T. Khorozian, PC in Fort Lee, NJ. Attorney for defendant: Rafael Soto of Law Offices of Pamela D. Hargrove in Cranford, NJ.

DEFENDANT'S VERDICT

Motor vehicle negligence – Rear end collision – Disc bulge at L3-4 with sac flattening and radiculopathy – Chiropractic care and physical therapy – Plaintiff recovers $2,500 per high/low agreement.

Bergen County, NJ

In this motor vehicle negligence case, the plaintiff, a 21-year-old man, asserted that the defendant driver struck his vehicle from behind with such force that it caused significant, permanent injury. The defendant stipulated liability, but contested the plaintiff's damages.

On May 13, 2017, the plaintiff was traveling south on Route 17 in Rochelle Park. The defendant was operating a vehicle along the same roadway directly behind the plaintiff. The plaintiff claimed that the defendant carelessly and negligently operated his vehicle such that he caused it to strike the rear of the motor vehicle operated by the plaintiff. The plaintiff declined medical treatment at the scene and the next day went to the hospital due to pain in his neck and back.

As a result of the collision, the plaintiff sustained a disc bulge at L3-4 with sac flattening and radiculopathy. The plaintiff treated with chiropractic care and physical therapy. The plaintiff claimed no lost wages.

The plaintiff contended that the injury was permanent, but did not submit a certificate of permanency for his alleged injuries. The defendant argued that the plaintiff's injuries were congenital, given the youth of the plaintiff, that they were not physiologically significant and were not related to trauma; thus, not caused by the subject collision.

The parties entered into a pre-trial high/low agreement wherein the plaintiff would receive a minimum of $2,500 in the event of a defendant's verdict or an award below that amount. The jury found in favor of the defendant thus the plaintiff recovered $2,500 in damages.

REFERENCE

Arce vs. Engvold. Docket no. L-006442-17; Judge Peter Geiger, 08-23-19.

Attorney for plaintiff: Tracie Nunno D'Amico of Law Offices of William R. Nunno in Hackensack, NJ.
Attorney for defendant: Jenna Gough of Law Offices of Viscomi & Lyons in Morristown, NJ.

PREMISES LIABILITY

Fall Down

$300,000 RECOVERY REACHED DURING TRIAL.

Premises liability – Fall down – Slip and fall in bakery parking lot day following approximate 6-inch snowfall – Ankle fracture – Surgery – Medial meniscal tear – Arthroscopic surgery 2 ½ years following incident.

Union County, NJ

In this premise liability action, the 63-year-old plaintiff contended that the defendant negligently failed to adequately clear the parking lot after an approximate 6-inch snowfall the previous day, causing the plaintiff to slip and fall, sustaining multiple injuries. The defendant maintained that the parking lot was properly cleared the previous day and that there were no intervening events which necessitated additional snow/ice removal on the day of plaintiff's fall. The defendant further asserted that the plaintiff failed to make adequate observations and was comparatively negligent.

The plaintiff suffered a trimalleolar ankle fracture, which required an ORIF. The plaintiff further maintained that the fall caused a medial meniscal tear on the same side. The plaintiff claimed that more conservative therapy was inadequate and that approximately 2 ½ years later, she underwent arthroscopic knee surgery.

The plaintiff's meteorologist opined that winds had reached 30-40 mph in the interim, and plaintiff argued that this caused remaining snow to drift back over the parking lot, causing a dangerous condition. The plaintiff contended that she will suffer permanent pain and limitations and that everyday activities are difficult. The plaintiff missed approximately 1 year from her job as a medical billing inpatient coder and made no future income claims.

The case settled during trial for $300,000.

REFERENCE

Plaintiff's meteorology expert: Thomas Else from Weatherworks, Hackettstown, NJ.

Hackley vs. Oasis Pastry Shop. Docket no. UNN-L-2732-17, 03-12-20.

Attorneys for plaintiff: Edward Capozzi and Jeremy Hylton of Brach Eichler, LLC in Roseland, NJ.

$6,250 RECOVERY

Premises liability – Fall down – Plaintiff's cane caught in hole in sidewalk of defendant's property – Tenosynovitis of the 1st dorsal compartment; lumbar and cervical injury – Spine injection – Recommendation for possible future surgery for dorsal compartment – Medicaid lien of $3,000 – Arbitrator assigns 50% liability to defendant and 50% to plaintiff.

Essex County, NJ

In this premises liability case, the plaintiff asserted that the defendant property owner negligently failed to maintain his property in a safe condition and that the plaintiff fell due to a hole in the defendant's sidewalk, sustaining serious injury as a result. The defendant denied negligence and contested the plaintiff's damages.

On March 11, 2016, the plaintiff was lawfully on the premises owned, operated, leased or maintained by the defendant located at 334 17th Avenue in Irvington. The plaintiff walks with the use of a cane and, as she was walking along the sidewalk of the defendant's property, her cane went into a hole on the sidewalk and caused her to fall and suffer serious injury. The plaintiff presented to the emergency room 2 weeks after the subject incident.

As a result of the fall, the plaintiff claimed a fracture of the right wrist with subsequent DeQuervain's syndrome and injury to the cervical and lumbar spine. The plaintiff treated with 1 injection. The plaintiff claimed ongoing pain and discomfort. The plaintiff's expert indicated that the plaintiff's symptoms were consistent with tenosynovitis of the 1st dorsal compartment and may require surgery to address ongoing pain, weakness, and difficulty with grip strength. The plaintiff claimed a Medicaid lien of $3,000.

The defendant alleged that the plaintiff had DeQuervain's tenosynovitis prior to the subject fall and that the 2 were not causally related. The defendant also pointed to the gap in diagnosis and treatment of 2 weeks between the alleged fall and the plaintiff seeking treatment at the emergency room. The defendant also pointed to the plaintiff's hospital records indicating that the plaintiff had mile osteopenia in the right wrist but no fracture and that the X-ray also showed degenerative changes rather than traumatic injury.

The parties submitted to non-binding arbitration prior to trial. The arbitrator assigned 50% liability to the defendant and 50% to the plaintiff with gross damages of $20,000 reduced to $10,000 for plaintiff's comparative negligence. Following arbitration and prior to trial, the parties settled for $6,250.

REFERENCE

Caldwell vs. Gordon. Docket no. L-001223-18; Judge Jeffrey B. Beacham, 04-01-20.

Attorney for plaintiff: Sander Budanitsky of Law Office of Sander Budanitsky, LLC in Roselle, NJ.
Attorney for defendant: Donald M. Garson of Fishman McIntyre Berkeley Levine Samansky, PC in East Hanover, NJ.

UNDISCLOSED RECOVERY

Premises liability – Fall down – Plaintiff slips and falls on snow and ice in apartment complex parking lot – Contusion of right elbow and focal fissure of patellar cartilage – Plaintiff property owner brings third-party action against co-defendant snow removal contractor.

Hudson County, NJ

This action for premises liability arose for an incident which occurred on January 28, 2016 when the plaintiff was walking in the parking lot of the defendant property in Englewood Cliffs and she fell due to ice and snow which the defendants failed to remediate. The plaintiff maintained that the defendant property and the defendant snow removal contractor were responsible for removal of snow and ice from the property and that they failed in that duty causing a hazardous condition to exist whereby the plaintiff fell and sustained serious, permanent injury. The defendant property owner filed a third-party complaint claiming that the damages alleged by the plaintiff were due solely to the carelessness, recklessness and negligence on the part of the defendant snow removal contractor. The defendant contractor claimed that it performed its duties appropriately and removed snow from the subject property per its contracted responsibility.

As a result of the fall, the plaintiff sustained contusion of the right elbow and focal fissure of patellar cartilage. The plaintiff claimed a worker's compensation lien of approximately $9,800. The defendant property further asserted that, due to the negligence of the defendant contractor, the defendant property has incurred damages in the form of attorneys' fees and costs of litigation. The defendant property sought judgment against the co-defendant on all claims and damages alleged by the plaintiff, as well as all attorney fees. The defendant contractor answered the defendant property owner's third-party complaint stating that the property owner was contributorily negligent, and therefore, barred from recovery.

The parties submitted to arbitration wherein the arbitrator set liability at 80% for the defendant property; 10% for the defendant snow removal contractor and 10% for the plaintiff. The arbitrator found $30,000 in damages with a net of $27,000, reduced by the

plaintiff's negligence. The parties settled the matter prior to trial amongst all parties, and including the third-party complaint, for an undisclosed sum.

REFERENCE

Arellano vs. ESL 200, LLC, et al. Docket no. L-004995-17; Judge Vincent J. Militello, 09-04-19.

Attorney for plaintiff: Ramon M. Gonzalez of Gonzalez & Caride, Esqs. in Union City, NJ. Attorney for defendant ESL 200, LLC: Philip A. Lundell, Jr. of Golden, Rothschild, Spagnola, Lundell, Boylan & Garubo, P.C. in Bridgewater, NJ. Attorney for defendant North Jersey Snow Plowing: Bruce C. Morrissey, Esq. in Englewood Cliffs, NJ.

WRONGFUL TERMINATION

UNDISCLOSED RECOVERY

Wrongful termination – Violation of NJ Law Against Discrimination – Plaintiff citizen of Ethiopia with permission to work terminated by defendant employer – Plaintiff seeks damages for loss of wages, costs of relocation, and punitive damages for willful and wanton disregard for harm to plaintiff.

Middlesex County, NJ

The plaintiff in this employment discrimination suit was a citizen of Ethiopia with asylee status and permitted to work in the United States. The plaintiff was interviewed and hired for a position with the defendant for a salary of $80,000 per year as a Senior Technical Consultant in May of 2017 with work to start in June. The plaintiff was informed that the job was in California and the plaintiff agreed to relocate. The plaintiff gave notice at his former place of employment, terminated his housing in Virginia, shipped his car ahead and the plaintiff and his wife flew to California and secured temporary housing while they looked for a permanent home. The plaintiff was told he would start on June 26, 2017. Instead, the defendant contacted the plaintiff just before he was to start and informed him that he could not begin work yet. The defendant continued refusing to allow the plaintiff to start work. On June 29, 2017, the defendant's Human Resources Department representative told the plaintiff by telephone and confirmed in writing that the defendant was terminating the plaintiff's employment as of June 29 because, according to the defendant, the plaintiff was neither a U.S. citizen, nor a green card holder. The plaintiff maintained that the actions of the defendant caused and continue to cause the plaintiff damages. The plaintiff brought suit for violation of NJLAD; Wrongful Retaliation and Discharge; Breach of Contract; Breach of Duty of Good Faith and Fair Dealing; Equitable Estoppel for Detrimental Reliance; Laches; and Promissory Estoppel.

The plaintiff asserted that, in violation of the NJ Law Against Discrimination, the defendant terminated the plaintiff's employment because of his nationality, nation origin or citizenship. The plaintiff asserted that the defendant's actions were motivated by actual malice or were the result of a willful and wanton disregard for harm to the plaintiff. The plaintiff put forth that, since upper management actually participated in these actions with willful indifference, the imposition of punitive damages was justified. The plaintiff sought compensatory damages for loss of wages (back and front pay) and lost benefits; emotional distress damages for pain, suffering, stress, humiliation and mental anguish; punitive damages; and attorney's fees and costs.

The defendant denied violation of the plaintiff's rights and asserted that the position for which the plaintiff was being considered was in the aerospace industry and, therefore, required that the plaintiff be a U.S. citizen or permanent resident. The defendant maintained that the plaintiff could not show that his employment ended under circumstances giving rise to an inference of discrimination. The defendant put forth that the plaintiff's claims were barred, in whole or part, to the extent that the bona fide occupational qualification exception applied. The defendant also challenged the plaintiff's claimed damages, asserting that the plaintiff failed to mitigate his damages.

The parties settled the matter via mediation prior to trial for an undisclosed sum.

REFERENCE

Plaintiff's mediation expert: Arnold H. Feldman.

Bekele vs. L&T Technology Services Limited. Docket no. L-002502-18; Judge Christoph Rafano, 07-01-19.

Attorney for plaintiff: Lisa M. Curry of Attorney At Law, LLC in Stroudsburg, PA. Attorney for defendant: Sean J. Kirby of Sheppard, Mullin, Richter & Hampton, LLP in New York, NY.

UNDISCLOSED RECOVERY

Wrongful termination – Gender discrimination – Whistleblower – Plaintiff claims discriminatory practices by defendant employer and retaliation for reporting these acts and dangerous conditions at workplace – Parties settled matter via mediation.

Burlington County, NJ

In this whistleblower case, the plaintiff asserted that the defendant retaliated against the plaintiff due to protected status or activity in which the plaintiff engaged.

The plaintiff was a former employee of the defendant property management company. The plaintiff began working for the defendant in May of 2017. The plaintiff was terminated from her employment on March 30, 2018. The plaintiff began having problems with her employment with the defendant in or around December of 2017. At that time, a new general manager, who is white, began working at the facility. Almost immediately, the plaintiff's hours were reduced from approximately 40 hours per week to approximately 32 hours per week. The plaintiff later learned that the new general manager actually wanted to limit plaintiff to working only 3 days per week. However, the plaintiff spoke to an individual at the corporate level, and was permitted to continue working 4 days.

After that occurred, the plaintiff asserted that the defendant's general manager made the statement, "That's why I work better with men," in reference to the plaintiff's complaint about her hours being reduced. Several positions at the defendant company were empty at the time, and they were all filled by male employees. In or around January of 2018, the plaintiff applied for a position called "Executive housekeeper." The position and title were given to a male employee. In or around February of 2018, the plaintiff complained about the gender discrimination she believed she was being subjected to, and about dangerous conditions at defendant; specifically, with regard to a potential fire hazard at the job site. The plaintiff complained to the defendant's general manager, executive housekeeper and the chief engineer about this hazardous condition.

The plaintiff began making these complaints at the end of January of 2018, and continued making them in February of 2018. The plaintiff was told by the defendant's executive housekeeper, in response to this complaint, that she "Wouldn't be here long." The plaintiff claimed that the defendant's general manager also began making racially inappropriate comments to the plaintiff, who is Latina. For example, the general manager would refer to the plaintiff as "Spanish girl." These comments were unwelcome by the plaintiff and she complained about all of this conduct and the dangerous conditions to the corporate office on February 17, 2018. Approximately 10 days later, on February 27, 2018, a corporate officer came to the facility regarding the complaints made by the plaintiff. Shortly after the plaintiff began making these complaints about unlawful conduct, she was subjected to multiple write-ups in March of 2018. She was then terminated on March 30, 2018.

The plaintiff complained to members of upper management at the defendant company that she reasonably believed that the defendant was discriminating against her because of her gender at that it was a violation of a law, a rule or regulation promulgated pursuant to law, or actions incompatible with a clear mandate of public policy. In acting as she did, the plaintiff objected to and/or refused to participate in activities, policies and practices which she reasonably believed were in violation of a law, a rule or regulation promulgated pursuant to law or actions incompatible with a clear mandate of public policy. The plaintiff also complained to members of upper management that she reasonably believed that the actions of the defendant and its employees of leaving stacks of towels and other linen close to the electric box caused a fire hazard which was in violation of a law, a rule or regulation regarding safety and health. The plaintiff also complained to members of upper management at defendant that she reasonably believed that the actions of the plaintiff's supervisor in referring to plaintiff as "Spanish girl," were a violation of a law, a rule or regulation promulgated pursuant to law or actions incompatible with a clear mandate of public policy.

Subsequent to plaintiff engaging in protected activity by making these complaints, objecting to these actions and refusing to participate in these activities, the plaintiff argued that she was subjected to retaliation that included being terminated. The plaintiff claimed that the defendant's actions in retaliation were intentional, purposeful, willful and egregious retaliation, performed by members of upper management, making punitive damages warranted. The fact that plaintiff was directly retaliated against as a result of having engaged in protected activity under CEPA by way of her objections entitled her to claim compensatory and punitive damages under CEPA.

The plaintiff claimed that she suffered both economic and non-economic harm as a result of the actions of the defendant. The plaintiff brought suit for violation of CEPA and sought equitable relief in the form of reinstatement with front and back pay. The defendant contended that it acted in good faith and did not violate any rights which may be secured to the plaintiff under any federal, state, or local laws, rules, regulations, or guidelines. The defendant asserted that all actions taken with respect to the plaintiff were undertaken in good faith for legitimate business reasons, and based upon lawful and reasonable factors, and non-retaliatory reasons. The defendant claimed that all actions taken concerning the plaintiff were unrelated to any protected characteristic or protected activity; and that, even if the plaintiff could prove that

her protected activity was a factor in any employment decision, the defendant would have made the same employment decision.

The parties settled the matter prior to trial, via mediation, with undisclosed terms.

REFERENCE

Venegas vs. Edgewood Management, LLC. Docket no. L-000082-19; Judge Jeanne T. Covert, 01-08-20.

Attorney for plaintiff: Drake P. Bearden, Jr. of Costello Mains, LLC in Mount Laurel, NJ. Attorneys for defendant: James J. Panzini and Katherine M. DiCicco of Jackson Lewis, P.C. in Tinton Falls, NJ.

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

Supplemental Verdict Digest

MEDICAL MALPRACTICE

$10,838,000 VERDICT – MEDICAL MALPRACTICE – HOSPITAL NEGLIGENCE – HOSPITAL PROMULGATES POLICY TO KEEP MEDICINE BOX IN MRI ROOM IN CASE OF SUDDEN REACTION TO CONTRAST MATERIAL BUT FAILS TO DO SO – PLAINTIFF SHOWS SIGNS OF SEVERE ANAPHYLACTIC REACTION – CARDIAC ARREST – ANOXIC BRAIN DAMAGE – PLAINTIFF LEFT WITH ABILITIES OF 5-YEAR-OLD.

Blair County, PA

This medical malpractice case involved a 41-year-old plaintiff who had gone to the hospital to have a routine MRI of the lumbar area because of a history of chronic low back pain. The plaintiff contended that that when a new MRI had been installed approximately one year earlier, the hospital, noting the hazards associated with a reaction to the contrast material, promulgated policies of keeping a medication box in the MRI room and setting up an alarm in the MRI room to facilitate obtaining assistance from an emergency room physician, who was approximately 100 feet away. The plaintiff asserted that the hospital nonetheless failed to keep the medication box in the MRI room. The plaintiff maintained that this was a substantial factor in him suffering cardiac arrest and a resulting anoxic brain injury. The defendants maintained that the plaintiff was still semiconscious when the E.R. physician and radiologist saw him in the MRI room and that he suffered the cardiac arrest while in the emergency room.

The plaintiff contended that he has been left severe memory and executive function deficits, has very little judgment and cannot be left alone for more than a brief period. The plaintiff can walk and talk and the deficits are not readily apparent upon casual observations.

The jury found the defendant radiologist 25% negligent and the hospital 75% negligent. They then awarded $10, 838,000, including $310,000 for past medical bills, $6,218,000 for future medical bills, $210,000 for past lost earnings, $1,200,000 for future lost earnings, $400,000 for past non-economic damages and $2,500,000 for future non-economic damages.

REFERENCE

Plaintiff's economist expert: Matthew R. Marlin, Ph.D. from Pittsburgh, PA. Plaintiff's emergency medicine expert: Gregory Lakin, M.D. from Fox Chapel, PA. Plaintiff's life care planning expert: Heidi L. Fawber, M.Ed., L.P.C., C.R.C. from Mars, PA. Plaintiff's neuropsychologist expert: Rebecca M. Wiegers Ph.D. from Monroeville, PA. Plaintiff's physiatry expert: Thomas A. Franz, M.D. from Pittsburgh, PA. Plaintiff's radiology expert: Mark S. Colella, M.D. from Natrona Heights, PA.

Miller vs. Tyrone Hospital, et al. Case no. 2018 GN 2849; Judge Jackie A. Bernard, 08-25-20.

Attorneys for plaintiff: Brendan B. Lupetin and Gregory R. Unatin of Meyers Evans Lupetin & Unatin, LLC in Pittsburgh, PA.

$9,660,000 VERDICT – MEDICAL MALPRACTICE – EMERGENCY DEPARTMENT – FAILURE OF DEFENDANT EMERGENCY MEDICINE PHYSICIANS TO CONSIDER THAT HIV POSITIVE PATIENT'S URINARY RETENTION WAS CAUSED BY SPINAL ABSCESS IN CERVICAL AREA – PERMANENT NEED FOR URINARY CATHETER AND DAILY ENEMAS.

Kings County, NY

This was a medical malpractice action involving a plaintiff in his late 40s in which the plaintiff contended that the initial defendant emergency room physician, who first treated the patient when he was brought to the hospital in the middle of the night with a history of urinary retention and back pain, and the second E.R. physician, who came on duty at 8:30 a.m., negligently failed to consider the possibility that the symptoms of the plaintiff, who was at greater risk for an spinal abscess because of immunodeficiency associated with his HIV positive status, suffered such an abscess in the cervical area. The plaintiff maintained that as a result, surgery was not performed until that evening. The plaintiff asserted that because of the delay, he suffered permanent extensive difficulties with evacuating his bowel and bladder and must use a catheter several times per day, as well a daily enema. The defendants maintained that the treatment was within the standard of care. The defendants

asserted that an abscess is rare and that a physician should not reasonably be required to consider the upper spine for retention issues.

The plaintiff claimed that he will permanently be required to catheterize to urinate and take daily enemas. The plaintiff also maintained that in view of advances in medicine, it is likely that the plaintiff continues to have a lengthy life expectancy despite the fact that he is HIV positive. The plaintiff made no income claims.

The jury found that the first defendant was negligent in failing to order appropriate imaging studies and in failing to obtain a timely neurological consult. The jury also determined that the second defendant was not negligent for failing to order an MRI, but was negligent in failing to timely request a neurological consult. They then assessed 70% negligence against the first physician and 30% negligence against the second defendant. The jury then awarded $9,660,000, including $160,000 for past medical bills, $2,500,000 for past pain and suffering and $7,000,000 for future pain and suffering over 22.5 years.

REFERENCE

Plaintiff's emergency medicine expert: Richard K. Serra, M.D. from Durham, NC

Fuentes vs. Abakporo, et al. Index no. 500229/13; Judge Debra Silber, 10-29-19.

Attorney for plaintiff: Susan S. Dennehy of Law Offices of Susan S. Dennehy in New York, NY.

$5,000,000 RECOVERY – MEDICAL MALPRACTICE – OBSTETRICS – DEFENDANTS FAILED TO TIMELY DELIVER INFANT PLAINTIFF CAUSING PROLONGED UTERINE HYPERSTIMULATION – PROFOUND NEUROLOGICAL INJURIES INCLUDING SEIZURE DISORDER – INFANT PLAINTIFF WILL REQUIRE LIFELONG CARE.

Essex County, NJ

In this medical malpractice case, the plaintiffs asserted that the defendant ob/gyn, hospital and nursing staff were negligent during delivery of the infant plaintiff causing her to suffer significant, permanent injury. During the course of the birth, as a result of the defendants' deviations from accepted standards of care, the infant plaintiff experienced prolonged uterine hyperstimulation and ominous fetal heart rate tracings. The defendants denied liability and claimed that, at no point, did they deviate from the standard of care.

As a result of the defendants' negligence, the infant plaintiff suffered profound neurological injuries including a seizure disorder. As such, the infant plaintiff, 5 years old at the time of this suit, will never be able to care for herself. The plaintiff parents will require assistance to care and provide services to the infant plaintiff for the remainder of her life. The plaintiff has already had numerous hospitalizations due to her condition and will have similar hospitalizations and procedures throughout her life.

The parties settled the matter prior to trial in the amount of $5,000,000 broken down as follows: $1 million from the defendant ob/gyn and $4 million from the defendant hospital and its nurses.

REFERENCE

Vinci, et al. vs. Montemurro, M.D., et al. Docket no. L-003680-16; Judge Robert H. Gardner, 07-22-19.

Attorney for plaintiff: Daryl L. Zaslow of Eichen Crutchlow Zaslow, LLP in Edison, NJ. Attorney for defendant Hackensack UMC Mountainside and nursing staff: William J. Buckley of Schneck Price Smith & King in Florham Park, NJ. Attorney for defendant Robert Montemurro, M.D.: Kenneth M. Brown of Weber Gallagher Simpson Stapleton Fires & Newby, LLP in Bedminster, NJ.

$2,000,000 CONFIDENTIAL RECOVERY – MEDICAL MALPRACTICE – SURGERY – SURGEON NEGLIGENTLY TORE DECEDENT'S SUBCLAVIAN ARTERY RESULTING IN UNTIMELY DEATH OF 18-YEAR-OLD FEMALE.

Withheld County, MA

In this medical malpractice matter, the plaintiff alleged that the defendant surgeon was negligent in failing to properly protect the decedent's subclavian artery while using the rib cutter. The 18-year-old decedent bled to death on the operating table. The defendant disputed causation and damages. The defendant surgeon denied that there was a deviation from acceptable standards of care.

The 18-year-old female decedent came under the care of the defendant plastic surgeon for repair of left-sided thoracic outlet syndrome. During the surgery, the defendant failed to protect the subclavian artery and while using the rib cutter to cut the posterior rib, the defendant injured and tore the artery causing the decedent to suffer massive blood loss of more than 5 liters. Despite the defendant surgeon receiving assistance from a vascular surgeon, the amount of blood lost resulted in the loss of circulating blood volume and the decedent died on the operating table.

The parties agreed to resolve the plaintiff's claim confidentially for the sum of $2,000,000 following mediation.

REFERENCE

18-Year-Old's Estate vs. Surgeon Roe. 04-15-20.

Attorneys for plaintiff: Patrick T. Jones and Donn R. Corcoran of Jones Kelleher in Boston, MA.

MOTOR VEHICLE NEGLIGENCE

$46,100,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – REAR END COLLISION – DISC HERNIATIONS AT C5-6 AND C6-7 – DISC BULGE AT C7-T1 WITH RADICULOPATHY – CERVICAL DISCECTOMY, STRUCTURAL ALLOGRAFT, ARTHRODESIS/FUSION AND ANTERIOR INSTRUMENTATION – PERMANENT SURGICAL SCARRING; ADJACENT SEGMENT DEGENERATION; POST-TRAUMATIC ARTHRITIS; MARKED RESTRICTION OF RANGE OF MOTION – NEED FOR FUTURE INJECTIONS AND SURGERY – POST-TRIAL MOTION BY DEFENDANT REDUCED THE AWARD TO $2,405,000.

Queens County, NY

In this motor vehicle negligence case, the plaintiff, a 42-year-old man, asserted that the defendant driver struck his vehicle from behind with such force that it caused significant, permanent injury. As a result of the collision, the plaintiff sustained traumatic injury to the neck, back, left knee and left ankle. The plaintiff suffered disc herniations at C5-6 and C6-7 with radiculopathy; disc bulges at C7-T1, L5-S1; left knee sprain strain; and left ankle sprain/strain. The plaintiff underwent anterior cervical discectomy, structural allograft, arthrodesis/fusion, and anterior instrumentation. The plaintiff was left with surgical scarring; adjacent segment degeneration; post-traumatic arthritis; marked restriction of range of motion and the need for future injections and surgery. The defendant asserted that the plaintiff was at least partially at fault for causation of the collision. The defendant also disputed the extent and causation of the plaintiff's injuries.

The plaintiff moved for summary judgment as to liability and the motion was granted. The case proceeded as to damages. The jury unanimously returned a verdict in favor of the plaintiff and awarded damages of $5 million for past pain and suffering; $36 million for future pain and suffering; $100,000 for past medical expenses and $5 million for future medical expenses, for a total award of $46,100,000.

REFERENCE

Nieva-Sivera vs. Katz. Index no. 708337/17; Judge Joseph J. Esposito, 07-22-19.

Attorney for plaintiff: Eli Babaev of Krupnik Law Firm, P.C. in Forest Hills, NY. Attorney for plaintiff: Evan M. LaPenna of Elefterakis, Elefterakis & Panek in New York, NY. Attorney for plaintiff: Jillian Rosen of Pollack Pollack Isaac & DeCicco, LLP in New York, NY. Attorney for defendant: Larry Inniss, Jr. of Ferro & Stenz in Westbury, NY. Attorney for defendant: Merril S. Biscone of Rivkin, Radler, LLP in Uniondale, NY.

$5,500,000 RECOVERY – MOTOR VEHICLE NEGLIGENCE – AUTO/PEDESTRIAN COLLISION – WRONGFUL DEATH OF 3-YEAR-OLD BOY – CLAIMED NEGLIGENT HIRING AND RETENTION OF DRIVER BY CAR DEALERSHIP.

Miami-Dade County, FL

This motor vehicle negligence action was brought against the defendant car dealership following the tragic death of a 3-year-old boy who was hit by one of the defendant's drivers who was test driving a car. The plaintiff asserted claims of vicarious liability, negligent entrustment pursuant to Florida's Dangerous Instrumentality Doctrine and negligent hiring and retention of the driver. The defendant's driver stated, in reports published after the accident, that a phantom vehicle cut in front of him as he drove north on Route 1, causing him to accidentally step on the accelerator rather than the brake.

The minor decedent was pinned under the vehicle. Good Samaritans worked together to lift the car enough to pull the child out. He was airlifted to the hospital, but pronounced dead a short time later.

The case settled prior to trial for a total of $5,500,000.

REFERENCE

The Estate of Anthony Rojo De Leon vs. Spitzer Autoworld Homestead, Inc. Case no. 2020-005425; Judge Spencer Eig, 07-15-20.

Attorneys for plaintiff: Michael A. Haggard and Adam C. Finkel of The Haggard Law Firm in Coral Gables, FL.

$5,450,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – HEAD-ON COLLISION – TRAUMATIC BRAIN INJURY – FRACTURED HIP PROSTHESIS – LEG FRACTURE – CERVICAL VERTEBRA FRACTURE – KIDNEY LACERATION – MULTIPLE SURGERIES PERFORMED – PLAINTIFF INCAPACITATED – DAMAGES/CAUSATION ONLY.

Polk County, FL

In the collision which brought rise to this motor vehicle negligence action, the defendant's vehicle struck the back of a non-party vehicle, her airbag deployed and she then drove across the median and struck the plaintiff's vehicle head-on, causing the plaintiff to sustain severe permanent injuries. The defendant did not dispute negligence in causing the collision and the case was tried on the issues of damages and causation only. The corporate owner of the vehicle driven by the defendant (a rental car company) was also named as a defendant in the case. The defendant driver was an additional insured on the owner's policy and the vehicle owner was voluntarily dismissed from the case prior to trial.

The plaintiff was transported to the hospital and was in a coma for a period of time. He was diagnosed with multiple orthopedic injuries including fractures of tibia, fibula, C-2 vertebra and preexisting hip prosthesis. In addition, he claimed a kidney laceration and traumatic brain injury. The plaintiff underwent multiple bilateral leg surgeries and resided in a rehabilitation center from March 2, 2017 through April 21, 2017.

After a deliberation of approximately 5 hours, the jury awarded $5,445,637 in total damages. The judgment has now been satisfied.

REFERENCE

Plaintiff's economic expert: Brenda Mulder from Tampa, FL. Plaintiff's life care expert: S. Steven Bifulco from Tampa, FL. Plaintiff's orthopedic surgery (video) expert: Amun Makani, M.D. from Lakeland, FL. Plaintiff's psychiatric expert: Edmund D. Settle, Jr., M.D. from Lakeland, FL. Plaintiff's trauma expert: John Hower, M.D. from Lakeland, FL. Defendant's neuropsychology expert: Rodney Van Der Ploeg, M.D. from Tampa, FL.

Young vs. McCoy, et al. Case no. 2016CA004053000000; Judge Gerald Hill, II, 02-04-20.

Attorneys for plaintiff: K. Mitch Espat and Matthew Powell of MattLaw in Tampa, FL.

$945,000 RECOVERY – MOTOR VEHICLE NEGLIGENCE – MULTIPLE VEHICLE COLLISION – DEFENDANT STRIKES 18-WHEELER CAUSING TRUCK TO BECOME DISABLED IN TRAVEL LANE RESULTING IN PLAINTIFF'S DECEDENT STRIKING DISABLED VEHICLE IN REAR SUSTAINING FATAL INJURIES – WRONGFUL DEATH.

Harris County, TX

This wrongful death action stemmed from a fatal car accident that the plaintiff maintained occurred when the defendants were involved in an accident that caused one of the defendant's truck to slow or become disabled in a travel lane. When the decedent came upon the accident scene, he could not stop his vehicle before striking the rear of the truck which caused fatal injuries to the plaintiff's decedent. The defendants denied being negligent and each blamed the other for the accident.

The plaintiff alleged that the defendant Hunter failed to properly control his vehicle, failed to safely operate the vehicle at an appropriate rate of speed for the highway, failed to keep a proper lookout and a safe following distance and smashed into the 18-wheeler causing it to stop or slow down in a travel lane. The plaintiff maintained that Hunter's employer, Thyssenkrupp, was vicariously liable for the acts of the defendant driver. As a direct and proximate result of the foregoing acts and omissions, the decedent suffered blunt forced injuries that resulted in his death. The decedent is survived by his wife and 2 minor children.

A lump sum settlement agreement was reached for each minor in the amount of $472,500, for a total of $945,000.

REFERENCE

Vilma Yaneth Medina, Individually as Administratrix of the Estate of Rudy Reyes and as next friend of R.B.R. and E.I.R. vs. Darrick Calvin Hunter, Thyssenkrupp Elevator Corporation and Acme Truck Line Inc. Case no. 201765535; Judge Elaine H. Palmer, 02-27-20.

Attorney for plaintiff: Scott J. Davenport of Davenport Law Firm, PC in Houston, TX. Attorney for defendant: Scott Ryan Riddle of Kane Russell Coleman & Logan, PC in Dallas, TX. Attorney for defendant: Alan Lawrence Rucker of Mayer, LLP Partner in Dallas, TX. Attorney for defendant: John William Stevenson, Jr. of Stevenson & Murray in Houston, TX.

PREMISES LIABILITY

$3,146,500 VERDICT – PREMISES LIABILITY – FALL DOWN – PLAINTIFF TRIPS OVER RAISED PORTION OF FLOOR AT MOVIE THEATER – LEFT HIP FRACTURE – ANEMIA – SHOCK – SURGERY REQUIRED.

Philadelphia County, PA

In this premises liability action, the plaintiff was a business invitee at an AMC movie theater when she tripped over a raised step or section of the floor and was caused to fall. Consequently, the plaintiff sustained injuries, including an interochanteric fracture of the left hip, anemia and shock. The plaintiff's hip fracture required surgery including the placement of hardware. The defendant generally denied negligence.

The plaintiff maintained that the defendants were negligent in failing to prevent or remedy dangerous and/or defective conditions on the premises, failure to provide warning of the conditions, failing to properly mark the step or raised area with lighting or reflective tape and failing to inspect the premises.

The jury found in favor of the plaintiff and awarded $3,146,500.30.

REFERENCE

Hozey vs. AMC Theaters, IND d/b/a AMC Theaters Plymouth. Case no. 170801401; Judge Sean F Kennedy, 01-29-20.

Attorney for plaintiff: Franklin R. Storkoff of The Rothenberg Law Firm, LLP in Philadelphia, PA.

ADDITIONAL VERDICTS OF PARTICULAR INTEREST

$2,000,000 POLICY LIMIT RECOVERY – CONSTRUCTION SITE NEGLIGENCE – FAILURE TO PROVIDE FALL PROTECTION – 21-YEAR-OLD LABORER FALLS 20-30 FEET WHILE STANDING ON FORKLIFT DURING CONSTRUCTION OF LARGE BANQUET HALL – WRONGFUL DEATH – UNMARRIED DECEDENT WITH NO CHILDREN.

Essex County, NJ

This action involved a 21-year-old decedent laborer who was unmarried and had no children. The decedent worked for a subcontractor placing ornamental objects on the roof top of a large banquet/wedding hall. He was killed when he fell approximately 20-30 feet from a forklift on which he was standing. The plaintiff asserted that defendants had a duty to provide fall protection harnesses/lanyards and scaffolding so workers could safely perform their work under OSHA safety regulations.

The case settled relatively early in discovery for the policies.

REFERENCE

Plaintiff's pulmonology expert: Monroe Karetzky, M.D. from Bronx, NY.

Estate of Montero vs. ABN Realty, et al. Docket no. ESX-L-6101-18., 11-15-19.

Attorneys for plaintiff: Gerald Clark and Lazaro Berenguer of Clark Law Firm, PC in Belmar, NJ.

$2,000,000 CONFIDENTIAL RECOVERY – GROUP HOME NEGLIGENCE – NEGLIGENT SUPERVISION OF RESIDENT WHO CHOKES TO DEATH – WRONGFUL DEATH OF SPECIAL NEEDS RESIDENT AT GROUP FACILITY – FALSIFICATION OF RECORDS.

Withheld County, MA

In this group home negligence matter, the plaintiff alleged that the defendant group home and its supervisor were negligent in failing to properly monitor the decedent who was at risk for choking while she was eating. The decedent died as a result of choking on a sausage while eating a meal. The defendants denied the allegations and disputed negligence, causation and damages. The defendant supervisor maintained that he had been monitoring the decedent and took immediate action when it appeared that she was choking, but he was unable to prevent her death.

The decedent was a 53-year-old special needs female who was a resident at the defendant's group home and under the care of the defendant supervisor. On the date of this incident, the plaintiff contended that the defendants failed to properly supervise the woman and she choked while eating a sausage that had been given to her by a fellow resident and died shortly thereafter from the injuries she suffered in the incident.

The matter was resolved for the sum of $2,000,000 in a confidential settlement prior to the trial in this matter following an unsuccessful mediation.

REFERENCE

Estate of Female Resident vs. Group Home Facility. 06-11-20.

Attorney for plaintiff: Michael J. Harris of Crowe & Mulvey in Boston, MA

$3,174,817 VERDICT – PERSONAL NEGLIGENCE – FARM NEGLIGENCE – ALLOWING COW TO KNOWINGLY WANDER ON FREEWAY – COW WANDERS OFF PROPERTY AND IMPACTS WITH PLAINTIFF DRIVER – CLOSED HEAD INJURY – MILD TBI – INABILITY TO CONTINUE WORK AS SHIP CHANNEL PILOT – BENCH TRIAL.

Harris County, TX

This negligence action involved a plaintiff in his early 60s in which the plaintiff contended that the defendant, who owned and managed a farm on which their parents lived, negligently entrusted the maintenance of a cow and the fencing that housed the cow to elderly persons that could not maintain the cow or the fencing that held the cow. The defendant knowingly failed to maintain the fencing on the property, resulting in a cow wandering off the premises and impacting with plaintiff's car. The plaintiff asserted that he suffered a closed head injury and TBI which prevented him from continuing as a ship channel pilot, which requires the ability to navigate and remember courses of travel. The plaintiff also maintained that he suffered a resolving chest contusion. The defendants denied that the plaintiff impacted with a cow from the property. The defendants established that the cow that was reported to be missing from its property was red and brown and that the investigating officer indicated that a black cow was involved.

The plaintiff contended that the cow was run over by a number of vehicles, including an 18-wheeler truck, after the plaintiff impacted with it, and argued that there was no basis for the officer's determination the cow was black. The officer conceded on cross-examination that he could not be certain as to the color of the cow.

The court found the farm 100% negligent and awarded $3,174,817, including $1,407.908 for past loss of earning capacity, $1,494,409 for future loss of earning capacity, $2500 for past physical pain and suffering $135,000 for past mental anguish and $135,000 for future mental anguish.

REFERENCE

Plaintiff's economist expert: Robert W. Johnson from Oakland, CA. Plaintiff's livestock and fencing expert: Bob Kingsberry from Frisco, TX. Plaintiff's primary care physician expert: Floyd Luckett III, M.D. from Houston, TX. Plaintiff's vocational rehabilitation expert: Wallace A. Stanfill, M.Ed. from Houston, TX.

Brown vs. Arraby, et al. Case no. 2017-82986; Judge Donna Roth, 07-20.

Attorney for plaintiff: Reginald E. McKamie of Law Office of Reginald E. McKamie, Sr., P.C. in Houston, TX.