NATIONAL
JURY VERDICT REVIEW & ANALYSIS®
www.JVRA.com

SUMMARIES WITH TRIAL ANALYSIS

Volume 30, Issue 1
January 2015

VERDICTS BY CATEGORY

Summaries with Trial Analysis

$2,600,000,000 RECOVERY – CRIMINAL – INTERNATIONAL – COMPLAINT FILED AGAINST SWISS BANK FOR HELPING U.S. TAXPAYERS EVADE TAXES – VIOLATION OF 18 U.S.C. § 371

Alexandria County, VA

The Justice Department pursued its ongoing initiative against cross-border tax fraud by U.S. citizens involving the use of off-shore accounts. The defendant, Credit Suisse Group AG, was accused of conspiring to aid and assist U.S. taxpayers in evading their taxes through the filing of false income tax returns and other documents. Specifically, the United States accused defendant of: Assisting clients in hiding undeclared accounts in sham entities, soliciting IRS forms that falsely stated that said entities were beneficial owners of the assets in those accounts, structuring fund transfers to evade currency transaction reporting requirements, destroying and not maintaining records in the United States respecting those accounts, providing offshore credit and debit cards to repatriate funds in the undeclared accounts and other activities.

On May 19, 2014, the U.S. Department of Justice filed a one-count criminal complaint in the District Court for the Eastern District of Virginia, accusing the defendant of Conspiracy to Defraud the United States in violation of 18 U.S.C. § 371. The plaintiff sought the disclosure of offshore accounts, trusts and companies, as well as damages.

The matter was resolved through a plea agreement, in which the defendant pleaded guilty to conspiracy to defraud the United States. Along with a guilty plea, the defendant also agreed to pay $2,600,000,000 to the United States, including $1,800,000,000 to the Department of Justice for the U.S. Treasury, $100,000,000 to the Federal Reserve, and $715,000,000 to the New York State Department of Financial Services. The defendant additionally agreed to provide the Department of Justice with names and account information of U.S. account holders.

The matter was resolved through a plea agreement, in which the defendant pleaded guilty to conspiracy to defraud the United States. Along with a guilty plea, the defendant also agreed to pay $2,600,000,000 to the United States, including $1,800,000,000 to the Department of Justice for the U.S. Treasury, $100,000,000 to the Federal Reserve, and $715,000,000 to the New York State Department of Financial Services. The defendant additionally agreed to provide the Department of Justice with names and account information of U.S. account holders.

REFERENCE

United States vs. Credit Suisse. Case no. 1:14-CR-00188; Judge Rebecca Beach Smith, 05-22-14.

Attorney for plaintiff: Mark F. Daly of Department of Justice in Washington, DC. Attorney for defendant: Andrew C. Hruska & Edmund Paul Power of King & Spalding LLP in Redwood Shores, CA. Attorneys for defendant: Michael R. Pauze & Christopher A. Wray of King & Spalding LLP in Washington, DC.

COMMENTARY

Earlier this year, defendant paid approximately $196,000,000 in disgorgement, interest and penalties to the Securities and Exchange Commission for providing cross-border brokerage and investment advisory services to U.S. clients without first registering with the SEC, a violation of federal securities laws. According to the Justice Department, the United States expects that the District Court will enter a judgment of conviction against defendant requiring remedies materially the same as those set forth in the Plea Agreement. The Department of Justice opines that, fearing criminal prosecution themselves, other foreign banks will likely fully cooperate with the U.S. government to avoid investigation or prosecution for illegal financial activity. The DOJ advises U.S. taxpayers with undisclosed offshore bank accounts to enter into the Internal Revenue Service (IRS) Voluntary Disclosure Program before their information is disclosed to the IRS and the Department of Justice (DOJ), a step that must occur before the taxpayer is contacted by the IRS.

NATIONAL JURY VERDICT REVIEW & ANALYSIS
www.JVRA.com

Founder
Ira J. Zarin, Esq.

Editor in Chief
Jed M. Zarin

Contributing Editors
Brian M. Kessler, Esq.
Laine Harmon, Esq.
Cristina N. Hyde
Deborah McNally, Paralegal
Ruth B. Neely, Paralegal
Cathy Schlecter-Harvey, Esq.
Julie L. Singer, Esq.
Tammy A. Smith, Esq.
Kate Turnbow, Paralegal
Susan Winkler
Michael Bagen

Business Development
Gary Zarin

Production Coordinator
Lisa A. Panzariello

Professional Search
Tim Mathieson

Court Data Coordinator
Jeffrey S. Zarin

Customer Services
Meredith Whelan

Circulation Manager
Ellen Loren

Published by Jury Verdict Review Publications, Inc. 45 Springfield Avenue, Springfield, NJ 07081
www.jvra.com

Main Office:
973/376-9002 Fax 973/376-1775

Circulation & Billing Department:
973/535-6263

National Jury Verdict Review & Analysis (ISSN 0887-2899) is published monthly at the subscription rate of $345/year by Jury Verdict Review Publications, Inc., 45 Springfield Avenue, Springfield, NJ 07081. Periodical postage paid at Springfield, NJ and at additional mailing offices.

Postmaster: Send address changes to: National Jury Verdict Review & Analysis, 45 Springfield Avenue, Springfield, NJ 07081.

$10,949,938 RECOVERY – MOTOR VEHICLE NEGLIGENCE – DRIVER OF TRACTOR TRAILER FELL ASLEEP, CAUSING TRACTOR TRAILER TO COLLIDE WITH DECEDENT'S SQUAD CAR – WRONGFUL DEATH OF 28-YEAR-OLD STATE TROOPER

Cook County, IL

In this motor vehicle negligence matter, the plaintiff's decedent, a state trooper was killed when his squad car parked on the shoulder of the interstate, was struck by the defendant's tractor trailer when the driver fell asleep at the wheel. The collision caused the police car to be engulfed in flames, and the officer died from fire related injuries. The defendants disputed the nature and extent of the decedent's injuries and damages.

On March 28, 2013 at approximately 11:03 p.m. the 28-year-old male decedent, an Illinois State Trooper, was in his squad car which he had parked on the left hand shoulder of the southbound lanes of the interstate highway, near mile post 48.5. The defendant driver was operating a 2005 freight-liner, pulling a trailer loaded with household goods, traveling in the far left lane of the southbound lanes of the interstate near where the decedent's vehicle was parked. The defendant's vehicle owned by the defendant van lines weighed in excess of 26,001 pounds with its load. The defendant truck driver fell asleep while operating the tractor trailer, and the vehicle veered off the highway and struck the decedent's police car, pushing it almost a quarter mile down the highway. The resulting collision caused the police car to become engulfed in flames, where the decedent officer died of fire-related injuries at the scene. The plaintiff brought suit against the defendants, the truck driver, the van line company, as well as the agent of the van line company, alleging negligence. The plaintiff alleged that the driver of the vehicle was negligent in the operation of the vehicle, causing the collision. The plaintiff alleged that the defendant van lines and its agents were negligent in allowing the driver to operate the vehicle in excess of statutory operating limits, and was otherwise negligent in the supervision of the defendant driver.

The defendants generally denied the allegations and disputed the plaintiff's alleged claim of damages.

The parties agreed to resolve the plaintiff's claim for the sum of $10,949,938 in a settlement between all parties after the commencement of the litigation and following mediation.

REFERENCE

Plaintiff's economist expert: Stan V. Smith, Ph.D. from Chicago, IL. Plaintiff's forensic pathology expert: Kris L. Sperry, M.D. from Senoia, GA. Plaintiff's psychiatry expert: JoAnn Difede, Ph.D. from New York, NY. Plaintiff's safety/reconstruction expert: Mike DiTallo from Lake Zurich, IL. Plaintiff's trucking expert expert: Lew Grill from Billings, MT.

Elizabeth Sauter, as Independent Administrator of the Estate of James Sauter, deceased vs. United Van Lines, LLC, et al. Case no. 13-L-014623; Judge Kathy Flanagan, 05-14-14.

Attorneys for plaintiff: Timothy J. Ashe and Kristina K. Green of Kralovec Jamobis & Schwartz in Chicago, IL. Attorney for defendant Bokelman and Suddath Relocation Systems of Milwaukee, LLC: Lew R. C. Bricker of Smith Amundsen LLC in Chicago, IL. Attorney for defendant United Van Lines LLC: John J. Laffey of Whyte Hirschboeck Dudek S.C. in Milwaukee, WI.

COMMENTARY

The matter was settled just after the filing of the complaint and no formal litigation or discovery had yet taken place.
Investigation disclosed that the defendant driver had been operating the vehicle after the end of the 14th hour, following coming on duty in violation of statutory motor carrier regulations. The driver came on duty at 6:31 a.m. in Wisconsin to load the tractor trailer with household goods as an agent of the defendant moving company. After working a 12-hour shift, the driver then operated the tractor trailer between 7:14 p.m. and 7:34 p.m., and again from 8:49 p.m. until the 11:03 p.m. collision. The plaintiff alleged that the driver and his employers were in violation of 49 C.F.R. 395(a)(2). The driver was charged with several violations, including violations of the Illinois motor carrier and motor safety laws, as well as federal regulations limiting the number of hours commercial drivers can stay on the road without taking a mandatory break. The driver was two hours into an eight-hour trip when he fell asleep at the wheel of the vehicle, causing the collision.
The settlement consisted of $2,000,000 paid by defendant Unigroup, the parent company of United Van Lines; $5,000,000 paid by Interstate Fire and Casualty Insurance Company on behalf of defendant United Van Lines; $2,9494,938 paid by Vanline Insurance Company on behalf of the driver, and $1,000,000 paid by National Union Fire Insurance Company on behalf of United Van Lines.

$5,020,000 RECOVERY – MOTOR VEHICLE NEGLIGENCE – AUTO/PEDESTRIAN COLLISION – CITY LIABILITY – DEFENDANT'S VEHICLE SLID AS A RESULT OF BLACK ICE AND COLLIDED INTO PLAINTIFF PEDESTRIAN

Cook County, IL

In this negligence matter, the plaintiff pedestrian alleged that the defendant driver was negligent in losing control of her vehicle and sliding into the pedestrian plaintiff. The plaintiff also alleged that the defendant city was negligent in failing to repair a reported water main leak, which was the cause of the accumulation of ice on the roadway near where the incident occurred. As a result of being struck by the out-of-control vehicle, the plaintiff was pinned between the defendant's vehicle and a light pole. The plaintiff was required to undergo an above-the-knee amputation of his right leg as a result of the incident. The defendants denied liability and disputed causation and damages.

The 23-year-old male plaintiff, a university computer science major, was standing at a bus stop located on the southwest corner of the intersection where the collision occurred on November 20, 2008. The defendant's vehicle traveling eastbound, approached the bus stop and lost control. The defendant driver was unable to control her vehicle due to a patch of black ice on the roadway. Her vehicle spun out and collided with the pedestrian plaintiff. As a result of the collision, the plaintiff was pinned against a lamp pole by the defendant's vehicle. The plaintiff sustained an above-the-knee amputation as a result of the incident. The plaintiff brought suit against the defendant driver, alleging negligence in the operation of her vehicle and against the defendant city, alleging that the city was liable for failing to repair the water main leak in a timely manner, and permitting a dangerous condition to exist. The plaintiff incurred $134,385 in medical expenses.

The defendants denied liability and disputed causation and damages. The defendant city maintained that the defendant was immune on a variety of tort immunity issues, and the defendant city alleged it had no knowledge of any leaking of the water main in the area where the incident occurred.

The parties agreed to a settlement of the plaintiff's claim in the amount of $5,020,000.

REFERENCE

Plaintiff's orthopedic surgery expert: Jay M. Brooker, M.D. from Chicago, IL. Plaintiff's physical medicine and rehabilitation expert: Todd Kuiken, M.D., Ph.D. from Chicago, IL. Plaintiff's prosthetics expert: John W. Michael, M.Ed., C.P.O. from Chicago, IL. Plaintiff's treating critical care physician expert: James Doherty, M.D. from Oak Lawn, IL. Defendant's prosthetics expert: Terry Supan, C.P.O. from Rochester, IL.

Edwin Hill vs. City of Chicago and Denise Dickerson. Case no. 09 L 8755; Judge Richard J. Elrod, 05-30-14.

Attorneys for plaintiff: Philip Harnett Corboy, Jr. and Edward G. Willer of Corboy & Demetrio P.C. in Chicago, IL. Attorney for defendant City of Chicago: Melissa Whelan of Corporation Counsel in Chicago, IL. Attorneys for defendant Dickerson: Roberty Schey and John Broussard of Robert Schey & Associates Ltd. in Northbrook, IL.

COMMENTARY

The settlement amount consisted of payment of $5,000,000, which was approved by the Chicago City Council and $20,000 contributed by the defendant driver. The issue of liability by the city was contested in this matter. The plaintiff maintained that the city was aware of the leaking water main, which had existed for a number of months. The plaintiff supported that the defendant city failed to make timely repair to the water main, which resulted in the formation of black ice where the incident took place. The plaintiff had two local business entrepreneurs who operated an auto repair shop, and a CPA accounting firm in the area where the incident occurred. These two business people were prepared to testify at trial that prior complaints had been made to the City of Chicago Department of Water Maintenance regarding the water main leakage. The defendant denied that theses complaints existed, and maintained that they had no prior notice of the existence of the water main leak.

$3,500,000 VERDICT – CONTRACTOR NEGLIGENCE – TRUCKING – TRUCK GOES OFF CLIFF AFTER LOAD SHIFT; LOADING COMPANY SUED – CATASTROPHIC INJURIES – LOSS OF LOAD AND BUSINESS

Los Angeles County, CA

In this action, a truck driver sued the company who loaded his truck after a load shift sent it off a cliff. The defendant denied negligence in the loading of the vehicle.

In 2009, the plaintiff, Rigoberto G., was hauling a load of flour through Northern California. The flour had previously been loaded by the defendant, Grain Millers, of Eugene, Oregon. The plaintiff lost control of his vehicle after the 44,000 lb. load shifted, and he was forced to evacuate the vehicle just before it careened over a roadside cliff. The load and vehicle were lost, and the plaintiff suffered debilitating orthopedic injuries, resulting in the loss of plaintiff's business and trucking career.

The plaintiff filed suit in the Superior Court of Los Angeles County, California, accusing the defendant, Grain Millers, of failing to secure the load, resulting in the loss of vehicle control and subsequently his injuries. The plaintiff sought compensation for his medical bills, past and future income losses, and pain and suffering. The defendant denied the accusation.

At trial, the plaintiffs asserted that defendant allowed an unsupervised, inexperienced employee to negligently load the flour, resulting in the load shift that led to his loss of vehicle control. The defendant asserted that tying down the load was not necessary. The plaintiff asserted that it was fail safe to prevent the precise situation that occurred.

The jury returned a finding for the plaintiff and awarded $3,500,000 in damages.

REFERENCE

Rigoberto Gutierrez vs. Grain Millers., 06-09-14.

Attorney for plaintiff: Browne Greene & Ivan Puchalt of Greene Broillet & Wheeler in Santa Monica, CA. Attorney for plaintiff: Daniel Balaban & Andy Spielberger of Balaban and Spielberger in Brentwood, CA. Attorney for defendant: K.C. Ward of Archer Norris, PLC in San Francisco, CA. Attorney for defendant: Kim Schuman of Schumann | Rosenberg in Costa Mesa, CA.

COMMENTARY

According to plaintiff's counsel, load shift is the primary cause of single-truck accidents in trucking. Counsel states that despite laws intended to regulate the loading of cargo, distributions centers and trucking companies can be lax about compliance, and frequently have weak supervision and oversight.

$2,700,000 RECOVERY – MEDICAL MALPRACTICE – SURGERY NEGLIGENCE – RADIOLOGY NEGLIGENCE – FAILURE TO TIMELY DIAGNOSE AND TREAT BREAST CANCER – PLAINTIFF IS DIAGNOSED WITH STAGE IV BREAST CANCER

Cook County, IL

In this medical malpractice matter, the plaintiff alleged that the defendant radiologist and the defendant surgeon were negligent in failing to timely diagnose and treat the plaintiff's breast cancer, which is now Stage IV. The defendants denied the allegations and maintained that the plaintiff's cancer had already metastasized when she first presented, and they did not contribute to her alleged injuries.

In October, 2011, the 32-year-old female plaintiff felt a lump in her left breast. She went for an ultrasound performed by the defendant radiologists which indicated that the plaintiff had two abnormal lesions and a cyst. The defendant radiologist indicated that the plaintiff's lesions were BIRADS 3 - probably benign - and recommended a follow-up ultrasound in six months. A few days later, the plaintiff met with the defendant surgeon for a clinical examination and explanation of the ultrasound results. The defendant surgeon explained to the plaintiff that she only had a cyst, failed to recommend the six month follow-up ultrasound, and informed her to advise him if she noticed any changes in her left breast.

In January 2012, the 34-year-old female plaintiff contacted the defendant surgeon with complaints of changes to her breast which included the mass getting larger, inversion of her left nipple and skin changes in the area around her nipple. The plaintiff contended that these changes were consistent with breast cancer, and the defendant surgeon should have known this and told the plaintiff. Instead, he diagnosed her with a breast infection and prescribed antibiotics. She had a repeat ultrasound in April 2012, which again, demonstrated abnormal results. During her follow-up examination following the second ultrasound, the plaintiff contended that the defendant surgeon diagnosed her with a cyst with a resolving infection that required surgical removal. During the surgery, the defendant surgeon discovered a massive tumor which he was unable to remove in its entirety. Pathology reports done confirmed that the plaintiff had infiltrating ductal carcinoma with metastasis in the plaintiff's lungs. She was diagnosed with Stage IV breast cancer.

The plaintiff brought suit against the defendant radiologist alleging negligence, and against the defendant surgeon alleging negligence in their failure to timely diagnose and treat the plaintiff's breast cancer.

The defendants denied the allegations and disputed the plaintiff's contentions of negligence. Both defendants argued that the plaintiff already had metastatic breast cancer when she originally presented in October 2011.

The parties agreed to resolve the plaintiff's claim for the total sum of $2,700,000.

REFERENCE

Jacqueline V. Ortega vs. Marc A. Adajar, M.D., University Surgical Consultants, S.C., S.T. Surgical Consultants, George G. Kuritza, M.D. and Edgebrook Radiology Management Services dba Edgebrook Radiology. Case no. 13 L 865; Judge Lorna Propes, 03-25-14.

Attorneys for plaintiff: Craig Mannarino and Jennifer K. Scifo of Kralovec Jamobis & Schwartz in Chicago, IL. Attorney for defendant Adajar and S.T. Surgical: John V. Smith and Brian Boyle of Pretzel Stouffer, Chartered in Chicago, IL. Attorney for defendant Kuritza and Edgebrook: John Seibel and Lindsay Drecoll Brown of Cassiday Schade in Chicago, IL.

COMMENTARY

The settlement consisted of $900,000 from the defendant radiologist, and $1,800,000 from the defendant surgeon. The plaintiff contended that if she had been properly diagnosed in 2011, she would have only been diagnosed with Stage II breast cancer and would have had more and better treatment options and better prognosis. The plaintiff's counsel commented that the plaintiff did everything that she was requested to do by the defendant physician, and there was no claim that she failed to follow-up or could be in any way responsible for her own injuries. The fault fell completely on the medical professionals who failed to properly and timely diagnose and treat the plaintiff despite her best efforts to follow-up as she was directed to do by the defendant surgeon.

$2,400,000 RECOVERY – EEOC – CIVIL RIGHTS – ADDITIONAL RELIEF IN FORM OF JOB OFFERS AND OTHER BENEFITS WILL BE OFFERED TO VULNERABLE THAI LABORERS – RACIAL HARASSMENT, DISCRIMINATION, AND RETALIATION

Honolulu County, HI

This action resolved another host of claims in the three-year action against a global labor contractor and six Hawaii farms. The complaint of racial and national origin discrimination, harassment, and retaliation was brought by the EEOC on behalf of a class of Thai workers. The defendant contractor, as well as a single farm, now remain in the case, with the others having settled with the EEOC.

Between 2003 and 2007, the defendant, Beverly Hills-based Global Horizon, engaged the complainant class of Thai farm workers under the H2-A temporary visa program. Under the program, the defendant was required to provide farm workers with food and housing, as well as pay for work performed. The workers, and later the EEOC, maintained that the defendant charged workers exorbitant recruitment fees that placed them in debt bondage, subjected them to denial of or delays in payment, monitored and confiscated passports, subjected them to quotas that non-Thai workers were not subjected to, denied them adequate food and water, and made them live in unsanitary, crowded living quarters. Further, the EEOC asserted that those who complained were forced to quit or flee.

In April 2011, the EEOC filed suit in the U.S. District Court for the District of Hawaii, accusing Global Horizons of violating the rights of approximately 500 of their workers under Title VII of the Civil Rights Act of 1964 through racial and national origin harassment, retaliation, and discrimination. The farms themselves were also named as defendants, under the assertion that they were joint employers with Global Horizons, and therefore, liable as well. In all, defendants named included Global Horizons, Inc. (doing business as Global Horizons Manpower, Inc.) and six farms: Captain Cook Coffee Co., Ltd., Del Monte Fresh Produce (Hawaii), Inc., Kauai Coffee Company, Inc., Kelena Farms, Inc., Mac Farms of Hawaii, LLC, Maui Pineapple Co., et al.

In November 2013, the defendant Del Monte Farm Fresh settled with the EEOC for $1,200,000.

In March 2014, U.S. District Court Judge, K., ruled that Global Horizon was liable for the pattern or practice of racial and national origin harassment, discrimination, and retaliation.

In June 2014, the defendants, Mac Farms, Kauai Coffee, Kelena Coffee, and Captain Cook Coffee agreed to a consent decree with the EEOC. As per terms of the settlement, Mac Farms will pay $1,600,000, Kauai Coffee will pay $425,000, Kelena Farms will pay $275,000, and Captain Cook Coffee will pay $100,000 directly to the victims. As such, the total direct monetary relief recovered is $2,400,000. The defendant, Kelena Farms, further agreed to offer workers full-time jobs with generous benefits, profit-sharing & 401K plan options, while Captain Cook Coffee offered seasonal jobs, benefits, transportation and housing for workers during the term of their decrees. The EEOC will monitor the terms of the job offers, with the decrees including injunctive relief

requiring farms and farm labor contractors disseminate policies, and procedures prohibiting discrimination to their local work force and to H2-A guest workers in their own language. Defendants are further required to train managers, supervisors, and employees respecting their Title VII obligations, conduct audits to ensure FLC compliance with the consent decree, designate a corporate compliance officer to oversee Title VII compliance, and maintain records on that compliance and report on it to the EEOC.

REFERENCE

U.S. Equal Employment Opportunity Commission vs. Global Horizons, Inc. d/b/a Global Horizons Manpower, Inc., Captain Cook Coffee Co., Ltd., Del Monte Fresh Produce (Hawaii), Inc., Kauai Coffee Company, Inc., Kelena Farms, Inc., Mac Farms of Hawaii, LLC, Maui Pineapple Co., et al. Case no. 11-CV-00257-LEK-RLP; Judge Leslie E. Kobayashi, 06-03-14.

Attorney for plaintiff: Anna Y. Park of U.S. Equal Employment Opportunity Commission in Los Angeles, CA. Attorney for defendant Global Horizons: Javier Lopez-Perez of Lopez-Perez Law Center Inc..

COMMENTARY

Trial against Global Horizons is set for November 19, 2014 to determine the damages to be paid by defendant, as well as measures required to prevent further abuse. The case against Maui Pineapple Company, the only remaining farm defendant, is also ongoing. According to the EEOC, eliminating discriminatory policies affecting vulnerable workers who may be unaware of their rights under equal employment laws or reluctant or unable to exercise them is one of six national priorities identified by the Federal agency's Strategic Enforcement Plan. These policies can include disparate pay, job segregation, harassment, and human trafficking.

$800,000 VERDICT – MOTOR VEHICLE NEGLIGENCE – VAN V. MOTORCYCLE – MOTORCYCLIST STRUCK BY VAN AT INTERSECTION – FRACTURED LEG

Montgomery County, AL

In this automobile negligence case, a motorcyclist sued after he was struck by a van. The matter was resolved via jury verdict after the defendant disputed plaintiff's pursued damages.

On the date of incident, the plaintiff, Mr. B., was riding his Harley-Davidson bike back to work from lunch. As he passed through an intersection on a green light, the plaintiff was struck by a Ford Econoline van as it attempted a lane change. The van was owned by the defendant, Southern Home Rentals, a company specializing in renting appliances and furnishings to consumers. The plaintiff sustained a fractured leg that required several surgeries to repair.

The plaintiff filed suit in the U.S. District Court for the Middle District of Alabama, seeking compensatory damages from defendant, Southern Home Rentals, for motor vehicle negligence. The defendant's insurer disputed awarding full damages to the plaintiff, and the matter was taken to trial.

At the conclusion of trial, the Lee County jury returned a finding for the plaintiff and awarded plaintiff $790,000 in damages. With taxable costs, the final judgment was $800,000.

REFERENCE

Brewster et al. vs. Southern Home Rentals, LLC. Case no. 3:11-cv-00872-WHA-CSC; Judge William Harold Albritton III, 05-30-14.

Attorney for plaintiff: Alan Hamilton of Shiver Hamilton in Atlanta, GA.

COMMENTARY

According to plaintiff's counsel, this case involved confronting a common issue with motorcycle-related injury cases. That tactic is the subtle defense suggestion that a motorcyclist takes a risk by riding the vehicle.

SETTLEMENT – CIVIL RIGHTS – VOTING RIGHTS – TRIBAL LEADERS SUE FOR CLOSER BALLOTS ON ELECTION DAY – VIOLATION OF THE VOTING RIGHTS ACT

Missoula County, MN

In this action, several Native Americans from three reservations who sued state and county officials for alleged discrimination related to election practices. While in the appellate court, the matter was resolved through a settlement.

On Election Day, ballots in the state of Montana are cast in the county courthouses, but not on Indian reservations. The plaintiffs, in this action, included Native Americans from the Fort Belknap, Northern Cheyenne and Crow reservations in Blaine, Big Horn, and Rosebud counties. The men charged that traveling to the courthouses to vote on election day was too expensive and time-consuming, and that this difficulty in reaching the county courthouses to cast their ballots resulted in a dilution of the Native Americans vote.

The plaintiffs filed suit in the U.S. District Court for the District of Montana, naming as defendants the Montana Secretary of State Linda McC., as well as election officials in Blaine, Big Horn, and Rosebud county. The plaintiffs asserted that they were not given the opportunities to participate in all aspects of

the election, including opportunities to register to vote, absentee voting, and same day registration, violating their rights under Section 2 of the Voting Rights Act. The plaintiffs sought relief in the form of satellite registration, as well as voting sites on their reservations.

The plaintiffs filed a motion for a preliminary injunction, ordering defendants open satellite election offices for late registration and early in-person absentee voting in the relevant counties for the 2012 general election, as well as all future elections. The United States filed a statement of interest supporting plaintiffs, arguing that they were likely to succeed in their Section 2 violation claim. However, the District Court denied the motion, arguing that the defendants were not likely to succeed on their claim. Specifically, the District Court required plaintiffs prove both unequal access and inability to elect representatives of their choice. The court observed that plaintiffs did not attempt to argued the latter point, and that this was ignored in the United States' statement of support. Finally, the court held that defendants were required to prove causation, showing that the failure to have satellite late registration offices and early in-person absentee voting locations had a discriminatory impact on Native Americans' voting rights. The district court stated that "testimony at the hearing established that it is relatively simple for Native American voters in Montana to register to vote without driving to the county elections office", noting that mail-in registration was available to tribal members. Accordingly, the motion for injunction was denied.

Plaintiffs disputed this conclusion and filed an appeal in the 9th District Court of Appeals. The Appellate Court ruled that appeal was moot b/c the lawsuit requested relief for the 2012 elections. After that decision, the case was refiled with updated dates in federal district court.

Ultimately, the matter was resolved through a settlement while awaiting trial in federal court, with the defendant official's agreement to open satellite election administration offices on the Crow, Northern Cheyenne, and Fort Belknap reservations.

REFERENCE

Mark Wandering Medicine et al. vs. Linda McCulloch et al. Case no. 1:12-cv-00135-BLG-DWM; Judge Richard F. Cebull, 06-13-14.

Attorneys for plaintiff: Terryl T. Matt, Patricia Ferguson, Steven D. Sandven & Ryan David Cwach in Sioux Falls, SD. Attorney for defendant: Georgette Hogan Boggio & Lance A. Pedersen of Office of the Big Horn County Attorney in Billings, MT. Attorney for defendant: Michael B. Hayworth of Office of the Rosebud County Attorney in Miles City, MT. Attorney for defendant: Jorge A. Quintana & Donald A. Ranstrom of Office of the Montana Attorney General in Rahway, NJ.

COMMENTARY

The Voting Rights Act is intended to protect the right of racial minorities to participate in the political process and elect representatives of their choice. In 1982, the act was amended to clarify that minorities arguing breach of the Act do not have to prove purposeful discrimination. Claimants have only to show that as a result of the challenged practice, they did not have an equal opportunity to participate in elections on Election Day.

DEFENSE VERDICT – INTELLECTUAL PROPERTY – PATENT – APPELLATE COURT AFFIRMS DEFENSE VERDICT – ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,928,479

Alexandria County, VA

In this action, two software companies disputed the alleged infringement of a remote access patent. The defendant denied the infringement, and the action was ultimately decided after two trips to Federal Appellate Court.

The plaintiff, 01 Communique, is a developer of remote access software and holder of U.S. Patent No. 6,928,479 ("System computer product and method for providing a private communication portal "), which relates to technology that enables one computer to access another computer remotely via the Internet. The defendant, LogMeIn, and is based in Boston, MA, with international offices in Australia, Hungary, India, Ireland, and the UK.

The plaintiff filed suit in the U.S District Court for the Eastern District of Virginia. The defendant, LogMeIn, Inc., was accused of infringing the '479 patent, and sought damages and injunction. The defendant denied the infringement.

The defendant filed a motion for summary judgment on their defense that they did not infringe the plaintiff's patent. That motion was granted. However, On July 31, 2012, the U.S. Court of Appeals for the Federal Circuit vacated the summary judgment of non infringement and remanded the summary judgment, returning it to the lower court. In their decision, the court concluded that the district court's ruling was based upon an erroneous claim construction.

On March 26, 2013, the federal jury returned a finding for the defendant, concluding that LogMeIn did not infringe 01 Communique's patent. In June 2014, the United States Court of Appeals for the Federal Circuit affirmed the finding of the federal jury.

REFERENCE

01 Communique vs. LogMeIn, Inc. Case no. 1:10-cv-01007; Judge Claude M. Hilton, 06-09-14.

Attorney for plaintiff: Adam Jay Smith of Baker & Hostetler in New York, NY. Attorney for defendant: Philip Randolph Seybold of Wilmer Hale, LLP in Boston, MA.

COMMENTARY

The defendant states that 01 Communique has a similar case pending against Citrix Systems for its GoToAssist, GoToMeeting, GoToMyPC, GoToTraining, and GoToWebinar products.

DEFENSE VERDICT – PRODUCT LIABILITY – PHARMACEUTICAL – FAILURE TO WARN OF ALLEGED BLADDER CANCER RISK

Clark County, NV

In this most recent Actos verdict, the defendant producer of the pharmaceutical prevailed. The company was accused of failing to warn consumers of a dangerous side-effect associated with their product.

In 1999, the defendant, Takeda Pharmaceuticals U.S.A. (a division of Japan-based Takeda Pharmaceutical Company, Limited) began selling Actos (pioglitazone HCL) in the United States. Actos is a medication used to treat Type 2 diabetes. In June 2011, the Food and Drug Administration announced that use of Actos for more than a year could be associated with an increased risk of bladder cancer. Plaintiffs in this action, Delores C., and Bertha T., both took Actos to treat their Type 2 diabetes, and later developed bladder cancer.

The two women filed separately in the Clark County District Court, accusing defendant, Takeda Pharmaceuticals U.S.A., of failing to inform them of the safety concerns associated with their product, specifically the risk of bladder cancer. The women sought recovery of compensatory and punitive damages. The defendant denied liability, asserting that their product did not cause the plaintiffs' cancer. Ultimately, the two cases were consolidated in the 8th Judicial District Court of Clark County for trial.

At the conclusion of trial, the jury returned a finding no liability on the part of the defendant.

REFERENCE

Bertha Triana and Delores Cipriano vs. Takeda Pharmaceuticals U.S.A., Inc., et al. Case no. A680556; Judge Kerry Earley, 05-22-14.

Attorney for plaintiff: Robert T. Eglet of Eglet Wall Christiansen in Las Vegas, NV. Attorney for defendant: D'Lesli Davis & Kelly Evans of Fulbright & Jaworski LLP in Houston, TX.

COMMENTARY

This is the fifth defense verdict of the six ACTOS-related cases taken to trial. The plaintiff prevailed in "Terrence Allen, et al. v. Takeda, et al. (U.S.D.C., W LA)", with the federal jury finding Takeda 75 percent liable, and co-defendant Eli Lilly 25 percent liable. The federal jury awarded plaintiffs $1,475,000 in compensatory damages, as well as $6,000,000,000 in punitives from Takeda, and $3,000,000,000 from co-defendant, Eli Lilly.

Verdicts by Category

LEGAL MALPRACTICE

$325,000 VERDICT

Legal Malpractice – Failure to investigate underlying negligent security claim before entering in $8,500 pre-suit settlement of underlying case – Plaintiff assaulted with baseball bat by unknown assailant who gained access through unlocked side entrance of apartment building

New York County, NY

This was a legal malpractice case involving a 47-year-old unemployed plaintiff who was allegedly attacked by two unknown assailants who gained access to his apartment building through an unlocked and unmonitored side door. The plaintiff contended, in the legal malpractice action, that the defendant attorney negligently settled the claim prior to suit with the landlord for $8,500, and that the defendant attorney failed to adequately investigate the claim before resolving

the claim with the landlord. The plaintiff, who signed the release, testified that by doing so, he didn't understand that he was settling the underlying case for $8,500. The plaintiff maintained that after he went to meet his children at the school bus stop, and learned that they went home with a neighbor, he went back to his apartment building after stopping at a bodega and liquor store, and was the victim of the assault.

The defendant attorney contended that an adequate investigation was conducted, and that the proofs strongly showed that the plaintiff was not the victim of an assault, but had fallen down the interior steps because he was intoxicated.The defendant maintained the case was unwinnable because the plaintiff, who had a BAC of.25 at the time of the incident, was found at the bottom of the interior stairs, and had told many inconsistencies about how the incident happened. The defendant further supported that the testimony of the plaintiff that only slightly more than 15 minutes elapsed between the time he left the school bus stop until he was assaulted was unbelievable, because he had stopped at a bodega and liquor store in the interim, and consumed a very significant amount of Southern Comfort. The defendant also pointed out that there were several references in the hospital chart that the plaintiff's injuries were caused by a fall down the stairs, not an assault ,there were no witnesses to the alleged assault, which happened during the middle of the day, during a high-traffic time, there was no unlocked side entrance, no proofs that alleged assailants entered through a side entrance, and the plaintiff admitted that the apartment building had working front door locks and a working intercom system. The plaintiff maintained that although he was found at the bottom of the stairs, his shirt was pulled up over his head, and that this evidence was more consistent with an assault. The plaintiff also maintained that the arm fractures were defensive wounds that were sustained when he was attacked with a baseball bat. The plaintiff further contended that the fact that nobody was willing to act as a witness of the attack was not surprising. The plaintiff also contended that his apparent inability to estimate times was far from dispositive. The plaintiff supported that he will suffer permanent pain because of the injuries sustained in the incident.

The jury found that the defendant attorney was negligent. The jury also found that the plaintiff was the victim of an assault, and that the negligence of the landlord was a substantial factor in the assault. The jury then awarded $325,000.

REFERENCE

Plaintiff's dental expert: Martin Bassiur, DDS from Woodmere, NY. Plaintiff's emergency medicine expert: Alan Schecter, MD from Manalapan, NJ. Plaintiff's orthopedic surgeon expert: Robert Goldstein, MD from Bronx, NY. Plaintiff's security expert: Leslie Cole from Union, NJ. Defendant's violent crime expert: Peter Smerick from Manassass, VA.

Angeles vs. Defendant attorney. Index no. 100091/09; Judge Peter Moulton, 10-24-14.

MEDICAL MALPRACTICE

Dental

DEFENDANT'S VERDICT

Oral surgical malpractice/Informed consent – Plaintiff contends that defendant oral surgeon removes tooth (no. 31) that is adjacent to tooth listed in referral sheet (no. 30), and for removal of which the plaintiff asserted he gave consent

Richmond County, NY

This was an oral surgical malpractice/informed consent case in which the plaintiff contended that he was given a referral for the extraction of tooth no. 30, but that the defendant removed the adjacent tooth no. 31, for which there was no consent. The defendant contended that the unrebutted evidence reflected that both teeth were in poor condition, but that only tooth no. 31 was symptomatic on the day in question, warranting extraction, and no negligent treatment claims were submitted to the jury. The defendant denied that plaintiff gave the referral that listed tooth no. 30 to him when he visited the office, and contended that although he would generally keep such referrals in the patient's file, he had no record of it. The defendant maintained that when he conducted his exam, palpation elicited a painful response to tooth no. 31, but not tooth 30, and that the plaintiff had consented to the removal of tooth no. 31.

The defendant also pointed out that his expert had attributed the plaintiff's continuing symptoms to bruxism. A non-party dentist's records reflected that the plaintiff had failed to wear a night guard as instructed. The defendant maintained that this factor caused the pain associated with the untreated bruxism. The defendant established that some weeks after the plaintiff obtained the defendant's expert report that attributed his current symptoms to bruxism, he called the non-party dentist's office and requested that the records reflecting that he wasn't wearing the night guard, be changed to reflect that

was wearing the night guard. The defendant pointed to the chart entry of the dental assistant who related that she told the plaintiff that the records could not be altered. The defendant maintained that the plaintiff's credibility was highly suspect, and that his claims should be rejected. The plaintiff contended that the records of the subsequent dentist were inaccurate.

The jury found for the defendant after deliberating for 15 minutes.

REFERENCE

Plaintiff's dental expert: Francis Murphy, DDS from Rockville Centre, NY. Defendant's dental expert: Mark Stein, DDS from Staten Island, NY.

Giammarino vs. Carlo, DDS. Index no. 100870/11; Judge Kim Dollard, 08-06-14.

Attorney for defendant: Adam M. Oshrin of Fumuso Kelly DeVerna Snyder Swart & Farrell,LLP in Happauge, NY.

Orthopedics

DEFENDANT'S VERDICT

Medical Malpractice – Orthopedics – Informed consent – Plaintiff alleges negligence and lack of informed consent results in early retirement

Santa Monica County, CA

In this action for medical malpractice, the plaintiff alleges that the defendant's negligence forced him into early retirement. The defense denied all allegations of negligence.

The 48-year old plaintiff presented to the defendant complaining of long-standing lower back pain and radiating leg pain. As a result, the defendant performed surgery to place an L4-5 investigational artificial disc in the plaintiff's spine. When, several years later, the surgery failed to alleviate the plaintiff's pain, he went on to have L4-5 fusion surgery by another orthopedic surgeon. The second surgery also failed to resolve the plaintiff's complaints; forcing him into early retirement from the Los Angeles Police Department. The plaintiff retired on disability and 75% pay for life, plus medical benefits.

On April 1, 2010, the plaintiff filed suit against the defendant for medical malpractice. The plaintiff argued that the defendant had not only negligently placed the investigational disc in his back, but also failed to obtain informed consent before proceeding. In addition, the plaintiff contended that had the surgery been performed correctly he would have been able to work for five more years. The defense denied all allegations of negligence; arguing overall that the defendant's actions fell within accepted standards of care.

After 15 days of trial, and a one-day jury deliberation, the jury found in favor of the defendant on all counts.

REFERENCE

Plaintiff's expert: John Kennedy, M.D. from New York, NY. Plaintiff's economist expert: Susan Bleeker from Los Angeles, CA. Plaintiff's endocrinologist/ internist expert: Frederick Singer, M.D. from Huntington Valley, PA. Plaintiff's interventional/ neuroradiologist expert: Wallace Peck, M.D. from Newport Beach, CA. Plaintiff's orthopedic surgeon expert: Robert Pashman, M.D. from Los Angeles, CA. Plaintiff's orthopedist expert: Sanford Davne, M.D. from Bala Cynwyd,, PA. Defendant's economist expert: David Weiner from Los Angeles, CA. Defendant's interventional radiologist expert: Brian King, M.D. from Los Angeles, CA. Defendant's orthopedic surgeon expert: Jeffrey Deckey, M.D. from Orange, CA.

Grimes vs. Delmarter, et al. Case no. SC107445; Judge Hon. Lisa Hart Cole, 05-02-14.

Attorney for defendant: David J. O'Keefe of Bonne, Bridges, Mueller, O'Keefe, & Nichols in Los Angeles, CA.

Primary Care

$1,000,000 CONFIDENTIAL RECOVERY

Medical Malpractice – Wrongful death – Primary care physician negligence – Failure to timely diagnose and treat cardiac condition

Withheld County, MA

In this medical malpractice matter, the plaintiff alleged that the defendant primary care physician was negligent in failing to timely diagnose and treat the decedent's cardiac condition. The defendant's negligence resulted in the decedent's wrongful death due to a heart attack. The defendant denied any deviation from acceptable standards of care and maintained that the plaintiff's decedent died as a result of of a sudden arrhythmia.

The 48-year-old male decedent was a patient of the defendant primary care physician. The decedent saw the defendant for his annual physical in 2007, and normal cardiac findings were noted in the defendant's records. The decedent treated with the de-

fendant three weeks prior to his death in early 2008 complaining of non-productive cough lasting approximately one month, shortness of breath, wheezing, and significant weight gain. The defendant diagnosed the plaintiff with asthmatic bronchitis and prescribed steroids. The decedent died three weeks later of a heart attack. An autopsy disclosed that the decedent had an enlarged heart. The decedent had fenestrations in the aortic valve which caused chronic aortic valve regurgitations which was listed as the cause of death. The plaintiff brought suit against the defendant PCP alleging negligence. The plaintiff contended that the defendant could not have diagnosed the decedent with 21 normal cardiac findings only months before his death given the condition of his heart following his death. The plaintiff alleged that the defendant was negligent in failing to timely diagnose and treat the decedent's cardiac condition. The plaintiff contended that the standard of care, given the decedent's symptoms and complaints just prior to his death, that the defendant perform diagnostic testing such as a baseline ECG which would have diagnosed the cardiac condition.

The defendant denied the allegations and maintained that there was no negligence in the defendant's care and treatment of the plaintiff's decedent. The defendant contended that he found no cardiac abnormalities and the decedent's death was most likely from a sudden arrhythmia.

The parties agreed to resolve the plaintiff's claim one month before the scheduled trial date for the sum of $1,000,000 in a confidential settlement between the parties.

REFERENCE

Estate of Officer Doe vs. Defendant PCP., 05-30-14.

Attorneys for plaintiff: Benjamin R. Zimmerman and Stacey L. Pietrowicz of Sugarman & Sugarman in Boston, MA.

Surgery

DEFENDANT'S VERDICT

Medical Malpractice – Surgery – Defendant doctor causes biopsy needle to break during procedure, necessitating additional surgery – Failure to properly perform bone biopsy – Pain and suffering – Additional surgery

Philadelphia County, PA

In this medical malpractice action, the plaintiff maintained that the defendant doctor negligently performed a biopsy procedure and caused the needle to break and lodge in the plaintiff's back. The defendant argued that the incident occurred in the absence of negligence.

On May 14, 2010, the female plaintiff underwent a bone biopsy performed by the defendant doctor at the defendant medical facility. The doctor used a needle manufactured by the defendant company. During the procedure, a piece of the needle broke and dislodged into the plaintiff's back. Additional surgery was required to remove the needle. The defendant medical facility, and needle manufacturer, were dismissed from the action prior to trial, and the case proceeded against the defendant doctor only. The plaintiff allegations against the defendant doctor were failing to properly care for the plaintiff while performing a bone biopsy, failing to extend proper and reasonable services to the plaintiff while performing a bone biopsy, and failing to adequately perform all aspects of surgery. As a result of the incident, the plaintiff suffered pain and suffering with an additional operative procedure required. The defendant doctor denied all allegations of negligence and injury, and argued that the plaintiff was provided care that at all times was in accordance with all medical standards.

The jury found that the defendant doctor's care did not fall below acceptable standards.

REFERENCE

Melanie Dezago and Anderson Seche vs. Carefusion Inc., Eastern Regional Medical Center, and Aalpan Patel M.D. Case no. 1112003609; Judge Annette Rizzo, 04-14-14.

Attorney for plaintiff: Thomas Sacchetta of Sacchetta & Baldino in Media, PA. Attorney for defendant: Gary Samms of Obermayer Rebmann Maxwell & Hippel LLP in Philadelphia, PA.

CIVIL RIGHTS

$65,000 RECOVERY

Civil Rights – Plaintiff contends excessive for used during drug arrest, and that he is beaten after being brought to precinct – Coronoid fracture to dominant elbow and several rib fractures

U.S. District - Southern County, NY

The plaintiff contended that after he was arrested in connection with alleged drug offenses, the officers was strip searched and assaulted by

officers inside a cell. The plaintiff maintained that he suffered a coronoid fracture to the dominant elbow, and several rib fractures. The plaintiff supported that he will permanently suffer some pain and weakness in the arm. The plaintiff received initial treatment, and underwent X-rays at Bellevue Hospital. After being discharged from the hospital, he was eventually arraigned and charged with tampering with evidence, assault in the second degree, resisting arrest, and criminal possession of a controlled substance in the seventh degree. The plaintiff was then transferred to Rikers Island where the plaintiff received additional treatment for his injuries, including his elbow fracture and multiple rib fractures. The plaintiff pleaded guilty to a misdemeanor charge of criminal possession of a controlled substance in the seventh degree, received a sentence of time served, and was released from custody. The plaintiff testified that at the scene of the arrest, he took two bags of heroin out of his jacket pocket with his right hand, at which point one detective hit his right hand, knocking the bags to the ground. The defense denied that excessive for was used. One of the detectives testified that the plaintiff, "Reached into his back, like in his back, his buttock area, and then he just, I guess, however, he pulled his hands up and just dove down towards us, towards the ground. [sic]"

The plaintiff pointed out that the other detective's report, whom the plaintiff maintained was the defective who struck him in the arm, reflected that, although the plaintiff made an attempt to put the contraband in his mouth, his report did not reflect that the plaintiff dove at him.

The case settled prior to trial for $65,000.

REFERENCE

Reyes vs. City of New York. Index no. 11- cv- 7084 (AT); Judge Analisa Torres, 11-00-14.

Attorney for plaintiff: David A. Zelman of Law Offices of David A. Zelman in Brooklyn, NY.

$215,000 RECOVERY

Civil Rights –African American plaintiff was wearing a KKK hood and a t-shirt containing profanity and racial slur as show of sarcasm – Plaintiff claims ejection in absence of disruption of meeting constituted violation of rights

U.S. District - Central County, CA

In this 1983 Civil Rights action, the plaintiff contended that his First Amendment free speech rights were violated because he was ejected from a public meeting of the Los Angeles Parks and Recreation Dept., because he was wearing a KKK hood, and a t-shirt which contained profanity and a racial slur, which the plaintiff, an African-American, contended was meant to reflect that the N- word could be used to describe ignorance, irrespective of one's race. The plaintiff maintained that the individuals present might find his garb offensive, however, he had the right to be present and speak, as long as he was not disruptive. The plaintiff related that he appeared in similar dress at other meetings, and was allowed to speak without incident.

The plaintiff related that after he arrived, he was told that unless he changed his clothes, he would not be permitted to remain. The plaintiff declined to do so, was escorted out, and given a citation for disrupting the public event. The plaintiff went to court, which the city declined to prosecute, and the criminal charges were dismissed. The plaintiff's counsel relates to this publication that the cause of action would have been viable, even if the plaintiff had not been criminally charged and that the ejection in violation of his rights was actionable in and of itself. The plaintiff contended, however, that the need to lose a day from his work as a vendor in Venice caused economic damages.

The plaintiff also made emotional distress and loss of enjoyment of life claims.

The case settled prior to trial for $215,000.

REFERENCE

Hunt vs. City of Los Angeles. Case no. CV 12-07261 FMO, 06-14.

Attorney for plaintiff: Stephen F.Rohde of Law Offices of Stephen F.Rohde in Los Angeles, CA.

$30,000 RECOVERY

Civil Rights – Violation of Title VII of Civil Rights Act – Violation of Pregnancy Discrimination Act – Female plaintiff was terminated when she informed the defendant of her pregnancy

Withheld County, AR

In this pregnancy discrimination matter, the plaintiff alleged that she was terminated from her position with the defendant when she informed her employer that she was pregnant. The plaintiff alleged that the defendant violated her civil

rights, and the federal law, and was discriminated against. The defendant denied the allegations and disputed liability and damages.

The female plaintiff was hired by the defendant, a processing plant for meat by-products, as lab technician. In her capacity as a lab technician, the plaintiff was checking meat for water content, cleanliness, temperature, and other quality control measures. The plaintiff worked around raw meat as part of her job duties. When the plaintiff informed the defendant that she was pregnant on September 11, 2012, the plaintiff was informed, less than one hour later, that she would be laid off for her safety, as well as the safety of her unborn child. The plaintiff was healthy and had no restrictions in place from her doctor. The plaintiff EEOC brought a claim on behalf the employee alleging that she was discriminated against due to her pregnancy in violation of her civil rights and federal law. Particularly, the plaintiff alleged that the defendant violated Title VII of the Civil Rights Act of 1964 and the Pregnancy Discrimination Act.

The defendant employer denied the allegations of discrimination. The defendant argued that the plaintiff's doctor had restricted the plaintiff employee from being around raw meat, which she contended was untrue.

The parties agreed to compensate the plaintiff the sum of $30,000 in damages, and the defendant agreed to provide training for its personnel on pregnancy discrimination, submit reports to the EEOC during the agreed upon consent period, and to post notices regarding its policies to resolve the plaintiff's claims. The settlement was approved by the court.

REFERENCE

US Equal Employment Opportunity Commission vs. Triple T Foods. Case no. 5:13-cv-05198; Judge Timothy L. Brooks, 07-21-14.

Attorneys for plaintiff: Pamela Dixon and Faye A. Williams of Equal Employment Opportunity Commission in Little Rock, AR.

FRAUD

$18,000,000 RECOVERY

DOJ – False Claims – Shipping services accused of false claims relating to CDC vaccine distribution contract – Violation of False Claims Act

Davidson County, TN

In this case, the Department of Justice accused a company of botching their contract with the government for shipping of vaccines. The government sought recovery under the False Claims Act, and the matter was resolved via settlement.

The defendant, McKesson Corporation, is a pharmaceutical distributor with corporate headquarters in San Francisco. The defendant was under contract with the Centers for Disease Control and Prevention (CDC) to provide distribution services for vaccines purchased by the government, receiving the vaccines and then delivering them to health care providers. The United States asserted that the contract required defendant ensure that the vaccines were maintained at a proper temperature during shipping through the use of, amongst other things, electronic temperature monitors. The government argued that between April and November 2007, the defendant failed to set the monitors to the appropriate range (between two degrees Celsius and below or eight degrees Celsius and above).

The whistleblower Terrell Fox, a former finance director at McKesson Specialty Distribution LLC, filed suit against McKesson in the U.S. District Court for the Middle District of Tennessee. The plaintiff, and later the United States, asserted that the defendant had violated the False Claims Act by knowingly having submitted claims to the CDC for shipping and handling services that had not satisfied its contractual obligations. The defendant denied this accusation.

The matter was resolved through a settlement, in which the defendant agreed to pay $18,000,000 to resolve the allegations.

REFERENCE

United States ex rel. Fox vs. McKesson Corp. Case no. 3:12-cv-00766, 08-08-14.

Attorney for plaintiff: U.S. Department of Justice - Civil Division in Washington, DC.

$64,358 JUDGMENT

Consumer Fraud Case – Defendant contractor allegedly deceives plaintiff homeowner by advising that extensive work needed on foundation when such work was clearly unnecessary – Violation of CFA

Cumberland County, NJ

This was an action brought under the Consumer Fraud Act (CFA), in which the plaintiff homeowner contended that the defendant contractor, who had been doing work in the kitchen and bathroom, claimed that he noticed signs of weakness in the

foundation, and that extensive work was needed to prevent the basement walls from collapsing. The defendant initially estimated that such work would cost $15,000. The plaintiff maintained that after the defendant began work in the basement, he told her that he had greatly underestimated the amount of work that was needed, and told her that the cost to save her home would exceed $59,000. The plaintiff made deposits for some of the work to be performed in the basement, and contended that she paid in full for portions of the work in the kitchen and bathroom that had not been completed in violation of the Act. The plaintiff brought suit, and the defendant defaulted. This proof hearing then followed. The plaintiff contended that in addition to unnecessary work, she incurred extensive costs to restore her basement to its prior condition.

The plaintiff's structural engineer related that his inspection was made with the help of sophisticated equipment, and disclosed that the foundation was in good condition, in no danger of collapse, and did not require any remedial work. The plaintiff contended that it was clear that the defendant knew the work was unnecessary, and committed fraud by persuading her to allow him to perform extensive unnecessary work in her basement.

The court found for the plaintiff and assessed $18,520 in compensatory damages. This amount was then trebled under the CFA and attorney fees and expert costs were added to the judgment. The plaintiff entered judgment for $64,357. The court also specifically entered the judgment against the individual owner of the construction corporation in addition to the company itself.

REFERENCE

Plaintiff's structural and mechanical engineer expert: Frank Vinciguerra,PE from Woodbury, NJ.

Tortu vs. AB Construction, et al. Docket no. CUM-L-00357-14; Judge Richard J. Geiger, 10-14.

Attorney for plaintiff: Bradley K. Sclar of Hankin Sandman & Palladino in Atlantic City, NJ.

$325,000 VERDICT

Fraud – Plaintiff sues defendants for misrepresentation to him about the sales of the liquor store – Defendants violate the Texas Deceptive Trade Practices Act – Damages

Harris County, TX

The plaintiff brought this lawsuit against the defendants maintaining that the defendants were liable to him for fraud in that they made misrepresentations to him about the sales of the store. The plaintiff maintained that he paid over $400,000 for the store, and the defendants refused to give him proper documentation in order for him to obtain operating licenses. The plaintiff contended that the defendant engaged in false and misleading acts which damaged him. The defendants denied the plaintiff's allegations, and contended that the plaintiff failed to timely apply for the necessary license and permits to operate his business.

The plaintiff alleged that the defendants fraudulently induced him into purchasing a liquor store by representing that the store made over $93,000 every two weeks. The plaintiffs maintained that the defendant promised to provide income tax returns and sales tax to verify the sales, and the defendants failed to do what was promised. The defendants also promised to assist the plaintiff in obtaining operating licenses, and continue to operate the store with the plaintiff while the plaintiff's licenses were pending. The plaintiff contended that after he purchased the store, the sales were not as the defendants had represented and the defendant did not assist the plaintiff with obtaining the licenses.

The defendants contended that on July 20, 2012, the parties executed a letter of intent, allowing the plaintiff to inspect and exam the liquor store business. The plaintiff entered the business for three weeks to inspect, operate, and train for the takeover. The defendant maintained that on August 14, 2012, the parties entered into an agreement whereby the plaintiff took over the possession, control, and operation of the business; and the plaintiff agreed to pay the defendant a sum of $50,000 prior to September 15, 2012, in which the plaintiff breached his agreement by not paying the defendants.

A jury of 12 found in favor of the plaintiff and unanimously found that defendant Bui knowingly violated the Texas Deceptive Trade Practices Act and committed fraud against the plaintiff. The jury awarded the plaintiff $250,000 in actual damages and $75,000 in additional damages. In addition, the court awarded the plaintiff $22,534 in prejudgment interest; and $6,686 for court costs, totaling $354,221.

REFERENCE

Ly Van Nguyen vs. May Thi Bui and Lake Conroe Center Corporation. Case no. 2012-52163; Judge Jeff Shadwick, 06-30-14.

Attorneys for plaintiff: Pete Mai, Tammy Tran & John Na of The Tammy Tran Law Firm Attorneys At Law, LLP in Houston, TX. Attorney for defendant: Scott K. Bui of Bui & Nhan, PLLC in Houston, TX.

MOTOR VEHICLE NEGLIGENCE

Auto/Auto Collision

DEFENDANT'S VERDICT

Motor Vehicle Negligence – U-Turn – Defendant attempts improper U-turn and collides with the plaintiff's vehicle – Failure to follow traffic lanes, patterns and conditions – Neck and back sprains and strains – Damages only

Canadian County, OK

In this vehicular negligence action, the plaintiff maintained that the defendant driver negligently attempted a U-turn striking the plaintiff's vehicle in the process. The defendant admitted liability in causing the accident, but denied that the plaintiff was injured as a result of the accident.

On April 20, 2010, the male plaintiff was operating his vehicle on 11th Street in Yukon, Oklahoma. At the same time and place, the defendant was attempting a U-turn when his vehicle struck the plaintiff's vehicle, causing a violent collision. The plaintiff maintained that the defendant was negligent in failing to follow traffic patterns and conditions, failing to have his vehicle under proper and adequate control and failing to maintain a proper lookout. As a result of the collision, the plaintiff maintained that he suffered injuries to his head, neck, back, right thigh, and left wrist. The defendant admitted liability in causing the accident but denied that the plaintiff sustained any serious or permanent injury in the collision.

The jury found in favor of the defendant by declining to award the plaintiff damages.

REFERENCE

Jeffrey Marlar vs. Tessa Fender. Case no. CJ-2011-813; Judge Gary E. Miller, 06-11-14.

Attorney for plaintiff: Michael D. Denton of Denton Law Firm in Mustang, OK. Attorney for defendant: Ervin Pritchett of Durbin, Larimore & Bialick, PC in Oklahoma City, OK.

Auto/Bus Collision

DEFENDANT'S VERDICT

Alleged negligent operation of county school bus – Auto/bus collision – Claimed cervical and lumbar disc herniations – Cervical fusion performed.

Pinellas County, FL

The plaintiff alleged that a school bus, operated by the defendant District School Board of Pinellas County, negligently changed lanes and sideswiped her vehicle. The defendant disputed the plaintiff's version of how the collision occurred. The defense claimed that the plaintiff attempted to pass the bus in the left turn lane, then struck the back of the bus when the left turn lane ended. The plaintiff was a 48-year-old female at the time of the collision. She testified that she was driving east in the median (left) lane of Tampa Road in Pinellas County. The plaintiff alleged that the defendant's bus picked up children on the far right (south side) of the highway, then moved left, entered her lane, and sideswiped her vehicle.The plaintiff claimed that the collision caused disc herniations in her cervical and lumbar spine. The plaintiff underwent a cervical fusion, which she attributed to the accident. The defendant's bus driver testified that he picked up children for school on the right side of Tampa Road, activated his left turn signal, moved to the center lane, and then the left lane. The bus driver testified that he was driving in the median (left) lane, when the plaintiff attempted to pass the bus on the left side by driving in the left turn lane. When the left turn lane ended, the plaintiff attempted to get back in the median lane behind the bus; but the front passenger side of the plaintiff's vehicle struck the rear of the bus, according to the defendant. The defendant called a witness, driving behind the plaintiff's vehicle, who corroborated the bus driver's version of the accident.

The defendant's orthopedic surgeon opined that the plaintiff's neck and back conditions preexisted the collision and were not changed by it. Evidence showed that the plaintiff had received neck and back treatment before the date of the accident.

The jury found no negligence on the part of the defendant, which was a legal cause of injury to the plaintiff.

REFERENCE

Sinton vs. The District School Board of Pinellas County, Florida. Case no. 10-005869; Judge Bruce S. Boyer, 09-10-14.

Attorneys for defendant: James B. Thompson, Sr. and Jonathan W. Douglas of Goodis, Thompson & Miller in St. Petersburg, FL.

Auto/Motorcycle Collision

$1,000,000 RECOVERY

Motor Vehicle Negligence – Auto/Motorcycle Collision – Left Turn Collision – Plaintiff motorcyclist was injured when defendant's vehicle made a left turn into the plaintiff's lane of travel

Los Angeles County, CA

In this motor vehicle negligence matter, the plaintiff motorcyclist alleged that the defendant driver was negligent in failing to yield the right of way and colliding into the plaintiff while attempting to make a left turn across the plaintiff's lane of travel. As a result of the defendant's negligence, the plaintiff suffered multiple fractures and dislocations. The defendant driver denied liability, nature, and extent of the plaintiff's injuries and damages.

The male plaintiff was operating his vehicle, a 1992 Honda motorcycle, northbound on the roadway on the date of the incident. The defendant driver, operating an SUV, was traveling southbound and made a left turn into the plaintiff's lane of travel. As a result, the plaintiff suffered substantial injuries. He was diagnosed with: Dislocation of both elbows, fractures to both wrists, a forearm fracture, as well as head and brain trauma. The plaintiff lost consciousness following the impact, and was uninsured at the time of the collision. He later brought suit against the defendant driver alleging negligence in the operation of the driver's vehicle, and in failing to yield the right-of-way to the plaintiff's motorcycle.

The defendant denied the allegations and disputed liability, as well as the plaintiff's injuries and damages.

The parties agreed to resolve the plaintiff's claim for personal injuries for the sum of $1,000,000, which was the defendant driver's policy limits.

REFERENCE

Bryan Mendrez vs. Jan M. Richards. Case no. BC497938; Judge Samantha Jessner, 04-03-13.

Attorney for plaintiff: Kevin Danesh of Banafsheh Danesh & Javid PC in Beverly Hills, CA.

$275,000 TOTAL RECOVERY

Plaintiff motorcyclist loses control and lays down bike when unidentified driver crosses double yellow line – Tibia/Fibula fracture requiring surgery with intramedullary rod – Plaintiff misses four months from job as police officer before returning to full duty

Monmouth County, NJ

This case involved a 47-year old plaintiff motorcycle operator. The plaintiff also owned an automobile, $300,000 in UM coverage from GEICO Ins. Co. and a $100,000 UM policy from Ryder Ins. Co. Under the law, the plaintiff's UM benefits are limited to the amount of the larger policy, and Ryder was only liable for one dollar for every three dollars paid by GEICO. The exposure of GEICO was $225,000, and the exposure of Ryder was $75,000. The plaintiff maintained that the unidentified driver crossed over the center line, causing him to lose control. The defendant carriers questioned the plaintiff's account, and argued that he probably overreacted when he believed that the unidentified driver was going to cross the center line. The plaintiff presented an independent eyewitness who testified that he believed the other driver probably crossed the double yellow line. The plaintiff required surgery and the implantation of an intramedulary rod. He contended that he will suffer permanent pain that is heightened upon exertion. The plaintiff, who is a police officer, was able to return to full duty approximately four months after the incident.

The plaintiff initially settled with GEICO for its limit of $225,000. The plaintiff subsequently settled with Ryder for $50,000.

REFERENCE

Doremus vs. GEICO Ins. Co. and Ryder Ins Company. Docket no. MON-L-3349-13, 11-14.

Attorney for plaintiff: Robert C. Fernicola of Escandon Fernicola Anderson & Covelli,LLC in Allenhurst, NJ.

Auto/Pedestrian Collision

DEFENDANT'S VERDICT

Motor Vehicle Negligence – Auto/Pedestrian – Minor plaintiff lawfully crossing street when struck by defendant – Failure to yield to a pedestrian – Closed head injury- Lacerations and contusions.

Philadelphia County, PA

In this auto negligence action, the mother of the minor plaintiff maintained that the defendant driver failed to yield to her son, who was lawfully crossing the street at an intersection. The

defendant maintained that the minor stepped out into traffic, and the defendant could not avoid striking the minor.

On August 8, 2011, the male minor plaintiff was crossing Levick Street, at or near the intersection of Martins Mill Road in Northeast Philadelphia, PA, with the right-of-way, when he was struck by the defendant. The allegations of negligence contain the plaintiffs complaint were negligently striking plaintiff with her vehicle as he crossed the street, failing to keep a proper lookout for plaintiff and other pedestrians, as he, or they, crossed the street, traveling at an excessive rate of speed, and failing to yield to a pedestrian. The minor suffered a closed head injury, leg injury, arm injury, neck injuries, and a laceration to the head with a soft tissue hematoma overlying the left frontal calvarium. The defendant denied all liability, and argued that the accident was caused by the negligence of the minor when he stepped out into traffic, and the defendant could not avoid striking the plaintiff.

The jury found that the defendant was not negligent.

REFERENCE

Kevin Codada, by his mother and natural guardian, Judith Codada vs. Amaryllis Davilla. Case no. 130200405; Judge Karen Shreeves Johns, 06-25-14.

Attorney for plaintiff: Ramon Arreola of Golkow Hessel, LLC in Philadelphia, PA. Attorney for defendant: Damaris Garcia of Curtin & Heefner LLP in Morrisville, PA.

Parking Lot Collision

$50,000 GROSS VERDICT

Defendant ambulance driver makes left turn into path of plaintiff driver in non-emergency situation – Collision causes SLAP tear to dominant shoulder – Plaintiff contends collision causes cervical herniation

Middlesex County, NJ

The plaintiff driver, in his late 40's at the time of the accident, contended that the defendant driver of an ambulance in a non-emergency situation, negligently failed to yield before turning left out of its driveway, causing the collision. The defendant maintained that the plaintiff failed to pay adequate attention, and was comparatively negligent. The plaintiff contended that he suffered a SLAP tear to the right, dominant shoulder, that was treated by way of arthroscopic surgery. The plaintiff maintained that, although he experienced improvement in the pain, he will permanently suffer significant restriction. The defendant denied that the shoulder tear was causally related, pointing to a five-week delay before the plaintiff complained of shoulder symptoms. The plaintiff also contended that he suffered a cervical herniation that was confirmed by MRI, and required radio frequency ablation and a few injections. The defendant maintained that any disc pathology was related to degenerative disc disease. The plaintiff made no income claims.

The plaintiff's demand was $250,0000, and the offer was $75,000. The jury found the defendant 80% negligent, the plaintiff 20% comparatively negligent, and rendered a gross award of $50,000.

REFERENCE

Plaintiff's orthopedic surgeon expert: Gregory Lane, MD from Edison, NJ. Defendant's orthopedic surgeon expert: Steven Fried, MD from New Brunswick, NJ.

Lake vs. McKenney. Docket no. MID-L-483-11; Judge Heidi Willis Currier, 10-31-14.

Attorney for defendant: Lori Brown Sternback of Methfessel & Werbel, PC in Edison, NJ.

Rear End Collision

DEFENDANT'S VERDICT ON PROXIMATE CAUSE

Plaintiff driver struck by uninsured driver who flees scene of accident – Plaintiff claims collision causes cervical, herniations as well as thoracic and lumbar bugles, and/or sprains, stains and bulges

Pinellas County, FL

Liability was stipulated in this case in which the plaintiff driver, in her 50s, was struck in the rear. The uninsured rear-striking driver had fled the scene, and the plaintiff proceeded against her UM carrier. The jury was aware that the other driver had fled the scene, and that the plaintiff, who gave the chase, was able to stop the rear striking driver. The plaintiff contended that she suffered herniations and bulges in the cervical, thoracic, and lumbar areas that will cause permanent pain despite treatment that included an epidural steroid injection. The plaintiff introduced a video that illustrated this type of injection. The defendant denied that the plaintiff suffered the claimed injuries, or that she met the no-fault threshold. The defendant pointed out that in her deposition, the plaintiff had denied other injuries and/or falls. The plaintiff had included complaints that she can no longer engage in activities such as

horseback riding and weight lifting. The defendant confronted the plaintiff with a total of seven inconsistencies, including records showing chiropractic care after falling from a horse and tweaking her back while weight lifting. The defendant maintained that the jury should consider that the plaintiff's claim of seven "innocent mistakes" should be rejected. The defendant also pointed out that on the day of the collision, the plaintiff had executed a "Letter of protection" in favor of a chiropractor, in which it was promised that any chiropractic bills would be paid from the settlement proceeds."

The jury found that the accident did not actually cause any of the claimed injuries and did not reach the question of the no-fault threshold.

REFERENCE

Plaintiff's Interventional pain management physician expert: Susanti Chowdhury, MD from Largo, FL. Plaintiff's neurosurgeon (on video) expert: Steven J. Tressor, MD from Tampa, FL. Defendant's chiropractic radiologist expert: Terry D Sandman, DC, MPH, DACBR from Clearwater, FL. Defendant's orthopedic spine surgeon expert: John Shim, MD from Tampa, FL. Defendant's radiologist (on video) expert: John Arrington, MD from Tampa, FL.

Kaminksy vs. State Farm Insurance Co. Case no. 13 004632 CI 11; Judge Pamela Campbell, 09-11-14.

Attorneys for defendant: Dale Parker and Scott Hutchens of Banker Lopez Gassler P.A. in St. Petersburg, FL.

$38,794 VERDICT

Motor Vehicle Negligence – Rear End Collision – Defendant driver fails to apply her brakes – Causes a collision with the vehicle in which the plaintiff was a passenger – Injuries and medical expenses

Dallas County, TX

The plaintiff brought this rear end collision case against the defendant driver for negligence when she failed to timely apply her brakes in order to avoid a collision with the vehicle, in which the plaintiff was a passenger. As a result of the collision, the plaintiff sustained injuries and incurred medical expenses. The defendant denied the plaintiffs' allegations.

The plaintiff alleged that on Monday, September 13, 2010, he was a passenger in the vehicle driven by Charles G. while traveling on Inwood Road. The defendant driver was also traveling on Inwood Road behind the plaintiff's vehicle. The plaintiff maintained that Charles G. had stopped at the intersection of Inwood Road and Harry Hines Boulevard, and was waiting to make a right turn onto Harry Hines Boulevard. The plaintiff asserted that the defendant driver then rear-ended the vehicle in which the plaintiff was a passenger.

The jury reached a verdict in favor of the plaintiff and awarded a total of $38,794 ($12,138 for reasonable and necessary medical expenses sustained in the past; $8,500 for physical impairment sustained in the past; $4,000 for physical impairment that the plaintiff will sustain in the future; $4,000 for physical pain and suffering sustained in the past; $1,200 for physical pain and suffering that the plaintiff will sustain in the future; $1,500 for mental anguish sustained in the past, and $1,500 for mental anguish that the plaintiff will sustain in the future. The total prejudgment interest was $4,028, plus $1,927 for court costs.

REFERENCE

Robert L. Hadnot vs. Susan White. Case no. DC-11-14120; Judge Emily G. Tobolowsky, 07-08-14.

Attorney for plaintiff: Kristofor S. Heald of Eberstein Witherite, LLP in Dallas, TX. Attorney for defendant: Andrew Crownover of Hoaglund, Farish & Palmarozzi in Irving, TX.

Sideswipe Collision

DEFENDANT'S VERDICT

Motor vehicle negligence – Roll-over collision – Ejection from vehicle - Catastrophic injuries to three plaintiffs – Liability only.

Broward County, FL

This motor vehicle negligence action involved catastrophic injuries to the three plaintiffs who were ejected from the vehicle. The defendants in the case included the host driver and the driver/owner of a box truck, with which the host vehicle collided. There was a dispute as to which driver negligently changed lanes and caused the collision. The case was bifurcated and tried on the issue of liability only. The plaintiffs claimed that the defendant's truck negligently entered their lane of travel and struck the host vehicle, causing it to roll over five times and eject all three passengers.

One of the plaintiffs remains in a coma six years post-accident. Another claimed injuries which preclude her from having children. The plaintiffs sought millions

of dollars in damages at the time of trial. The defendants each claimed that the other negligently changed lanes and caused the collision.

The jury found the defendant host driver 100% negligent. The jury found no negligence on the part of the defendant truck driver. The plaintiffs' motion for new trial and the defendant truck driver/owner's motion for fees and costs are currently pending.

REFERENCE

Masri vs. Gobin and Active Interest Media, et al. Case no. CACE 09-050170; Judge Carol Lisa Phillips, 09-19-14.

Attorneys for defendant truck driver/owner: Jami Gursky and Michael Brand of Cole, Scott & Kissane in Fort Lauderdale, FL.

PREMISES LIABILITY

Fall Down

$40,000 VERDICT

Premises Liability – Slip and fall – Plaintiff slipped and fell on a recently mopped floor at defendant's fast food restaurant – 2% Impairment rating – Lower back injury

Neshoba County, MS

In this negligence matter, the plaintiff alleged that the defendant restaurant was negligent when the plaintiff slipped and fell on a wet floor while using the restroom. The plaintiff injured his back as a result of the incident. The defendant denied that it owed a duty of care to the plaintiff, maintaining that the insurance agent plaintiff, came to the premises to pick up an insurance premium from one of the defendant's employees, and to use the restroom. The defendant also disputed the nature and extent of the plaintiff's injuries and damages.

On the date of the incident, the plaintiff came into the defendant's fast food restaurant and used the restroom. As the plaintiff was exiting the restroom, he slipped on a wet floor and fell, injuring his back. He was diagnosed with an SI joint injury, and determined to have sustained a 2% permanent impairment rating due to his injuries. The plaintiff incurred approximately $9,000 in damages as a result of the injuries sustained in this incident.

The plaintiff brought suit against the defendant, alleging that it was negligent in creating a hazardous condition by mopping the floors and failing to warn the plaintiff, and others, of the wet floors. The plaintiff contended that the defendant violated its own policy by failing to place several caution cones in the areas where the floor was freshly mopped and slippery.

The defendant denied the allegations and disputed that it owed any duty of care to the plaintiff since he was a licensee, and not an invitee. The defendant argued that the plaintiff was on the premises solely to use the restroom and obtain an insurance premium check from one of the defendant's employees. The plaintiff disputed this by maintaining that the plaintiff intended to purchase a soda when he exited the restroom however he fell before he was able to do so. The defendant further contended that there was a caution cone indicating that the floor was wet when the plaintiff entered the lobby.

The matter proceeded to trial over a period of two days.

The jury deliberated for approximately four hours and decided unanimously in favor of the plaintiff. The jury awarded the plaintiff the sum of $40,000 in damages, which was the exact amount requested by the plaintiff of the jury.

REFERENCE

Plaintiff's medical expert: Jo Lynn Polk, M.D. from Jackson, MS.

Charles Mark Brantley vs. West Quality Foods, Inc. d/b/a Kentucky Fried Chicken. Case no. 12-CV-0250-NS-G; Judge Marcus Gordon, 06-30-14.

Attorney for plaintiff: Shanda M. Yates of Burns & Associates PLLC in Jackson, MS. Attorney for defendant: Mark Biggers of Upshaw Williams in Greenwood, MS.

$57,500 RECOVERY

Trip and fall on raised sidewalk abutting commercial premises – Fracture of dominant elbow – No income claims – Minimal treatment

Hudson County, NJ

The plaintiff, in her 70's, contended that the sidewalk abutting the defendants' commercial premises was raised because of a tree root, creating a tripping hazard. The plaintiff had also named the city, and moved for Summary Judgment, pointing to the absence of any evidence that it planted the tree. The plaintiff named the commercial landlord, and the tenant, who was the son of the landlord. There was no lease, and the landlord resided in Florida. The plaintiff maintained that the root caused the elevation over a gradual period, and that the landlord, who had a nondelegable duty, should have effectuated repairs. The defendant contended that the plaintiff should have made better observations, and that the plaintiff lived 10 to 12 blocks away, and indicated that she was not very familiar with the area. The plaintiff also argued that the fact that she was looking ahead, and not conscious of the potential hazard, did not reflect negligence, and maintained that she suffered a fracture to the radial head on the dominant side. The plaintiff did not require surgery, had minimal treatment, and did not undergo physical therapy. The plaintiff made no income claims.

The case settled on the day of trial for $55,000 from the landlord, and $2500 from the tenant.

REFERENCE

Gironda vs. Benevides,et al. Docket no. HUD-L-1013-13; Judge Mary K. Cosetello, 10-14.

Attorney for plaintiff: John E. Molinari of Blume Donnelly Fried Forte Zerres & Molinari,PC in Jersey City, NJ.

DEFENDANT'S VERDICT

Premises Liability – Slip and fall – Plaintiff slips on wet exterior staircase – Failure to properly maintain and repair the exterior staircase – Trimalleolar fracture – Surgery.

Philadelphia County, PA

The plaintiff, in this premises liability action, contended that the defendant residential premises owner negligently maintained the exterior steps of his residence, causing them to become slippery, which caused the plaintiff to slip and fall. The defendant denied that the steps were not properly managed, and argued that the actions of the plaintiff caused or contributed to the incident.

On, or about September 7, 2011, the female plaintiff was an invitee, licensee and/or otherwise legally on defendant's premises, when, as a result of the negligence and/or carelessness of the defendants, the plaintiff slipped and fell on a wet exterior staircase. The plaintiff alleged that the defendant was negligent in failing to design, construct, maintain, and/or repair the premises, including staircase, steps, pathways, and/or walkways over which invitees, licensees and/or others are likely to travel rendering the premises unsafe, failing to provide sufficient warning as to the reasonably foreseeable defects and dangerous nature of the premises, and failing to barricade and/or block-off the defective and/or dangerous area of the premises. As a result, the plaintiff suffered a trimalleolar ankle fracture requiring open reduction, and an internal fixation. The defendant denied all liability and argued that so defective condition existed on the premises. The defendant maintained that the actions of the plaintiff caused the incident.

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

REFERENCE

Linda Friedman vs. Marc Mostovoy. Case no. 130200471; Judge Karen Shreeves Johns, 04-21-14.

Attorney for plaintiff: Marc Greenfield of Rand Spear in Philadelphia, PA. Attorney for defendant: Eamon Merrigan of Goldberg, Miller & Rubin, P.C. in Philadelphia, PA.

Hazardous Premises

$15,000 VERDICT

Apartment in two family home has chipped and peeling paint containing excessive amount of lead – Exposure is substantial factor in diminished IQ and poor academic performance

Erie County, NY

This case involved a plaintiff, who was 24-years-old at trial, and one-and-a-half at the time of exposure in the apartment in the two family home that was owned by the defendant landlord. The plaintiff contended that they advised the defendant of areas of chipped, peeling, and

cracked paint when they had a walk-through before renting the premises, and that the defendant took no action to protect the occupants. The plaintiff maintained that the lead levels in the paint exceeded that which was allowed under the NYS Public Health Law, and the Erie County Sanitation Code. The plaintiff contended that when diagnosed, the child had 27 /mcg/dl, which declined to 17 mcg/dl within two months of the diagnosis, and that the exposure was a substantial factor in the child's low IQ of 74. The evidence also disclosed that the child did not graduate high school. The defendant denied notice of any peeling, chipping, or cracked paint. The mother indicated on cross examination that she observed the child eating dirt, and the defendant supported that lead could well have been introduced in this manner. The defendant also maintained that the child was probably exposed before moving into the premises at the age of one-and-a-half.

The plaintiff demanded $1,300,000. The jury found for the plaintiff, and awarded $15,000.

REFERENCE

Plaintiff's neuropsychologist expert: Thomas Santa Maria, PhD from North Tonawanda, NY. Plaintiff's pediatrician expert: Robert Karp, MD from Brooklyn, NY. Defendant's pediatric psychiatrist expert: Zvi Kloppett, MD from Albany, NY.

Macon vs. Spann. Index no. 2011/1279; Judge Shirley Troutman, 10-00-14.

Attorney for defendant: Paul F. Hammond of Bouvier Partnership,LLP in Buffalo, NY.

Negligence Maintenance

$250,250 RECOVERY

EPA – Environmental Cleanup – Energy companies sued for toxic scrap site – Lead and PCB contamination

Washington County, VA

In this action, state and federal authorities pursued action against two energy companies for soil and water contamination. The matter was resolved through a consent decree.

The defendants, Appalachian Power Company and Kingsport Power Company, are two Virginia-based companies doing business as American Electric Power. The Twin Cities Iron and Metal Site – the site at issue in this action, comprises 12 acres of land in Bristol, Virginia, bordering Beaver Creek to the west and south. From 1975 until 2000, the site was operated as a scrap metal and iron yard by Poor Charlie and Company, as well as its predecessors. During that period, the ground was used for scrapping and disposal of batteries and transformers containing lead, as well as oil from scrapped transformers containing polychlorinated biphenyls (PCBs). As a result of these operations, the ground and nearby creek became contaminated by both lead and PCBs, requiring substantial soil removal and other cleanup. The United States incurred, as of this filing, at least $3,102,311 in unreimbursed response costs relating to the cleanup of the site.

The United States of America, by authority of the Attorney General of the United States and on behalf of the Administrator of the United States Environmental Protection Agency, filed suit in the U.S. District Court for the Western District of Virginia. The plaintiffs named as defendants, Appalachian Power Company and Kingsport Power Company, whose liability they asserted for their allegedly having taken no steps to prevent disposal of contaminants contained in scrap sold to Poor Charlie. The United States sought recovery of costs incurred in response to the release or threatened release of hazardous substances into the environment at or from the Twin Cities Iron and Metal Site. They further sought declaratory judgment that defendants are jointly responsible and severally liable for any future response costs incurred by the United States in connection with the site.

The matter was resolved through a consent decree for $250,250 to be paid to the Environmental Protection Agency.

REFERENCE

United States of America vs. Appalachian Power Company and Kingsport Power Company. Case no. 1:14-cv-00044-JPJ-PMS; Judge James Parker Jones, 07-02-14.

Attorneys for plaintiff: Sam Hirsch & Laura Thoms of U.S. Department of Justice in Washington, DC. Attorneys for plaintiff: Timothy J. Heaphy & Sara Bugbee Winn of U.S. Attorney's Office - Virginia in Richmond, VA. Attorneys for plaintiff: Shawn M. Garvin, Marcia E. Mulkey, Robin E. Eiseman of Environmental Protection Agency in Philadelphia, PA. Attorney for defendant: David Laing of General Counsel, American Electric Power in Cincinnati, OH.

$950,000 RECOVERY

Premises Liability – Wrongful Death – Men sue after their sister perishes in fire at trailer park – Death of Camile Vasquez

Los Angeles County, CA

In this action, the family of a woman killed in a fire sued the owner of the trailer park where she perished. The matter was resolved via settlement.

On March 20, 2010, the decedent, Camile V., was killed after a fire erupted in her mobile home. The decedent was unable to vacate the trailer due to a locked padlock outside of it. A neighbor ultimately saved her from the blaze, but she had suffered burns to over 36 percent of her body already, and ultimately perished from complications of her injuries.

Michael and Anthony Vasquez, brothers of the decedent, filed suit in Los Angeles Superior Court for wrongful death. The plaintiffs named as defendants, Garvey Tyler LLC and Refoua LLC, the owners of the trailer park and mobile homes, as well as Equitable Portfolio Corp. and Portfolio Management LLC. Equitable Portfolio and Portfolio Management were later dismissed from the suit. The plaintiffs sought $1,000,000 in wrongful death damages for the loss of their sister, the limits of defendant's insurance policy. The defendant offered $400,000 for settlement.

The plaintiffs asserted that defendant negligently maintained the trailers, creating the dangerous condition that caused their sister's death. They further accused defendant of numerous safety violations, as well as not having the required smoke detectors. Finally, the plaintiff asserted that an electrical defect in the junction box existed, and that a sliding door was not working, causing defendants to fix it with a padlock. This, they stated, was what ultimately created the trap condition that resulted in her fatal injury.

The defense asserted that decedent had caused the fire by leaving her stove on, and that her boyfriend had padlocked the door. The defendant further denied there having been any violation of the safety code.

Ultimately, the matter was resolved through a settlement for $950,000.

REFERENCE

Michael and Anthony Vasquez vs. Garvey Tyler LLC, Refoua LLC, Equitable Portfolio Corp. and Portfolio Management LLC. Case no. KC063384, 08-12-14.

Attorney for plaintiff: Alexis Galindo of Curd, Galindo & Smith, LLP in Long Beach, CA.

$400,000 RECOVERY

EPA – Contaminated water – Bleach maker sued for contaminating groundwater – Contamination of groundwater with several toxic chemicals

Denver County, CO

In this action, the EPA charged a Colorado company with violation of federal environmental regulations. The matter was resolved through a consent decree.

In March 1995, the EPA discovered groundwater contamination at the Twins Inn Site in Arvada, Colorado. Those contaminants included chorinated solvents such as: Trichloroethene, tetrachloroethene, I,I-dichloroethene, cis-I,2-dichlorethene, vinyl chloride, I ,1,1-trichlorethane, 1,1-dichloroethane, 1,2-dichloropropane, methylene chloride, toluene, chlorobenzene, and other liquids containing hazardous substances. The EPA asserted that these chemicals were dumped by the defendant, Thoro Products Corporation of Colorado, who, from the early 1960s until the late 1990s stored and handled chemicals containing hazardous substances on the site, as well as the manufacturing of bleach and spot remover, and the recycling of spent solvents. As a result of their findings, the EPA supplied bottled water to two households, and the Twins Inn Tavern that shared a contaminated drinking water well located approximately one mile downgradient of the Thoro facility. The EPA later ordered the establishment and maintenance of a protective carbon filter system for the affected drinking wader well. The Agency's unreimbursed costs from these activities totaled approximately $1,700,000.

The United States of America filed suit in the U.S. District Court for the District of Colorado at the request of the Administrator of the United States Environmental Protection Agency. The United States sought recovery of costs for cleanup pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986. The plaintiff further sought declaration of defendant's liability for all future costs incurred in connection with the release or threatened release of hazardous substances into the environment at the site.

The matter was resolved through a consent decree for $400,000.

REFERENCE

United States of America vs. Thoro Products Company. Case no. 1:14-cv-01867; Judge Robert E. Blackburn, 07-07-14.

Attorney for plaintiff: Elliot Morris Rockler of U.S. Department of Justice in Washington, DC. Attorney for plaintiff: Andrea Madigan of Environmental

Protection Agency in Denver, CO. Attorney for defendant: Christopher J. Sutton of Perkins Coie in New York, NY.

$250,000 RECOVERY

DOJ – Environmental – Developer sued for failing to manage storm water discharges – Violation of Clean Water Act

Salt Lake County, UT

In this action, the Department of Justice accused a construction company of failing to manage the water quality relating to its construction activities. The matter was resolved through a consent decree.

The defendant, Ivory Homes, Ltd, is Utah-based owner-operator of approximately 100 construction sites in that state. In May 2008, the United States Environmental Protection Agency (EPA) conducted inspections of five Ivory Homes sites: Colony Point (Lehi, UT), Cranberry Farms (Lehi, UT), Orchard Park (Lindon, UT), Bellvue Phase 3&4 (Draper, UT), and Bellvue Phase 5 (Draper, UT). At each site, the EPA found that the defendant failed to comply with permit requirements respecting the discharge of storm water from their construction sites.

The United States filed suit in the U.S. District Court for the District of Utah, Central Division, accusing Ivory Homes, Ltd of violating Sections 301(a), 402,33 USC 1311(a), and 1342 of the Clean Water Act. The Justice Department sought injunction against further violation of the law, as well as civil penalties. The defendant denied the charges.

The matter was ultimately resolved through a consent decree, in which the defendant agreed to pay $250,000 in civil penalties, as well as injunctive measures including the implementation of a management and reporting system designed to provide increased oversight of on-the-ground operations and ensure greater compliance with the CWA.

REFERENCE

United States of America vs. Ivory Homes, LTD. Case no. 2:14-cv-00460-bcw, 08-07-14.

Attorney for plaintiff: Sandra L. Steinvoort of U.S. Attorney's Office in Salt Lake City, UT. Attorney for plaintiff: Nathaniel Douglas of Department of Justice - Environment and Natural Resources Division in Washington, DC. Attorney for plaintiff: Heidi K. Hoffman of Department of Justice - Environmental Enforcement Section in Freehold, NJ.

ADDITIONAL VERDICTS OF PARTICULAR INTEREST

Age Discrimination

$85,000 RECOVERY

EEOC – Age Discrimination – Transportation company allegedly fired older drivers because of their age – Violation of ADEA

Spartanburg County, SC

In this action, a transportation company was accused of age discrimination after firing two motor coach drivers in their 70's. The matter was resolved through a consent decree.

Around December 21, 2011, complainant, William T., a motor coach driver for defendant, Atchison Transportation Services, Inc. of Spartanburg was fired by the defendant's operations manager. The Complainant was told that he was being terminated because defendant's insurance policy had a clause that did not allow drivers to drive over the age of 75. The EEOC, later found similar circumstances respecting another motor coach driver, Norris L. Around April 30, 2009, Mr. L., 76, was fired by the operations manager because, allegedly, the defendant's insurer would no longer cover him. The EEOC states that the defendant's insurance policy had no age restriction for coverage.

The EEOC filed suit in the U.S. District Court for the District of South Carolina, Spartanburg Division, after first attempting to reach a pre-litigation settlement through its conciliation process. The defendant was accused of age discrimination in violation of the Age Discrimination in Employment Act (ADEA). The plaintiff sought injunctive relief as well as monetary damages for the complainants.

The matter was resolved via two-year consent decree, in which the defendant agreed to pay $85,000 in damages, as well as agreeing to several injunctive measures. The defendant agreed to implement a policy prohibiting age discrimination, to conduct preventive annual training on ADEA requirements, and to report each discharge of an employee over 40 to the EEOC for the term of the decree. The defendant will also post a notice about the lawsuit in its Spartanburg facility.

REFERENCE

Equal Employment Opportunity Commission vs. Atchison Transportation Services, Inc. Case no. 7:13-CV-02342-HMH-JDA; Judge Henry M Herlong, Jr,, 10-09-14.

Attorney for plaintiff: Nicholas Glen Walter of Equal Employment Opportunity Commission in Charlotte, NC.

Construction Site Negligence

$300,000 CONFIDENTIAL RECOVERY

Construction Site Negligence – Plaintiff alleged he suffered a permanent lumbar injury when he fell through unsecured treads to the floor below – Multi-level lumbosacral radiculopathy – Inability to return to work

Withheld County, MA

In this construction site negligence matter, the plaintiff apprentice alleged that the defendant general contractor and sub contractor were negligent in failing to secure treads to a staircase, which resulted in the plaintiff falling through the staircase when the unsecured stair treads slipped. The plaintiff suffered a lower back injury with radiculopathy. The defendants denied the allegations and disputed the plaintiff's version of the incident.

The 32-year-old male plaintiff was employed as an apprentice sprinkler fitter at the defendant general contractor's construction site. On the date of the incident, he was installing sprinkler fittings at the condominium construction site and walked up a stairway to a loft where he was tying sprinkler lines. He walked back down the same stairway to retrieve a piece of equipment he had forgotten when the stair treads, which were unsecured slipped and the plaintiff fell through the staircase to the floor below. As a result of the incident, the plaintiff suffered an injury to his back. He was diagnosed with a lumbosacral strain and multi-level lumbosacral radiculopathy. He contended that he was unable to return to work as a result of his injuries. The plaintiff brought suit against the defendant general contractor and the defendant sub contractor alleging negligence.

The defendants denied the allegations and disputed the plaintiff's version of the incident. The defendants maintained that there were no witnesses to the plaintiff's fall and the plaintiff had been warned to stay off the staircase which he disregarded. The defendants also disputed the nature and extent of the plaintiff's injuries and damages. The plaintiff in response to the defendants' denial constructed an exemplary staircase matching the dimensions of the staircase that caused his fall. The plaintiff demonstrated that the incident could have occurred as he alleged.

The matter was mediated and then resolved post mediation for the sum of $300,000 in a confidential settlement between the parties.

REFERENCE

Plaintiff Apprentice vs. Defendant General Contractor and Defendant Sub Contractor., 01-14-14.

Attorneys for plaintiff: Eric J. Parker and Debora Concepcion of Parker Scheer in Boston, MA.

Dram Shop

$305,000 RECOVERY

Dram Shop – Wrongful death – Plaintiff's decedent was killed when her vehicle was hit head-on by vehicle operated by an intoxicated driver that had been served at the defendant establishments

Lane County, OR

In this dram shop matter, the plaintiff alleged that the defendants were liable for the decedent's death by serving the defendant driver who was visibly intoxicated and then drove his vehicle and collided head-on with the plaintiff. The defendants denied the allegations, and maintained that the driver did not appear intoxicated at the time, and it was not foreseeable that he would operate a motor vehicle when he was put into a taxi for the ride home.

Allegedly, the driver was visibly intoxicated and had been served at the defendant establishments prior to operating his motor vehicle. The plaintiff contended that the defendant establishments were negligent in serving the driver who was showing signs of intoxication at the time he was sold additional alcohol by the defendants.

The defendants denied the allegations, and maintained that the driver did not appear intoxicated when he was served or consumed additional alcohol somewhere after leaving the defendants' establishments. The defendant driver was an experienced drinker and practiced concealing effects. The tavern that last served him called him a taxi and observed him getting into the taxi and driving away. Shortly after that, the driver had the taxi stop, went back, and

got into this vehicle, driving 45 minutes until he caused the collision that resulted in the plaintiff's death.

Under Oregon law, non-economic damages cannot exceed $500,000 in a wrongful death action. The plaintiff was unable to prove additional economic losses to the estate, effectively capping the possible damages at $500,000.

The parties agreed to resolve the plaintiff's claim for the sum of $305,000 in a settlement agreement. All defendants, including the intoxicated driver, contributed to the settlement.

REFERENCE

Plaintiff's alcohol intoxication effects expert: Kenn Meneely from Eugene, OR.

Estate of Grondona vs. Jeremy Henry, Great Western Pub, Szechuan Terrace Restaurant., 07-15-14.

Attorney for plaintiff: Greg Veralrud of Veralrud & Fowler in Eugene, OR. Attorney for defendant Henry: Mark Zipse of Zipse Elkins & Mitchell in Portland, OR. Attorney for defendant Great Western: Jeffrey D. Eberhard of Smith Freed & Eberhard P.C. in Portland, OR. Attorney for defendant Szechuan: Eric DeFreest in Eugene, OR.

Gender Discrimination

$10,500 RECOVERY

EEOC – Ssex Discrimination – Company refused to hire female for driving position, according to EEOC – Violation of Title VII

Richmond County, VA

In this action, a company was sued by the EEOC for refusing to hire a female driver. The matter was resolved through a consent decree.

In October 2012, the complainant, Deborah N., was an applicant with the defendant, Food Rite Community Supermarket, for a vacant part-time courtesy van driver position in Richmond, Virginia. The complainant asserted that she was told they would not hire a woman out of concern they would be at a greater risk of being assaulted on the job. The defendant ultimately hired a male driver for the position. The complainant filed a complaint with the EEOC, accusing the company of sexual discrimination.

The EEOC filed suit in the Eastern District of Virginia, Richmond Division after first attempting to reach a pre-litigation settlement through its conciliation process. The EEOC accused the defendant, Lee's Food Corporation (owner of Food Rite), of violating Title VII of the Civil Rights Act of 1964 through sexual discrimination. The defendant denied the accusation.

The matter was resolved through a three-year consent decree. The defendant agreed to pay $10,500 in damages to the complainant, as well as several acts of injunctive relief, including: Implementation of employment policy prohibiting sex discrimination, distribution of a copy of that policy to its employees, training for its employees on the prohibitions of Title VII, posting of an employee notice, respecting the settlement, and reporting on discrimination complaints to the EEOC for the term of the decree.

REFERENCE

Equal Employment Opportunity Commission vs. Lee's Food Corp. d/b/a Food Rite Community Supermarket. Case no. 3:13-cv-00838; Judge Robert E. Payne, 08-11-14.

Attorney for plaintiff: Suzanne Lenahan Nyfeler of U.S. Equal Employment Opportunity Commission.

$182,500 RECOVERY

EEOC – Gender Discrimination – Charged St. Cloud Tire Company underpaid HR Director for years – Violation of Equal Pay Act

Hennepin County, MN

In this action, the EEOC sued on behalf of a woman who accused her employer of pay discrimination. The matter was resolved through a consent decree.

Complainant, Christine F-W., was the female resources director for the defendant, Royal Tire, Inc., a commercial and retail tire company based in St. Cloud, Minnesota. The plaintiff charged that between January 2008 and June 2011, the defendant paid complainant lower wages than it paid male employees who'd held the same position. The employee complained, but no changes were made. Thereafter, the employee filed a complaint with the EEOC. The federal agency later found that complainant was paid $35,000 less per year than her male predecessor, and $19,000 less than the minimum salary for the position under defendant's own compensation system.

The EEOC filed suit on June 21, 2013 in U.S. District Court for the District of Minnesota after first attempting to reach an pre-litigation settlement through its volun-

tary conciliation process. The defendant was accused of pay discrimination in violation of the Equal Pay Act of 1963, as well as Title VII of the Civil Rights Act of 1964. The defendant denied the accusation.

The matter was resolved through a three-year consent decree, in which the defendant agreed to pay complainant $182,500, as well as agreeing to numerous injunctive measures. The defendant agreed to an injunction prohibiting the company from future gender discrimination, including an evaluation of their pay structure to ensure compliance with federal law. They further agreed to conduct training on compliance with the EPA and Title VII and report any pay discrimination complaints to the EEOC for the term of the decree.

REFERENCE

Equal Employment Opportunity Commission and Fellman-Wolf vs. Royal Tire, Inc. Case no. 13-cv-01516; Judge John R. Tunheim, 08-04-14.

Attorney for plaintiff: Jessica Palmer-Denig of U.S. Equal Employment Opportunity Commission in St. Paul, MN.

Insurance Obligation

$8,000 RECOVERY

Insurance Obligation – Uninsured Motorist Coverage – Plaintiff injured in an accident with an uninsured motorist – Out of pocket medical expenses requested to be paid – Minor plaintiff suffers a broken clavicle.

Cleveland County, OK

The plaintiff, in this insurance related vehicular action, was a minor who was traveling as a passenger in a vehicle that was involved in a collision with an uninsured driver. The minor was injured in the collision, and her mother made this claim for uninsured motorist benefits from her insurance company. The defendant insurance company offered to settle the action for $8,000 which the plaintiff accepted.

On January 5, 2012, the minor plaintiff was involved in a car accident at the intersection of Keeney Road and Highway 277 in Comanche, Oklahoma. As a result of the accident, the female minor suffered a broken clavicle, and had to wear a brace for about six weeks, with a permanent bump on her clavicle. The plaintiff's mother made a claim for uninsured motorist benefits from the defendant insurance company for out of pocket medical expenses incurred as a result of the accident. The defendant insurance company offered the plaintiffs $8,000 in benefits, which the plaintiffs accepted.

The parties settled this action for $8,000.

REFERENCE

M.M. a minor by and through her png Sharita Morris vs. United Services Automobile Association. Case no. CJ-2014-832; Judge Tracy Schumacher, 07-08-14.

Attorney for plaintiff: Pro Se. Attorney for defendant: William D. Pettigrew of Noland Pettigrew & Bruce, P.C. in Oklahoma City, OK.

Municipal Liability

$11,000 VERDICT

Qui tam action under the False Claims Act – Alleged fraud in certifying compliance with the Incentive Compensation Ban of the Higher Education Act

Withheld County, FL

This was a qui tam action brought by two former employees of Keiser University. The plaintiffs' claims were based on the allegation that Keiser University violated the Incentive Compensation Ban of the Higher Education Act, by either providing incentive compensation to admissions counselors based solely on their enrollment numbers, or punishing admissions counselors based solely on their enrollment numbers after certifying to the Department of Education that it was in compliance with the Incentive Compensation Ban.

The plaintiffs argued that the defendant was providing incentives university wide, on numerous campuses throughout the State of Florida since 2006. The incentive compensation provision of the Higher Education Act prohibits schools from paying student recruiters and employees involved in financial aid "any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid." The plaintiffs argued that the defendant submitted 222,206 false claims to the federal government in the form of FAFSA applications, Program Participation Agreements, Electronic Certifications, and annual audits. The plaintiffs sought

$3,048,000,000,000 in actual damages and $2,044,000,000,000 in civil penalties (222,206 claims multiplied by the maximum statutory penalty of $11,000) totaling $5,092,000,000,000.

The defendant argued that if incentives were provided to admissions counselors it was done during a limited time frame, on one or two campuses, totaling only a few thousand dollars, without the knowledge and approval of university management and contrary to the defendant's official policy across all campuses. The defendant further argued that, once this practice was brought to the attention of university management, it was investigated, ordered to be immediately stopped, and in fact, immediately stopped.

Furthermore, the defendant argued that it did not submit any false claims to the federal government, as well as did not act with the required knowledge that it was submitting false claims to the government, that its actions, if inappropriate, were immaterial to the government's decision to allow the defendant to participate in the federal student loan program, and the government had not been damaged by any of the defendant's actions.

After a four-day bench trial, the court found tendant submitted only two false claims, and that there was no evidence that these two claims resulted in any actual monetary damages to the government. As a result, the court awarded no actual damages and applied the minimum statutory penalty of $5,500 per claim, for total civil penalties of $11,000. Post-trial motions are currently pending.

REFERENCE

U.S. ex rel. Christiansen/Ashton vs. Everglades College, Inc. d/b/a Keiser University. Case no. 0:12-CV-60185-WPB; Judge William P. Dimitrouleas, 08-14-14.

Attorney for defendant: Barry A. Postman, Thomas E. Scott Jr, and Justin C. Sorel of Cole, Scott & Kissane in West Palm Beach, FL.

Negligent Supervision

$450,000 RECOVERY

Negligent supervision/negligent hiring by defendant church of 23-year-old sexton – Sexton engages in otherwise consensual intercourse with 14-year-old girl – Emotional injury

Philadelphia County, PA

The plaintiff contended that the defendant Church failed to properly screen a 23-year old sexton before hiring him. The plaintiff maintained that if it had done so, prior employers would have indicated that he was unreliable. The plaintiff maintained because no background investigation was performed, he was given all the keys to the church premises, and allowed 24-hour per day access to tend to emergencies. The sexton was charged and convicted of statutory sexual assault, and ordered to serve a probationary period of 7 years.The plaintiff further contended that the sexton regularly brought his adult girlfriend onto the premises, and he had engaged in sexual acts with her on several occasions on the premises. The plaintiff maintained that this course showed that the sexton, believed that he could use the premises for his own whims, while knowing there would be no repercussions. The plaintiff's security expert contended that the church improperly hired the sexton, and provided inadequate supervision and security. The plaintiff maintained that the abuse was a substantial factor in the minor plaintiff, engaging in self-harming behaviors, such as cutting and engaging in numerous sexual relations with older men who were strangers. The minor plaintiff underwent extensive in-patient and out-patient psychological treatment and was eventually placed into a group home.The plaintiff's rape trauma expert would have testified that the sexual relationship with the sexton was a substantial contributing factor to the self-harming behaviors, including the risky sexual acting out with strangers. The defendant contended that the primary cause of the difficulties was he fact that the minor's mother was a prostitute, who had been convicted and sentenced to jail in the months before the sexual contact with the sexton for luring johns to motel rooms with the promise of sex, only to have a co-conspirator break entry into the room to rob the john.

The case settled prior to trial for $450,000.

REFERENCE

Plaintiff's rape trauma expert: Ann Burgess from Baltimore, MD. Plaintiff's security expert: Norman Bates from Bolton, MA.

plaintiff minor/ sexual assault victim vs. defendant church.

Attorney for plaintiff: Anthony J. Baratta of Baratta, Russell & Baratta in Huntington Valley, PA.

Retaliatory Termination

$92,500 RECOVERY

Racial discrimination – Retaliation – Plaintiffs alleged that they were retaliated against and terminated when they complained of the disparate treatment of non-Hispanic workers

Withheld County, TN

In this retaliation case, the plaintiff employees alleged that they were retaliated against when they complained about the fact that Hispanic workers were being treated more favorably than non-Hispanic workers. The plaintiffs allege that the defendant's conduct is a violation of Title VII of the Civil Rights Act of 1964. The defendant denied the allegations of retaliation and denied liability.

The two plaintiff employees, a maintenance mechanic and a human resource assistant, were employed by the defendant who manufactures stackable chairs. The plaintiff mechanic alleged that Hispanic workers at the plant were being treated more favorably than non-Hispanic workers. The employee complained to the plant manager, and then to the human resources department. After filing his complaint, the plaintiff was disciplined and then terminated. The second plaintiff, employed as a human resources assistant also complained about the apparent different treatment that non-Hispanic employees were receiving. She also complained to the plant manager and then to the human resources department. She was also terminated for alleged "discipline" issues shortly after complaining. The EEOC brought suit against the defendant employer on behalf of the employees, alleging violations of federal civil rights laws, particularly Title VII of the Civil Rights Act of 1964.

The defendant denied the allegations of retaliation and disputed any wrongdoing.

The parties agreed to resolve the plaintiffs' complaints for the sum of $92,500 in damages, as well as a consent agreement which provided that the defendant was enjoined from any further retaliation, and had to provide appropriate training regarding retaliation to its employees.

REFERENCE

Equal Employment Opportunity Commission vs. Bertolini Corporation. Case no. 1:13-cv-00066; Judge William J. Hayes, 08-13-14.

Attorney for plaintiff: Mark Hsin-tzu Chen, Joseph M. Crout, Kelley Renee Thomas and Faye A. Williams of Equal Employment Opportunity Commission in Nashville, TN. Attorney for defendant: Daniel W. Olivas of Lewis King Krieg & Wadrop PC in Nashville, TN.

$350,000 VERDICT

Retaliation – Caucasian male plaintiff teacher alleged that he was subjected to a racially hostile work environment and discriminated against by African American principal – Plaintiff was terminated when he complained about treatment

Withheld County, MD

In this retaliation matter, the plaintiff, a white, male teacher, was subjected to a racially hostile work environment and constantly berated by the black, female principal. When the plaintiff complained and filed a racial discrimination complaint, he was terminated in retaliation. The defendant denied the allegations and disputed any wrongdoing.

The male 65-year-old plaintiff was employed as an English teacher in the defendant high school school district. The plaintiff received consistently favorable job performance ratings each year from 2003 to 2008. In 2008, a black teacher, who was formerly a physical education faculty member in the same high school, became the principal of the plaintiff's school. Before the teacher was teaching health and fitness, she would constantly make racially derogatory statements about white teachers, in particular to the plaintiff, by saying things to the effect of, "The only reason a white man teaches in PG county is that they can't get a job elsewhere." The plaintiff filed a racial discrimination grievance against her, and this teacher informed the plaintiff that if she ever became principal, the first thing she would do is fire the plaintiff English teacher. This particular faculty member left the high school and then returned to it as the principal in 2007. The plaintiff was teaching 11th and 12th grade literature at the time, and the teacher-now-principal-came into his class on the first day of school and criticized the plaintiff English scholar in front of his students. Despite the plaintiff's complaints to his union, the principal proceeded to appear in the plaintiff's classroom at least six times throughout the day, criticizing him in front of his students. She informed the plaintiff that he would be demoted to teach ninth grade English. The principal informed the plaintiff that he should be teaching at predominantly white school, instead of the defendant school, which was predominantly black. She made comments that black kids needed to be taught by black teachers. The plaintiff was also threatened by the principal that if he did not voluntarily leave, he would be terminated because she wanted to get rid of all the white male teachers. The following school year, the princi-

pal transferred the plaintiff to ninth grade English over his objection and the objection of the chair of the English department. The principal continued to criticize the plaintiff in front of students during the 2008 school year. The principal consistently referred to the plaintiff as a bad teacher, "poor white trash" and spoke of his termination. Despite his complaints, the plaintiff was continually criticized and spoken of in a racially derogatory manner by the principal. She also gave the plaintiff two unsatisfactory job performance reviews, which caused the plaintiff to be terminated. The plaintiff brought suit against the defendant under Title VI of the Civil Rights Act of 1964, alleging that the plaintiff was subjected to a racially hostile work environment and was terminated in retaliation for his complaining to his union and others regarding the principal's conduct and racial remarks. The plaintiff alleged that he developed high blood pressure as a result of the constant racially derogatory and critical actions of the black principal.

The defendant denied the allegations and maintained that the plaintiff was terminated because he was a "bad" teacher.

The matter was tried over a period of two weeks.

At the conclusion of the trial, the jury deliberated for less than 24 hours and returned its verdict in favor of the plaintiff and against the defendant. The jury awarded the plaintiff the sum of $350,000 in backpay.

REFERENCE

Jon Everhart vs. Board of Education of Prince George's Coounty. Case no. 11-cv-1196; Judge Peter Messitte, 07-25-14.

Attorney for plaintiff: Bryan Chapman in Washington, DC.

$80,000 RECOVERY

EEOC – Retaliation – Federal agency charges manufacturer fired engineer after he filed a discrimination charge – Violation of Title VII

Davidson County, TN

In this case, the EEOC sued on behalf of a man retaliated against for complaining about company policy. The action was resolved through a consent decree.

In 2011, the complainant, Ken W., was hired by the defendant, Turner Machine Company of Smyrna, Tennessee. The complainant is a mechanical engineer, and the defendant is a manufacturing firm and custom machine builder whose principal products are automated machines for automobile assembly lines, and whom employs 30-40. Every morning, employees of the defendant participated in mandatory meetings called "huddles," in which they described milestones in their personal lives, including their religious affiliations and church activities. The complainant opposed the practice and filed a discrimination charge. That charge was resolved through an informal mediation process. However, the defendant later fired the complainant, which he charged was the result of act of retaliation.

The EEOC filed suit against Turner Machine Company in the Middle District of Tennessee, Nashville Division, after first attempting to reach a voluntary pre-litigation settlement through its conciliation process. The defendant was accused of violating Title VII of the Civil Rights Act of 1964.

The matter was resolved through a consent decree, in which the defendant agreed to pay $80,000 to the complainant, as well as several remedial actions. Those actions include training on Title VII for its employees, a written policy prohibiting future discrimination in the workplace, including retaliation, with the defendant posting a notice containing the terms of this settlement at its facility.

REFERENCE

Equal Employment Opportunity Commission vs. Turner Machine Company. Case no. 3:14-cv-01115; Judge Kevin H. Sharp, 08-01-14.

Attorney for plaintiff: Faye Williams of U.S. Equal Employment Opportunity Commission in Memphis, TN.

School Liability

$1,000,000 CONFIDENTIAL RECOVERY

School Liability – Negligent Supervision – Student athlete was directed to operate motorized cart which collided with decedent student – Decedent was run over by the cart – Wrongful death of 15-Year-dld student athlete

Confidential County, NC

In this school liability matter, the plaintiff alleged that the defendant school district, along with its administration and coach, were negligent in failing to supervise students which resulted in one student striking and running over another student

with a motorized cart. The decedent suffered a fatal head injury. The defendants disputed liability and damages.

The 15-year-old male student athlete was participating in a recreational football camp for first through tenth graders at the defendant's high school in July 2011. The camp was sponsored by the school and open to the community. It was run by the varsity football coach with assistance from high school student athletes. On the date of this incident, the coach had directed the student athletes to clean up the field. He also directed two students to operate a motorized cart in order to bring two large water coolers from the field to the gymnasium. The students were driving the cart directly across the field at a speed of approximately 20 miles per hour, and several of the students jumped out of the way of the cart. The decedent jumped to his left at the same time that the operator of the cart made a hard turn to the right. The cart collided with the decedent, and was then run over. The student suffered a serious brain injury, and was transported to the hospital where he underwent an emergency craniotomy to reduce the swelling. The student remained sedated for several days, and approximately ten days after the incident, his condition deteriorated and his brain herniated resulting in death. The plaintiff brought suit against the defendant school administration, coach, and the student operating the cart. The plaintiff alleged that the defendants were negligent in allowing high school students to operate the motorized cart, as well as failing to properly supervise the students. The suit also included that the school should have had a standard policy prohibiting the students, or minors, from operating school owned motorized equipment.

The parties settled the plaintiff's case in a confidential settlement between the parties for the sum of $1,000,000.

REFERENCE

Estate of Student Athlete vs. School Administration, et al., 07-07-14.

Attorneys for plaintiff: Richard N. Shapiro and Kevin Duffan of Shapiro Lewis Appleton & Duffan in Elizabeth City, NC.