Parties disputed safety design of flag-football belt

Type: Verdict-Plaintiff

Amount: $1,600,000

State: New York

Venue: Kings County

Court: Kings Civil, NY

Injury Type(s):
- *other* - crush syndrome; comminuted fracture; decreased range of motion
- *hand/finger* - fracture, finger; fracture, phalanx
- *surgeries/treatment* - skin graft

Case Type:
- *Products Liability* - Design Defect; Sports Equipment; Manufacturing Defect; Implied Warranty of Fitness for a Particular Purpose

Case Name: Miriam Delgado v. Markwort Sporting Goods Co., Mason City Tent & Awning and IFT Industries, LTD, No. 7374cv97

Date: May 05, 2006

Plaintiff(s):
- Miriam Delgado (Female, 36 Years)

Plaintiff Attorney(s):
- Laura Gentile; Gentile & Associates; New York NY for Miriam Delgado
- Edward J. Anthony; trial counsel to Gentile & Associates; New York NY for Miriam Delgado

Plaintiff Expert (s):
- Bruce Maurer Ph.D.; Football; Columbus, OH called by: Laura Gentile, Edward J. Anthony

Defendant(s):
- IFT Industries LTD
- Mason City Tent & Awning
- Markwort Sporting Goods Co.

Defense Attorney(s):

- Warren T. Harris; Michael F.X. Manning; New York, NY for Markwort Sporting Goods Co.
- Gregg D. Weinstock; Garbarini & Scher, P.C.; New York, NY for Mason City Tent & Awning, IFT Industries LTD

Defendant Expert(s):

- Alan Butler; Sports/Recreation; New York, NY called by: for Warren T. Harris, Gregg D. Weinstock
- Albert Vangura; Biomechanical; Pittsburgh, PA called by: for Warren T. Harris, Gregg D. Weinstock

Facts:

On Oct. 9, 1994, plaintiff Miriam Delgado, 36, a police officer, was playing flag football on Long Island. Her finger became trapped in the "double-d" ring-enclosure device of the flag-football belt of an opposing player. The D-rings, metal rings that resemble the letter "D," are at one end of the belt and are used to hold the belt on a person. Delgado claimed that, as the opposing player moved away from her, her trapped finger was crushed between the two metal rings of the belt.

Delgado sued the distributor of the belt, Markwort Sporting Goods Co., and the manufacturers of the belt, Mason City Tent and Awning Co. and IFT Industries Ltd. She alleged that the defendants committed a breach of the product's implied warranty. She also presented a strict liability claim.

Markwort Sporting Goods commenced a third-party action against Mason City Tent and Awning and IFT Industries, seeking indemnification.

IFT Industries was dismissed after a finding that it was not involved with the flag football belt. The matter continued to a trial against the remaining defendants.

Plaintiff's counsel claimed that the defendants were negligent in the design, manufacturing and selling of the D-ring belt and in doing so were liable for Delgado's injury. They contended that another flag-football belt, the "quick release" design, was a reasonable and safer alternative to the defective product.

Delgado's flag-football expert testified that it was his opinion that the double D-ring belt was dangerous because fingers can get trapped in it and that he does not allow players to use that type of belt. He also demonstrated how a finger could get trapped in the D-rings.

The defendants contended that they had no prior complaints about the product and argued that it was not defective and that it was reasonably safe. They contended that the double D-ring flag-football belts had been produced and sold since the early 1950s without incident.

The defense's biomechanical-engineering expert testified that if someone's finger went between the double D-rings, the finger would have come back out without injury. Thus, he suggested that the accident could not have happened in the manner that Delgado described.

Injury: Delgado sustained a crush injury of a finger of her right hand. She was diagnosed with a comminuted fracture of the middle phalanx of the right fourth finger with the fracture having transected the articular surface and with destruction of the fracture fragments. Surgical repair was first attempted using pins and wires. Later, a second surgery was performed in an attempt to restore the joint. It consisted of transplanting a joint from the second toe to the finger and a skin graft from the groin area to cover the transplanted joint. A third surgery was done in an attempt to increase the finger's flexibility by attaching the flexor tendon. Delgado's surgeries failed, leaving the finger to stick out perpendicular to the hand.

Delgado claimed that her finger is immobile and that the finger and the adjacent pinky finger are useless. She also claimed that she experiences constant pain from her finger injury. She sought recovery of damages for her past and future pain and suffering.

Defense counsel contended that Delgado had not crushed her finger in the D-rings, but merely jammed it. They also contended that Delgado was able to return to work as a police officer and that she passed a shooting test using both hands.

Result: The jury found that Markwort Sporting Goods and Mason City Tent and Awning were liable for the accident. It awarded Delgado a total of $1.6 million.

Miriam Delgado

$600,000 Personal Injury: Past Pain And Suffering

$1,000,000 Personal Injury: Future Pain And Suffering

Trial Information:

Judge: Jack M. Battaglia

Demand: None

Offer: $35,000

Trial Length: 6 days

Trial Deliberations: 1 days

Post Trial:	Defense counsel moved to set aside the verdict. They also moved for judgment as a matter of law. On Oct. 20, 2006, Judge Jack Battaglia granted the latter motion, and the case was dismissed. Battaglia found that the only inference from the evidence at trial was that the risk of injury presented by the D-ring design or the Mason City and Markwort flag-football belt was "negligible," akin to the likelihood that lightning would strike a camping tent with metal poles.
Editor's Comment:	This report is based on information that was provided by plaintiff's and defense counsel.
Writer	Tim Heinz

Docs ignored symptoms of laryngeal cancer, patient alleged

Type: Mediated Settlement

Amount: $1,600,000

State: New York

Venue: Nassau County

Court: Nassau Supreme, NY

Injury Type(s):
- *other* - larynx; radiation therapy
- *cancer* - chemotherapy
- *surgeries/treatment* - tracheostomy/tracheotomy

Case Type:
- *Medical Malpractice* - Cancer Diagnosis; Delayed Diagnosis; Delayed Treatment; Ear, Nose & Throat; Failure to Diagnose
- *Alternative Dispute Resolution* - Mediation

Case Name: Francis Carey and Joseph Carey v. Roger Horiooglu, South Shore Otolaryngology, P.C., and Jeffrey Zauderer, No. 21265/06

Date: May 11, 2009

Plaintiff(s):
- Joseph Carey (Male)
- Francis Carey (Female, 53 Years)

Plaintiff Attorney(s):
- Laura E. Gentile; Gentile & Associates; New York NY for Francis Carey, Joseph Carey

Defendant(s):
- Roger Horioglu
- Jeffrey Zauderer
- South Shore Otolaryngology, P.C.

Defense Attorney(s):
- Brian R. Davey; Mulholland, Minion & Roe; Williston Park, NY for Jeffrey Zauderer
- Glenn P. McNamee; Law Offices of Charles X. Connick, PLLC; Mineola, NY for Roger Horioglu, South Shore Otolaryngology, P.C.

Insurers:

- Medical Liability Mutual Insurance Co.

Facts:

On Feb. 15, 2005, plaintiff Francis Carey, 53, a librarian, presented to an otolaryngologist, Dr. Roger Horioglu, of South Shore Otolaryngology, P.C., in Rockville Centre. Carey reported that she was suffering hoarseness that had persisted throughout the prior three months. Horioglu determined that Carey was suffering chronic laryngitis, and he opined that the condition was caused by gastroesophageal reflux and/or Carey's persistent clearing of her throat. He administered about nine weeks of conservative treatment.

During the latter portion of 2005, Carey presented to another otolaryngologist, Dr. Jeffrey Zauderer. Carey reported that she was suffering persistent hoarseness. Zauderer initially opined that the condition was caused by gastroesophageal reflux, and he administered conservative treatment.

Carey's symptoms persisted. During the summer of 2006, Zauderer recommended performance of a biopsy of tissue of Carey's larynx. The test's results revealed the presence of advanced cancer. Carey underwent aggressive treatment that included the performance of a tracheostomy. Her cancer was eradicated, but she claimed that a recurrence is likely. She contended that the disease should have been diagnosed during the early months of 2005, and she claimed that prompt treatment would have greatly reduced the likelihood of the disease's recurrence.

Carey sued Horioglu, South Shore Otolaryngology and Zauderer. Carey alleged that Horioglu and Zauderer failed to timely diagnose her cancer, that their failures constituted malpractice, and that South Shore Otolaryngology was vicariously liable for the actions of Horioglu and Zauderer.

Carey claimed that Horioglu and Zauderer were aware that she had not previously suffered heartburn or gastroesophageal reflux. She further claimed that the doctors were aware that her medical history included a 30-year-long period in which her typical daily routine included the smoking of a full package of cigarettes. Carey's counsel contended that cigarettes are a recognized cause of laryngeal cancer, and, as such, she argued that laryngeal cancer should have been included when the doctors formulated a differential diagnosis, which is a list that includes all of the possible causes of a patient's symptoms. She claimed that Carey's condition progressively worsened during the course of Horioglu's treatment, but that he never considered that Carey could have been suffering cancer. Although Zauderer eventually recommended performance of a biopsy, Carey's counsel argued that the test should have been an immediate response to the symptoms that Zauderer observed during his initial examination of Carey.

Horioglu contended that he appropriately addressed the symptoms that Carey exhibited, and he suggested that her cancer may not have spawned until after his treatment had concluded.

Zauderer contended that Carey's larynx was among the worst he has seen, and he claimed that her hoarseness was the worst he has ever heard. He acknowledged that cancer was the likely cause of the majority of her symptoms, and he contended that he immediately determined that cancer would be his primary concern. He claimed that the disease was quickly diagnosed, and, as such, he suggested that a sooner diagnosis would not have altered the outcome of her condition.

Injury:

On Sept. 18, 2006, Carey learned that she was suffering stage-IV cancer of her larynx. She underwent chemotherapy, the application of radiation and a tracheostomy, which is permanent. Her cancer has been eradicated, but she claimed that she bears a 75-percent likelihood of the disease's recurrence. She also claimed that she will have to undergo additional extensive treatment.

Carey contended that her cancer could have been diagnosed during its first or second stage, and she claimed that prompt treatment would have eliminated the necessity of a permanent tracheostomy. She also claimed that she would have borne a mere 15-percent likelihood of the disease's recurrence.

Carey sought recovery of damages for her past and future pain and suffering. Her husband sought recovery of damages for his loss of consortium.

Horioglu's counsel contended that Carey's cancer may not have spawned until after Horioglu's treatment had concluded.

Zauderer's counsel contended that a sooner diagnosis would not have altered the outcome of Carey's condition.

Result:

The parties negotiated a pretrial settlement, which was finalized via the guidance of mediator Robert Harley. The defendants' insurer agreed to pay $1.6 million.

Trial Information:

Judge: Robert Harley

Editor's Comment: This report is based on information that was provided by plaintiffs' and defense counsel.

Writer Dan Israeli

Wrongful Death-Medical Malpractice-

Type: Settlement

Amount: $825,000

State: New York

Venue: Kings County

Court: Kings Supreme, NY

Case Type:
- *Wrongful Death*
- *Medical Malpractice*

Case Name: Maria Irizarry, as Adm. of the Est. of Eusebio Irizarry v. Central Brooklyn Medical Group, P.C. and, No. 27709/94

Date: August 01, 1997

Plaintiff(s):
- Maria Irizarry, as Adm. of the Est. of Eusebio Iri (Male, 57 Years)

Plaintiff Attorney(s):
- Laura Gentile; Caban & Gentile; New York NY for Maria Irizarry, as Adm. of the Est. of Eusebio Iri

Plaintiff Expert (s):
- Robyn David-Harris; Economics; Manhattan, NY called by:

Defendant(s):
- Daniel Arick, M.D.
- Central Brooklyn Medical Group, P.C.

Injury: In January 1993, decedent, a 57-year-old retiree, presented to Deft. for an MRI of his brain after longstanding complaints of nasal blockage. The MRI report to Deft. Central Brooklyn Medical Group indicated the discovery of a 4 by 2 cm lobate homogeneous mass in the nasopharynx region. A physician at Central Brooklyn Medical admitted in his deposition that he received and read the report, but that he never performed any follow-up treatment. Deft. continued to treat decedent with Seldane and Dimetapp until November 1993 when he presented to a new physician, who diagnosed a nonkeratinizing squamous cell carcinoma tumor that was obstructing the nasal cavity posteriorly. Decedent died on 2/19/95 after the cancer had metastasized to his liver.

Pltf. claimed that Defts. failed to timely diagnose and treat the cancer. Defts. would have argued that the 11-month delay from the MRI report to the diagnosis did not alter the outcome of the disease.

Decedent, age 57 at the time, is survived by his wife and three adult children. One of his children has psychiatric problems and will require care throughout his life. Settlement apportionment: The entire settlement was paid by Central Brooklyn Medical Group. The action was discontinued as to Deft. Arick.

Result: This action settled prior to trial for $825,000. In January 1993, decedent, a 57-year-old retiree, presented to Deft. for an MRI of his brain after longstanding complaints of nasal blockage

Trial Information:

Trial Length: 0

Writer

Toxic Torts-Lead Poisoning

Type: Settlement

Amount: $590,000

State: New York

Venue: Kings County

Court: Kings Supreme, NY

Case Type:
- *Toxic Torts* - Lead Poisoning

Case Name: Pauline Thomas, indiv., and as m/n/g of Timothy Morgan v. Prospect Park Associates Holdings, L.P.; a, No. 34904/93

Date: May 15, 1999

Plaintiff(s):
- Pauline Thomas, indiv., and as m/n/g of Timothy Mo (Male, 1 Years)

Plaintiff Attorney(s):
- Laura Gentile; Gentile & Associates; New York NY for Pauline Thomas, indiv., and as m/n/g of Timothy Mo

Plaintiff Expert (s):
- Jack Caravanos Ph.D.; Toxicology; Manhattan, NY called by:
- Leon Charash M.D.; Pediatric Neurology; Hicksville, NY called by:
- Robyn David-Harris; Economic Analysis; Manhattan, NY called by:
- Marcia Knight Ph.D.; Neuropsychology; New York, NY called by:

Defendant(s):
- Columbia Realty Management Ltd.
- Prospect Park Associates Holdings, L.P.

Defendant Expert(s):
- Dr. Thomas Bolard; Neuropsychology; Manhattan, NY called by: for
- Abraham Chutorian M.D.; Pediatric Neurology; Manhattan, NY called by: for
- Michael Beraldi; Hazardous Materials; Farmingdale, NY called by: for

Insurers:
- Empire

Facts: Beginning in 6/93, a few months before the infant Pltf.'s second birthday, his mother observed him ingesting peeling paint in the apartment. He began to demonstrate symptoms of lead poisoning, including vomiting, abdominal pains, and behavioral problems. He was admitted to Kings County Hospital from 8/10/93 through 10/8/93. At the time of his admission he suffered from a blood lead level of 71ug/dl and received chelation blood therapy to reduce his blood lead level. Deft. contended that the lead reading was false because the machine had not been properly calibrated, and the lead that was present had come from other sources, either the ground or motor vehicle exhaust.

Offer: $350,000; demand: $1,000,000 (policy).

Injury: Attention deficit disorder with speech difficulties, coordination problems, and a proclivity toward occasionally aggressive behavior. Tests indicated that the infant had lost cognitive functioning equivalent to 12 to 24 IQ points and that his conceptual deviation quotient, as well as his memory learning index, were borderline defective. Deft. contended that there had been a complete recovery.

Result: Facts This action settled for a total payment of $590,000 (including $30,000 for loss of services to the mother) just prior to trial. Beginning in 6/93, a few months before the infant Pltf.$1s second birthday, his mother observed him ingesting peeling paint in the apartment. He began to demonstrate symptoms of lead poisoning, including vomiting, abdominal pains, and behavioral problems

Trial Information:

Trial Length: 0

Writer

Surgeon operated on patient's healthy knee

Type: Verdict-Plaintiff

Amount: $450,000

Actual Award: $450,001

State: New York

Venue: New York County

Court: New York Supreme, NY

Injury Type(s):
- *surgeries/treatment* - arthroscopy

Case Type:
- *Medical Malpractice* - Surgeon; Wrong-Site Surgery

Case Name: Douglas Hall v. Andreew Feldman, Andrew Feldman, M.D., P.C. & St. Vincents Catholic Medical Center of New York, No. 116970/02

Date: January 20, 2005

Plaintiff(s):
- Douglas Hall (Male, 39 Years)

Plaintiff Attorney(s):
- Richard A. Gurfein; Gurfein Douglas L.L.P.; New York NY for Douglas Hall
- Laura E. Gentile; Gentile & Associates; New York NY for Douglas Hall

Plaintiff Expert (s):
- Robert Dunn M.D.; Orthopedics; Princeton, NJ called by: Richard A. Gurfein, Laura E. Gentile

Defendant(s):
- Andrew Feldman
- Andrew Feldman M.D. P.C.
- St. Vincent Catholic Medical Center of New York

Defense Attorney(s):

- Steven E. Garry; Costello, Shea & Gaffney; New York, NY for St. Vincent Catholic Medical Center of New York
- Paul F. Callan; Callan, Koster, Brady & Brennan L.L.P.; New York, NY for Andrew Feldman, Andrew Feldman M.D. P.C.

Defendant Expert(s):

- Elton Strauss M.D.; Orthopedic Surgery; New York, NY called by: for Steven E. Garry
- Edward T. Haberman; Orthopedic Surgery; Westchester, NY called by: for Paul F. Callan
- Stewart Springer M.D.; Orthopedics; New York, NY called by: for Paul F. Callan

Insurers:

- Physicians' Reciprocal Insurers
- Medical Liability Mutual Insurance Co.

Facts:

On Nov. 30, 2001, plaintiff Douglas Hall, 39, a dance director and choreographer, presented to St. Vincent Catholic Medical Center of New York. Hall was to undergo arthroscopic repair of his right knee, but Dr. Andrew Feldman mistakenly operated on Hall's left knee, which was healthy.

Hall commenced a medical malpractice suit against the hospital, Feldman, and Feldman's practice, Andrew Feldman M.D. P.C.

Hall claimed that Feldman had clearly marked his right knee by placing an "X" that signified that the right knee was the one in need of repair.

Feldman conceded that he operated on the wrong knee, but he contended that the operating room's surgical staff set up the equipment in a manner that indicated that a left-knee procedure was scheduled.

The hospital argued that Feldman was negligent for not selecting the correct knee.

Judge Karen Smith directed a liability verdict in Hall's favor, against all three defendants.

Injury:

Hall underwent arthroscopic surgery on the wrong knee. Hall's expert orthopedist testified that Hall has developed left-knee osteoarthritis as a result of the unnecessary surgery.

Hall sought recovery of damages for his pain and suffering. He also sought punitive damages.

The defendants' expert orthopedists testified that the surgery did not cause any residual injury to Hall's left knee.

Result: The jury rendered a plaintiff's verdict. Feldman and his practice were assigned a total of 60% negligence; the hospital was assigned 40% negligence. Hall was awarded $450,000. Feldman and his practice contributed a total of $270,000; the hospital contributed $180,000.

The jury also determined that Feldman had to pay punitive damages. Those damages were to be deferred to a second trial, but Hall and Feldman agreed to a $1 settlement of the punitive damages claim.

Douglas Hall

$350,000 Personal Injury: Past Pain And Suffering

$100,000 Personal Injury: Future Pain And Suffering

Trial Information:

Judge: Karen Smith

Demand: $1,500,000

Offer: $150,000 (total, Andrew Feldman M.D. P.C. and Feldman)

Trial Length: 2 weeks

Trial Deliberations: 4.5 hours

Jury Vote: 6-0

Jury Composition: 1 male, 5 female

Post Trial: The defendants have filed a motion to set aside the verdict or reduce the award.

Writer Peter Hayes

Co. misrepresented number of employees to workers comp carrier

Type: Verdict-Mixed

Amount: $417,491

State: Illinois

Venue: Federal

Court: U.S. District Court for the Northern District, Chicago, IL

Case Type:
- *Insurance*
- *Contracts* - Fraud; Breach of Contract
- *Workers' Compensation*
- *Equitable Relief* - Unjust Enrichment

Case Name: Travelers Indemnity Company of Illinois, a Connecticut Corporation v. Midland Logistics Inc., an Illinois Coporation, James Gentile, an individual defendant, Midland Transportation Inc., an Illinois Corporation, Midland Transportation Group Inc., an Illinois Corporation, No. 00-CV-2202

Date: June 30, 2004

Plaintiff(s):
- Travelers Indemnity Company of Illinois

Plaintiff Attorney(s):
- Robert S. Grabemann; Martin, Brown & Sullivan; Chicago IL for Travelers Indemnity Company of Illinois
- William G. Sullivan; ; Chicago IL for Travelers Indemnity Company of Illinois

Plaintiff Expert (s):
- Laura Leyland; Insurance Fraud; Hartford, CT called by: Robert S. Grabemann, William G. Sullivan

Defendant(s):
- James Gentile
- Midland Logistics Inc.
- Midland Transportation Inc.
- Midland Transportation Group

Defense Attorney(s):
- Douglas K. Morrison; Morrison & Mix; Chicago, IL for Midland Logistics Inc., James Gentile, Midland Transportation Group, Midland Transportation Inc.

Defendant Expert(s):

- Robert Ostrow; Insurance; Lemont, IL called by: for Douglas K. Morrison

Facts:

Plaintiff Travelers Indemnity Co. of Illinois provided workers' compensation insurance to Midland Logistics Inc., which was owned by James Gentile, who also owns Midland Transportation Inc. and Midland Transportation Group, all of which are under common management and based in the same Chicago location.

A Midland Transportation mechanic injured himself on the job while repairing a forklift. He received $367,491 in workers' compensation benefits. Following the injury, Travelers said it wanted to perform an audit of Midland Logistics and Midland Transportation's books and payroll records to determine how many employees the companies had and which ones were covered under the workers' compensation plan, but that it was denied access to the records by Gentile, which Gentile denied.

Travelers sued Gentile for fraud and Midland Transportation for unjust enrichment. It also sued Midland Logistics for breach of contract.

Travelers claimed that Midland Transportation collected workers' compensation benefits for the mechanic, who was not covered under the policy. Further, it claimed that Gentile fraudulently misled Travelers when he told it that the only company he owned with the word "Midland" in the title was Midland Logistics.

Travelers claimed breach of contract against Midland Logistics because it had not paid the proper premiums to cover the actual number of employees within Gentile's companies.

The defense argued that the Midland Transportation mechanic was a loaned servant to Midland Logistics at the time of the incident and, as such, was properly covered under the Midland Logistics policy. (Common law recognizes a "loaned servant" as a person who is the employee of two different employers. Generally, a regular employee of one employer is deemed the loaned servant of another if the employee remains subject to his master's control or right of control.) And because the employee was a loaned servant, Midland Transportation was not unjustly enriched.

In answer to the fraud claim, the defense conceded some misrepresentations were made, but contended that Travelers did not suffer any damages because of it.

Injury: Travelers claimed that it was owed more than $900,000 in unpaid premiums from Midland Logistics or, alternately, that Midland Transportation was unjustly enriched because its employees made claims under Midland Logistics' policy. The $900,000 in premiums covered only Midland Logistics' employees (clerical workers, mechanics and truck drivers), according to expert witness Laura Leyland, a Travelers employee specializing in premium fraud.

On the unjust enrichment claim, Travelers claimed $367,491 in damages, representing benefits that went to the mechanic employee.

Travelers also sought compensatory damages for the breach of contract.

The defense sought to mitigate damages by contending that the truck drivers which Travelers claimed were included in the premium amount were independent contractors and therefore would not be covered under any Travelers workers' compensation benefits premium.

Result: The jury found Midland Logistics liable for breach of contract and Midland Transportation liable for unjust enrichment. It awarded $417,491. It found Gentile not liable on the fraud claim.

Travelers Indemnity Company of Illinois

$50,000 Personal Injury: breach of contract against Midland Logistics

$367,491 Personal Injury: unjust enrichment against Midland Transporation

Trial Information:

Judge: Donald E. Walter

Demand: None reported

Offer: $5,000

Trial Length: 3 days

Trial Deliberations: 4.5 hours

Writer Jeff Skruck

Man was attacked by pit bull while fighting with dog's owner

Type: Settlement

Amount: $300,000

Actual Award: $300,000

State: New York

Venue: Kings County

Court: Kings Supreme, NY

Injury Type(s):
- *amputation* - ear
- *mental/psychological* - post-traumatic stress disorder

Case Type:
- *Animals* - Dog Bite

Case Name: William Galucci v. Michael Guiseppone, Pasquale Santaniello, and Carmine Santaniello, No. 34700/99

Date: May 06, 2003

Plaintiff(s):
- William Galucci (Male, 39 Years)

Plaintiff Attorney(s):
- Harvey M. Jasper; Jasper & Jasper; New York City NY for William Galucci

Plaintiff Expert (s):
- Dr. Thomas Woloszyn; Plastic & Reconstructive Surgery; Staten Island, NY called by: Harvey M. Jasper

Defendant(s):
- Michael Guiseppone
- Carmine Santaniello
- Pasquale Santaniello

Defense Attorney(s):

- Laura Gentile; Gentile & Associates; New York, NY for Michael Guiseppone
- Christopher J. McGrath; Barry, McTiernan & Moore; New York, NY for Pasquale Santaniello, Carmine Santaniello

Defendant Expert(s):

- Dr. Howard Bleier; Otolaryngology; Brooklyn, NY called by: for Laura Gentile, Christopher J. McGrath
- Malcolm Z. Roth M.D.; Plastic & Reconstructive Surgery; Brooklyn, NY called by: for Laura Gentile, Christopher J. McGrath

Insurers:

- Frontier Pacific (in liquidation)

Facts:

On May 29, 1999, plaintiff William Galucci, 39, a boat mechanic, was attacked by a pit bull in the street adjacent to Kay Court in Brooklyn, N.Y. The dog was owned by Michael Guiseppone.

Galucci sued Guiseppone and the owners of his house, Pasquale and Carmine Santaniello. Galucci claimed that Guiseppone was negligent for harboring a dangerous animal with vicious propensities. He also claimed that the Santaniellos knew that their tenant was harboring a dog with vicious propensities, and that they failed to enforce a lease provision that prohibited pets.

The defendants contended that they had no notice that the dog had vicious propensities. They noted that Galucci and Guiseppone were engaged in a fight at the time of the attack, and that, therefore, the attack was unforeseeable.

In an affidavit submitted in opposition to the defendants' motion to dismiss, a neighbor stated that she told the Santaniellos that the dog had chased her children and that it had shown vicious propensities. Testimony revealed that Guiseppone had a "beware of dog" sign in one of the house's windows.

Injury:

Galucci sustained a nearly complete traumatic amputation of his left ear, and numerous bites to his head, arm and back. He claimed that he suffered from post-traumatic stress disorder as a result of the attack.

Result:

Galucci settled with the Santaniellos for $300,000 prior to jury selection. Guiseppone did not contribute to the settlement because he had no liability insurance.

Trial Information:

Judge: Allen Hurkin-Torres

Editor's Comment: The attorney for the Santaniellos did not contribute to this report.

Writer John Hadler

Dentist's treatment caused years of pain, patient claimed

Type: Verdict-Plaintiff

Amount: $250,000

Actual Award: $228,500

State: New York

Venue: Nassau County

Court: Nassau Supreme, NY

Injury Type(s):
- *other* - tongue
- *dental*

Case Type:
- *Medical Malpractice* - Dentist

Case Name: Elaine Crisci v. Laura L. Hays, Donna Gentile and Laura L. Hays DDS PLLC, No. 604707/16

Date: July 24, 2019

Plaintiff(s):
- Elaine Crisci (Female, 62 Years)

Plaintiff Attorney(s):
- Christopher P. Kohn; of counsel, Carol Abrams, P.C.; New York NY for Elaine Crisci
- David A. Kaplan; Carol Abrams, P.C.; New York NY for Elaine Crisci

Plaintiff Expert (s):
- Jean G. Furuyama; Dentistry/Odontology; New York, NY called by: Christopher P. Kohn, David A. Kaplan

Defendant(s):
- Donna Gentile
- Laura L. Hays
- Laura L. Hays DDS PLLC

Defense Attorney(s):

- Maryanne Kolenovsky; Rawle & Henderson, LLP; Mineola, NY for Laura L. Hays, Laura L. Hays DDS PLLC
- None reported for Donna Gentile

Defendant Expert(s):

- Barry C. Cooper D.D.S.; Dentistry/Odontology; New York, NY called by: for Maryanne Kolenovsky

Insurers:

- MedPro RRG Risk Retention Group

Facts:

During the fall of 2013, plaintiff Elaine Crisci, 62, a consultant, was evaluated by a dentist, Dr. Laura Hays. Crisci had been undergoing restorative treatment that was intended to include extractions and the implantation of bridges. The treatment was begun by one of Hays' employees, Dr. Donna Gentile. Gentile moved to another practice, so Hays assumed the treatment. Crisci claimed that she immediately developed severe pain that lingered throughout the course of Hays' treatment.

Crisci sued Hays; Hays' practice, Laura L. Hays DDS PLLC; and Gentile. The lawsuit alleged that Hays and Gentile failed to properly treat Crisci, that the doctors' failure constituted malpractice, and that Hays' practice was vicariously liable for Hays' actions.

Crisci's counsel discontinued the claim against Gentile. The matter proceeded to a trial against Hays and Hays' practice.

Crisci's expert dentist opined that Hays' treatment resulted in malocclusion: misalignment of the patient's jaws. Crisci claimed that the malocclusion caused pain, that it tired muscles of her jaw, and that it restricted movement of her tongue.

Crisci's expert also opined that Hays did not properly evaluate and address the underlying conditions that prompted Crisci's pursuit of restorative treatment, and she f opined that Hays did not explore alternative methods of treating Crisci. She contended that Hays departed from an accepted standard of medical care.

Hays' expert dentist opined that Hays properly treated Crisci. The expert also opined that Hays was not obligated to explore alternative methods of treatment. Hays claimed that months passed before Crisci reported that his treatment was causing pain. He also claimed that Crisci did not consistently report pain, and he further claimed that Crisci prematurely abandoned his treatment. However, Crisci claimed that she regularly reported that Hays' treatment was causing pain.

Injury: Crisci claimed that Hays' treatment caused malocclusion that produced severe pain, that tired muscles of her jaw and that restricted movement of her tongue. In September 2015, she abandoned Hays' treatment. In 2018, she began being treated by another dentist. She claimed that the treatment quickly resolved her pain.

The parties stipulated that Crisci's medical expenses totaled $35,958. Crisci sought recovery of that amount, and she also sought recovery of damages for about 3.5 years of pain and suffering.

Defense counsel suggested that Crisci exaggerated the extent of her pain. She noted that two years passed before Crisci commenced corrective treatment. Defense counsel also suggested that a more immediate response could have minimized Crisci's suffering, but Crisci claimed that she could not afford sooner treatment.

Result: The jury found that Hays departed from an accepted standard of medical care, and it determined that the departure injured Crisci.

The jury found that Crisci's damages totaled $250,000. The damages addressed past pain and suffering. After addition of the stipulated medical expenses, Crisci's recovery totaled $285,958.

Trial Information:

Judge: Leonard D. Steinman

Demand: $275,000 (total, from Hays and Laura L. Hays DDS PLLC)

Offer: None

Trial Length: 7 days

Trial Deliberations: 3 hours

Jury Vote: 6-0

Jury Composition: 2 male, 4 female

Post Trial: The parties negotiated a settlement. The liable defendants' insurer agreed to pay $228,500.

Editor's Comment:	This report is based on information that was provided by plaintiff's counsel and counsel of Hays and Laura L. Hays DDS PLLC. Additional information was gleaned from court documents. Gentile's counsel was not asked to contribute.
Writer	Caitlin Granfield

Premises Liability-

Type: Settlement

Amount: $80,000

State: New York

Venue: Bronx County

Court: Bronx Supreme, NY

Case Type:
- *Premises Liability*

Case Name: Mary Yamagata, as m/n/g of David McKenzie v. Joan Reid, No. 22183/98

Date: February 25, 2001

Plaintiff(s):
- Mary Yamagata, as m/n/g of David McKenzie (Male, 9 Years)

Plaintiff Attorney(s):
- Charles C. Freeman; Laura Gentile & Associates; New York NY for Mary Yamagata, as m/n/g of David McKenzie

Defendant(s):
- Joan Reid

Insurers:
- Allstate Insurance Comp.

Facts: Pltf., a 9-year-old child, claimed that on 5/17/97 he was playing hide and seek with the children who resided in Deft.'s house located on Bainbridge Ave. in the Bronx. Pltf. also claimed that Deft. home owner had negligently installed and maintained a chain link fence upside down in the back yard of a 4-family house. Pltf. claimed that during the course of the game, he slipped and was caught in the pointed metal tips of the fence. Pltf. argued that if properly installed the turned over knuckles of the fence would not have caused him any injuries. Deft. contended that the fence was intentionally installed upside down for security reasons, the pointed ends of the fence acting to deter intruders. Pltf. claimed that Deft. did not lock the gate to the fence, and allowed children who lived in the home to play in the yard. Deft. moved for summary judgment on the grounds of foreseeability and assumption of risk. The motion was denied.

Injury: Laceration to the neck requiring emergency room treatment and sutures. Pltf. suffered an irregularly shaped raised keloid scar on his neck approximately 2 cm long.

Result: This case settled for $80,000. Pltf., a 9-year-old child, claimed that on 5/17/97 he was playing hide and seek with the children who resided in Deft.$1s house located on Bainbridge Ave. in the Bronx

Trial Information:

Trial Length: 0

Writer

Shooting - Residence - Guest Watching Television

Type: Verdict-Plaintiff

Amount: $50,000

State: Massachusetts

Venue: Hampden County

Court: Hampden County, Superior Court, Springfield, MA

Injury Type(s):
- *head* - closed head injury

Case Type:
- *Torts* - Firearms

Case Name: Lawrence Forget v. Thomas Blystone, No. 90-1243

Date: June 01, 1992

Plaintiff(s):
- Lawrence Forget (Male, 28 Years)

Plaintiff Attorney(s):
- Laura S. Gentile; ; Springfield MA for Lawrence Forget

Defendant(s):
- Thomas Blystone

Defense Attorney(s):
- Pro se for Thomas Blystone

Facts: Plaintiff and several females were watching television with defendant at defendant's house. Defendant allegedly left the room and returned with a loaded gun. Plaintiff and the women advised defendant to put the gun down. Defendant sat down beside plaintiff and shot him in the head. The bullet could not be removed. Defendant was convicted of charges arising from the incident and served five years in prison.

Plaintiff alleged that defendant intentionally shot him or, in the alternative, acted with reckless disregard of his safety.

Defendant contended that the shooting was an accident.

Injury: Gunshot in head resulting in headaches.

Result: $50,000 plus outstanding medicals.

Trial Information:

Judge: Constance M. Sweeney

Trial Deliberations: 1 hours

Writer

Construction-AccidentsPremises Liability-Ceiling Collapse

Type: Verdict-Plaintiff

Amount: $21,152

State: New York

Venue: New York County

Court: New York Supreme, NY

Case Type:
- *Construction* - Accidents
- *Premises Liability* - Ceiling Collapse

Case Name: Joseph SanFilippo v. City of New York, No. 20293/92

Date: August 27, 1998

Plaintiff(s):
- Joseph SanFilippo (Male, 45 Years)

Plaintiff Attorney(s):
- Laura Gentile; Caban & Gentile; New York NY for Joseph SanFilippo

Plaintiff Expert (s):
- Dr. Edwin Chang; Neurology; Staten Island, NY called by:
- Robyn David-Harris; Economic Analysis; Manhattan, NY called by:
- Howard I. Edelson CSP; Safety; Plainview, NY called by:

Defendant(s):
- City of New York

Defense Attorney(s):
- Saadia Luzzi; New York, NY for City of New York

Facts: Pltf., a 45-year-old mechanic, testified that on 7/31/91, he was performing renovations at 25 W. 123rd St. in Manhattan, when a portion of the ceiling collapsed on him. Pltf. was painting the baseboard in a building that was being renovated into single room housing. He claimed that Deft. was aware of a leak in the ceiling, but failed to provide him with a safe place to work, the appropriate headgear, or scaffolding above his head. Pltf. brought this action under Labor Law 200 and 241(6), and Industrial Code 23-1.7a and 23-1.8c.

Deft. argued that a helmet would not have prevented any injuries to his head. Deft. contended that the accident did not occur as Pltf. claimed. The City claimed special employment as per Gotham Building Maintenance.

Specials: $2,000,000 for lost earnings; $60,000 for medical expenses No offer; demand: $5,000,000.

Injury: Discogenic disease of the cervical spine; cervical brachial syndrome; radiculopathy; post-concussion syndrome. Pltf. underwent a C6-7 discectomy and fusion with a skin graft from the hip 4 years after the accident. Pltf. claimed that he was disabled from his job due to his injuries. Deft. argued that the injuries were not as severe as Pltf. claimed. Deft. produced a surveillance film after jury selection of Pltf. driving his car and spreading grass seed by hand.

Result: $21,152 for past lost earnings; $0 for past and future pain and suffering and past medical expenses (5/1). Post-trial motions were denied. Jury: all female.

Trial Information:

Judge: Harold Tompkins

Trial Length: 2

Trial Deliberations: 5

Writer

Defendants didn't control vicious dog, plaintiff claimed

Type: Verdict-Plaintiff

Amount: $19,485

State: Florida

Venue: Charlotte County

Court: Charlotte County Circuit Court, 20th, FL

Injury Type(s):
- *other* - sutures
- *face/nose* - facial laceration; scar and/or disfigurement, face

Case Type:
- *Animals* - Dog Bite; Animal Control

Case Name: Laura Marie Ridgeway v. Angela Venezia and Michael Venezia, No. 19000742CA

Date: December 09, 2020

Plaintiff(s):
- Laura Marie Ridgeway (Female, 54 Years)

Plaintiff Attorney(s):
- Corbin Sutter; All Injuries Law Firm, P.A.; Port Charlotte FL for Laura Marie Ridgeway
- Mark A. Steinberg; All Injuries Law Firm, P.A.; Port Charlotte FL for Laura Marie Ridgeway

Defendant(s):
- pro se
- Angela Venezia
- Michael Venezia

Defense Attorney(s):
- Angela Venezia for pro se
- Michael Venezia for pro se

Facts:

On Sept. 3, 2015, plaintiff Laura Ridgeway, a 54-year-old unemployed woman, was residing at a home that was located at 24439 Riverfront Drive, in the Port Charlotte community. Ridgeway claimed that she was bitten by a dog that was owned by another tenant of the residence. Ridgeway claimed that she suffered an injury of her face.

Ridgeway sued the dog's owner, Michael Venezia, and the premises' owner, Michael Venezia's sister, Angela Venezia. The lawsuit alleged that the Venezias negligently failed to properly control the dog. The lawsuit further alleged that the Venezias were strictly liable for the dog's actions.

The house had been placed in foreclosure sometime prior to Sept. 3, 2015, so the Venezias were not insured. They appeared pro se.

Ridgeway's counsel presented witnesses who claimed that the dog was unruly and was known to have chased people. Thus, Ridgeway's counsel contended that the Venezias had known that the dog was capable of hurting people. Ridgeway claimed that the dog was not restrained in any way.

The Venezias claimed that they had not known that the dog was capable of violence. They claimed that the dog was small and interacted peacefully with Michael Venezia's young daughter. They suggested that Ridgeway may have provoked the animal.

The Venezias also claimed that Ridgeway fabricated her claim and was instead bitten by a feral dog in a park. They claimed that Ridgeway's medical records documented such an incident. In response, Ridgeway's counsel claimed that Ridgeway concocted the story about the feral dog because she believed that she would be evicted if she revealed that she had been bitten by Michael Venezia's dog.

Injury:

Ridgeway's face was bitten by a dog. The laceration extended from her chin to her jaw.

Ridgeway was transported to Fawcett Memorial Hospital, in Port Charlotte. Her wound was closed via application of sutures.

Ridgeway did not require further treatment, but she retains a scar. She claimed that she is embarrassed by the scar and uses makeup daily to conceal it. She also claimed that she suffers a residual fear of dogs. She sought recovery of past medical expenses, damages for past pain and suffering, and damages for future pain and suffering.

The Venezias did not greatly dispute damages.

Result:

The jury found that Ridgeway was bitten by Michael Venezia's dog, at Angela Venezia's premises. The jury also found that Angela Venezia had not been aware of the dog's violent tendencies, but it further found that she was in control of the dog at the time at which Ridgeway was bitten. Thus, the Venezias were jointly liable for Ridgeway's injuries.

The jury determined that Ridgeway's damages totaled $19,485.22.

Laura Marie Ridgeway

$6,485 Personal Injury: Past Medical Cost

$13,000 Personal Injury: Past Pain And Suffering

Trial Information:

Judge:	Geoffrey Gentile
Trial Length:	1 days
Trial Deliberations:	100 minutes
Jury Vote:	6-0
Jury Composition:	2 male, 4 female
Editor's Comment:	This report is based on information that was provided by plaintiff's counsel. Additional information was gleaned from court documents. The pro se defendants were not asked to contribute.
Writer	Melissa Siegel

Plaintiff claimed she wasn't properly assisted out of vehicle

Type: Verdict-Defendant

Amount: $0

State: New York

Venue: Richmond County

Court: Richmond Supreme, NY

Injury Type(s):
- *other* - arthritis
- *surgeries/treatment* - knee surgery; knee replacement

Case Type:
- *Motor Vehicle* - Passenger

Case Name: Laura Loria v. Robert E. Matheson and Deborah Matheson, No. 101236/09

Date: August 02, 2011

Plaintiff(s):
- Laura Loria (Female, 80 Years)

Plaintiff Attorney(s):
- Jeannette Poyerd-Loiacono; Angiuli & Gentile, LLP; Staten Island NY for Laura Loria

Defendant(s):
- Deborah Matheson
- Robert E. Matheson

Defense Attorney(s):
- Roger Mumford; Kay & Gray; Westbury, NY for Robert E. Matheson, Deborah Matheson

Insurers:
- Government Employees Insurance Co.

Facts:

On Sept. 17, 2006, plaintiff Laura Loria, a woman in her 80s, was a passenger of a van that was being driven by Deborah Matheson, who was traveling in the Sheepshead Bay section of Brooklyn. Matheson eventually parked on Plumb Second Street, near its intersection at Avenue W. Loria began to exit the vehicle, and she was assisted by Matheson's husband, Robert Matheson, who grabbed her right arm and guided her out of the vehicle. Loria claimed that she injured one of her knees

Loria sued the Mathesons. Loria alleged that Mr. Matheson negligently failed to properly assist her. Loria further alleged that Ms. Matheson was vicariously liable for Mr. Matheson's actions.

Loria claimed that she detected a noticeable injury of her right knee when she stepped onto the sidewalk alongside the vehicle. She contended that Mr. Matheson only used one arm to assist her and that he did not safely guide her to the sidewalk. Her attorney argued that Matheson should have used both of his arms to assist Loria.

Ms. Matheson claimed that Loria did not demonstrate any difficulty or any sign of having sustained an injury. Another witness agreed.

Injury:

The parties stipulated that Loria would recover $500 for every percentage point of liability that was assigned to the defendants. Thus, damages were not before the court.

After some six weeks had passed, Loria presented to a doctor. She ultimately claimed that she sustained an injury that caused an arthritic condition of her right knee. She has undergone several surgeries, including replacement of her right knee. She contended that she suffers residual pain and limitations.

Loria sought recovery of damages for her past and future pain and suffering.

Result:

The jury rendered a defense verdict.

Trial Information:

Judge: Joseph J. Maltese

Trial Length: 2 days

Trial Deliberations: 15 minutes

Jury Vote: 6-0

Editor's Comment: This report is based on information that was provided by plaintiff's and defense counsel.

Writer Jaclyn Stewart