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$12 Million Settlement Secured in N.J. Case

Agreement Said to be Largest in Tri-State

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Of the Legal Staff

A Philadelphia lawyer has secured what has been called the largest reported personal-injury settlement in the tri-state area in a New Jersey case where the sides agreed to resolve a claim for $12 million.

The settlement came one week before a scheduled trial for plaintiff Donna Paetzold, who was left a quadriplegic after she lost control of her vehicle when trying to avoid a falling telephone wire. Her car was broadsided by an oncoming van.

Liability in the case came down to less than three one-hundredths of an inch, as a clamp of 0.109 inches in diameter failed to hold a wire of 0.08 inches in diameter.

John W. Baldante, partner in Levy Angstreich Finney Baldante Rubenstein & Coren, announced the settlement earlier this week.

The accident was proximately caused by the falling wire, which was too small for the clamp which secured it to the Farm Pediatrics Building in Marlton, N. J.

Agreeing to pay $10.4 million was New Jersey Bell Telephone and adding $1.6 million to Paetzold's recovery was Farm Pediatrics, the owner of a building to which the wire had been negligently attached. The van driver tendered the limits of her auto casualty policy early in the litigation, according to Baldante.

Baldante said that Burlington County Judge John Sweeney presided over two days of talks leading to the settlement. If resolution had not been reach, Baldante said he anticipated a three-to four-week trial, having listed five expert witnesses on liability issues and seven experts on Paetzold's damages.

He said that Bell's defense counsel, William Lundren of the New Jersey firm Green Lundren & Ryan, and Jonathan Dryer of the Philadelphia firm Wilson Elser Moskowitz Edelman & Dicker; and Haddonfield, N.J., lawyer Kevin McCarty who represented Farm Pediatrics, were willing to negotiate after discovery indicated liability.

Baldante

According to Baldante, testing of wires and clamps showed that the wire attached to the medical building was not sufficiently secured to the building.

Paetzold tried to avoid the falling wire as she was driving, Baldante explained. The van driver was faced with an immediate emergency when Paetzold lost control of her car and could not be avoided. Paetzold's head struck surfaces in the passenger compartment and suffered a closed head injury with internal bleeding.

"At that point, liability was established and the parties were more focused on the damage issue," Baldante said.

A key investment made by plaintiff's counsel was the commissioning of a "settlement video," which encapsulated the plaintiff's case in a documentary-style presentation.

Sweeney had all lawyers in the case sit down and review the tape.

While the video would not necessarily have been viewed by a jury, Baldante said it allowed defense lawyers to estimate the jury impact of the plaintiff's case. The documentary videotape is a technique that has been pioneered by Texas lawyers, where the tapes may be shown to juries, Baldante said.

The tape included footage of Paetzold as she was before the accident; computer reconstruction of the accident, and a filmed record of her recovery efforts to the time she "plateaued" at her present condition, Baldante said.

According to Baldante, Paetzold, now 45 years old, requires round-the-clock care as she requires the use of a wheelchair as a result of the severe injury to her brain stem. She cannot control her movements. She is the mother of two adolescent children , and had worked part-time as a paralegal while going to college before her injuries in January 1992.

With the brain stem injury, Paetzold suffers from "partial spastic quadriplegia," manifested in the inability to reliably control the movements of extremities, and significant mental impairment, Baldante explained.

"The video allows the viewer to appreciate the seriousness of her injuries, the pain and suffering, and the nature of recuperation and rehabilitation," he said of the one-hour tape.

Paetzold's economic damages were estimated by her attorneys at $8.8 million, including more than $7.4 million in future medical and custodial care. Defendants pegged future custodial care costs at $2.3 million.

"Judge Sweeney was involved very actively in trying to resolve the case," Baldante said.

One year ago, settlement talks became serious but reached an impasse over damages, Baldante said. The scheduling of a February trial brought the parties to the negotiation table for the final, successful, push.

"The Paetzold family showed great courage and strength in the face of such tragedy," Baldante said. "They held steadfast to what they knew was necessary to provide Donna with a dignified life."

He said that the plaintiffs in this case used techniques in addition to the documentary tape, that are not usually employed, such as focus groups, in evaluating the client's case.

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