



\$650,000 for Slip and Fall

Correia v. Matos: Just before jury selection Monday, a 35-year-old Hudson County woman agreed to a \$650,000 settlement for a slip-and-fall injury that was aggravated by a subsequent car accident.

Ana Correia fell on Jan. 28, 1994, on ice and snow on the steps of her Kearny apartment building, owned by Jose Matos. Twelve days later, the car Correia was driving was rear-ended by another vehicle.

Correia underwent two lower-back surgeries, including fusion and bone-grafting, as well as psychological therapy to help cope with emotional strains of the pain, according to Correia's lawyer, Gregg Alan Stone, a partner with Kirsch, Gelband & Stone in Newark. But the doctors who treated her were unable to decide which accident caused the injuries because they occurred so close in time, Stone says.

Correia's claims, against the landlord and the driver, were tried before separate juries earlier this year. In January, the jury in the slip-and-fall claim found Matos 78 percent responsible for Correia's accident because he had not removed the snow or ice or salted the steps; Correia was found

22 percent responsible. A jury trial a month later ended in a no-cause against the driver who rear-ended Correia's car.

Matos' defense in the damages portion was to point the finger at the automobile accident as the cause of injury. To help counter that defense, Stone had intended to use an engineer to show that the fall had three times the impact on Correia's body than did the automobile accident, which caused minor damage to both cars. That probably helped bring the claim to settlement prior to the trial before Hudson County Superior Court Judge Thomas Olivieri, Stone says.

The settlement is being paid by Matos' home insurance companies. Republic Insurance Co. of Columbia, Md., is expected to pay \$500,000; \$150,000 is expected to be paid by Preserver Insurance Co. of Paramus.

Neither of Matos' lawyers, Howard Mankoff, a partner with Livingston's Marshall, Dennehey, Warner, Coleman & Goggin who represented Republic, nor James Butler, a solo practitioner in Jersey City who represented Preserver, returned telephone calls seeking comment.

— By Heather MacGregor



\$550,000 for Diagnosis Failure

Ferreira v. Unnamed Doctors: A \$550,000 settlement was reached Tuesday in a suit claiming a 61-year-old Newark man lost sexual function, bowel and bladder control due to a physician's failure to diagnose a neurological problem.

After construction worker Joaquim Ferreira underwent back surgery to repair a herniated disc, according to the suit filed in Essex County Superior Court, the neurosurgeon who performed the operation left for vacation, according to plaintiff's attorney Gregg Stone, of Newark's Kirsch, Gelband & Stone.

Two days after surgery, while recovering at St. Joseph's Hospital in Newark, Ferreira complained to an orthopedist who was attending that he was unable to control his bladder and bowels. Such symptoms are a sign of cauda equina syndrome, a condition caused by pressure on the nerves of the lower spinal cord, Stone says. Cauda equina is not uncommon after back surgery and its effects can be reversed if an additional surgery is performed within 48

hours, but the orthopedist failed to act, says Stone.

The orthopedist's notes indicate he requested a consultation with the neurosurgeon after observing Ferreira's symptoms, says Stone. But after learning the other doctor was on vacation the orthopedist took no other steps, according to Stone. Ferreira now must wear diapers because of the neurological problem, says Stone.

Ferreira filed suit in Essex County Superior Court, naming the neurosurgeon and the orthopedist. The case was assigned to Judge Edith Payne for case management. The parties agreed to settle on July 3, a week before a trial was slated to begin, and the plaintiff received a signed release from the defendants last Tuesday.

The terms of the settlement call for \$550,000 to be paid to Ferreira on behalf of the orthopedist, and for claims against the neurosurgeon to be dropped. Both doctors had malpractice coverage under Princeton Insurance of Princeton. The terms also called for names of the physicians to remain confidential.

The neurosurgeon was represented by Jeffrey Chiesa, then a partner at Dughi, Hewitt & Palatucci in Cranford. Chiesa has left that firm and could not be reached. The orthopedist was represented by Sam Rosenberg of Reiseman, Sharp, Brown & Rosenberg in Parsippany, who declined to comment on the case.

— By Charles Toutant

Quick Takes

\$480,000 IN BLOOD-CLOT DEATH

The estate of a Sayreville woman who died of a blood clot apparently caused by an ankle fracture when she fell off a broken concrete curb 10 days earlier will receive \$480,000 under a settlement finalized during jury selection before Middlesex County Judge Arthur Bergman. One of her adult children, Pamela Spencer, administrator of her estate, sued in connection with the death of Patricia Whyte, 52, who fell off a curb after tossing her trash in a dumpster at Winding Woods apartment. While her only injury was a broken ankle, she developed a deep venous thrombosis in her left calf that led to her death of pulmonary thromboembolism, according to her lawyer, Gregg Alan Stone of Kirsch, Gelband & Stone in Newark. He said the settlement was low for a death case because she was unemployed and survived by her husband, Glenn, and three adult children. In *Spencer v. Garden Homes*, Spencer sued the property owner, Hillside Estates, which was responsible for maintaining the curb, and Dave's Suburban Disposal Service, which allegedly broke the curb while emptying the dumpster. Under terms of the settlement, Hillside Estates, insured by Virginia Surety, agreed to pay \$400,000. Richard S. Nichols of Gennet Kallmann Antin & Robinson in Parsippany represented the property owner. The trash disposal company's carrier, Zurich Insurance, agreed to pay \$80,000. Zurich in-house counsel Steven G. Schweisinger of Weston, Stierli, McFadden & Capotorto of Parsippany handled the matter for the disposal service.

Senior injured in fall awarded \$4.7 million

By ADRIENNE KNOX

A senior citizen whose throat was crushed when she tripped over a concrete car stop at a Newark public housing complex was awarded \$4.7 million yesterday, her attorney said.

Newark attorney Gregg Stone said Dora Edwards was severely injured in the April 1990 accident at the Stella Wright Homes complex, which is managed by the Newark Housing Authority.

He said the fall occurred at 9:45 one evening as the 67-year-old woman attempted to walk through an eight-inch opening in a guardrail separating the parking lot from her apartment building entrance.

"The spacing was so tight you literally had to drag one foot over the cement block," Stone said, "There was also inadequate lighting."

"Because of her fall, her throat was crushed and she had to have surgery," he added.

While Stone credited doctors with "doing a heroic job in saving her life," he said a clot caused Edwards to asphyxiate while

recovering from surgery and the woman suffered extensive brain damage.

Edward has been in a semi-comatose state since May 1990, Stone said. He added, however, she has a "normal" life expectancy.

A Superior Court jury in Essex County awarded the injured woman the settlement yesterday morning before Judge Julio Fuentes.

Stone said he earlier had reached a \$1.5 million settlement with the company that reconstructed the parking lot in 1987. He said that amount would be applied toward the jury award imposed yesterday on the housing authority.

Harold Lucas, executive director of the housing authority, said he was not familiar with the details of the case. He said he would meet with the agency insurance company today to determine the next step.

Stone is with the Newark law firm Kirsch, Gelband & Stone.

COMMUNITY

THE NEWS TRIBUNE

\$475,000 settles injury suit

By KATHLEEN HOPKINS
Staff Writer

UNION COUNTY A Michigan manufacturer yesterday offered \$475,000 to a Linden machine operator to settle a lawsuit brought when the employee lost a finger and part of a thumb in an industrial accident.

The plaintiff, Marcial Maldonado of Brooklyn, a machine operator for 28 years with Rotuba Extruders Inc. on Park Avenue in Linden, accepted the settlement from Crompton & Knowles of Saginaw, Mich.

The settlement came a day after a Superior Court judge in Union County declared a mistrial as a jury was being selected, according to Maldonado's attorney, Gregg Alan Stone of the Newark law firm Kirsch, Gelband & Stone.

Maldonado, 60, a widowed father of five children, lost his left index finger and the bulk of flesh, tissue, and nerve in his left thumb in an industrial accident at Rotuba on June 19, 1989.

Rotuba Extruders manufactures plastic covers for fluorescent lights.

Maldonado, who has worked at the company 28 years, was working on a machine that cuts the plastic when his left hand got caught in it, Stone said.

Maldonado's index finger had to be amputated at St. Elizabeth Hospital, Stone said.

Maldonado also had to undergo num-

Man lost finger, part of thumb

ous surgeries, including skin and nerve grafts, to regain partial use of his thumb, the attorney said. Without being able to maneuver the thumb, Maldonado would have been unable to grip anything with his left hand and essentially would have lost the use of the hand, Stone said.

Maldonado returned to work about a year after the accident, Stone said.

Maldonado sued the manufacturer of the machine, Goulding Inc., a division of

Crompton & Knowles; Davis-Standard Inc. a division of Crompton & Knowles which bought out Goulding Inc.; and Crompton & Knowles, claiming the plastic cutting machine was improperly designed and manufactured.

Stone said he was prepared to argue that "Had this machine been designed properly, it would have had a guard to allow the plastic to go through, but not something larger, like a hand."

The only safeguard the machine had was a switch that would stop the machine only after an accident occurred, Stone said.

Charles Meli, a Paramus attorney representing the defendants, said the settlement was offered to Maldonado because "manufacturers don't get much of a fair break" under New Jersey law. He said the state law prevents a plaintiff from suing an employer using such machinery.

"We cannot get into evidence

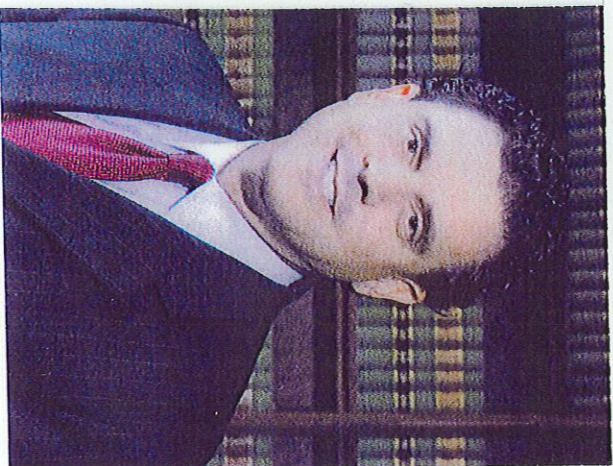
on what the employer did or should have done," Meli said. The machine, he said, was designed for Rotuba Extruders 20 years ago.

"It was in use without complaint for 20 years," Meli said. "They [Rotuba] haven't modified it. It's been out of our possession for 20 years."

Meli said the federal Occupational Safety and Health Administration and representatives with workmen's compensation never cited the machine for being unsafe.

The company decided to offer the settlement because "the potential for an award was significantly higher than the settlement," Meli said.

The attorneys were picking a jury Tuesday when Superior Court Judge Barbara Byrd Wecker declared a mistrial after one of the prospective jurors, who works in the insurance industry evaluating claims, made a statement. "I've handled at least 500 of these types of accident cases," according to Stone.



suits & deals

\$900,000 for Construction Accident



Santos v. Tomaro Construction: A Morris County jury awarded \$1 million on Jan. 29 to a construction worker whose leg and ankle were shattered when a trench collapsed. But his liability reduced the award to \$900,000.

Manuel Santos of Colonia was found 10 percent comparatively negligent. The general contractor at the site, Tomaro J. Construction Co. in Somerville, was found 90 percent liable after the four-day trial.

Santos, then 29, was employed by Tomaro's subcontractor, Barnard Construction Co. of Pompton Plains, laying drainage pipes in a 10-foot by 10-foot hole in the town of Mine Hill.

Santos was buried on July 19, 1994, when one of the sides of the walls collapsed on him, says his attorney, Gregg Alan Stone, a partner at Newark's Kirsch, Gelband & Stone.

Santos fractured his ankle and fibula, and dislocated his tibia, requiring a plate, six screws and four nails to fix. Santos will need an operation to permanently fuse his ankle to his tibia, resulting in loss of movement, in order to relieve the pain, says Stone.

Stone contended that the general contractor had a common law duty to provide a safe place to work and that the general

NO DELEGATION: Gregg Alan Stone, above, told a jury hearing his client's construction accident suit that the contractor is responsible for workplace safety.

contractor cannot delegate safety responsibilities to a subcontractor.

About 30 minutes before the accident, the general contractor had a safety inspector on site. But Stone says the inspector did not have experience in trenches deeper than 5 feet and assumed that proper shoring, designed to keep the walls from caving in, was in place before the accident.

Selective Insurance Co. of Branchville will handle the payment. The defendants were represented by David Cosgrove, an associate at Hurley & Vasios in Short Hills, who did not return calls seeking comment.

Morris County Judge David Cramp presided over the trial.

— By Padraic Cassidy

Family gets \$700,000 in plant worker's death

By MaryAnn Spoto
STAR-LEDGER STAFF

The family of a Linden man killed when his sweat shirt became caught in a machine at a recycling plant in Elizabeth has settled a lawsuit against related companies for \$700,000.

The settlement, reached on the eve of the scheduled trial in Superior Court in Elizabeth Tuesday, is structured so that most of the money will go to Paul Imperiale's 4-year-old daughter, whom he never saw, said Newark attorney Greg Alan Stone.

Imperiale, a maintenance mechanic for J&J Recycling on Flora Street in Elizabeth, was killed Feb. 16, 1995, when the hood of his sweat shirt became entangled in a roller as he was making an adjustment to the conveyor belt, Stone said.

Workers' compensation laws prohibited the family from suing J&J, but Stone said he brought a complaint against the manufacturer of the conveyor belt and the owner and maintainer of the machine.

He contended the conveyor belt should have had guards to protect against pinch points and should have had an emergency stop cable in the area where Imperiale was working.

Imperiale, 18, was engaged to be married when he died by asphyxiation. His fiancée, Lenise Medina, was five months pregnant and later gave birth to a daughter, Jazmillie Imperiale, who is now 4, Stone said.

The bulk of the settlement will be given to the child on a monthly basis through her mother. The child will receive larger payments in intervals after she turns 18, Stone said. Some

of the money will go to Imperiale's father, Joseph P. Imperiale, and his brother and sister, the attorney said.

The suit was filed on behalf of his sister, Kimberly Imperiale, the administratrix of Imperiale's estate.

In settling the case, Hustler Conveyor Co. of St. Louis, Mo., Barbana Leasing and 843 Maintenance Corp. did not admit wrongdoing.

Hustler is the manufacturer of the conveyor belt. Barbana, which owned the machine, and 843 Maintenance Corp., which provided upkeep, were sister corporations of J&J, a recycler of construction and demolition waste.

John Bashwiner, the Cedar Grove attorney who represented 843 Maintenance and Barbana Leasing, maintained that the applicable safety regulations for the recycling industry do not require guards on the machine where Imperiale was working.

He said Imperiale should not have been at that section of the machine by himself and while the machine was in operation.

"This case is a situation where he never should have been where he was alone and certainly not with the machine running," Bashwiner said. "He obviously made a very bad decision. How it happened, we'll never know."

Stone said Imperiale was 20 feet off the ground on a catwalk that ran parallel to the conveyor belt.

"One of his responsibilities was to adjust the tracking on the belt and to do that, the machine had to be on," Stone said. "He could not get out. The autopsy report showed he fought for his life."

He said the coroner indicated Imperiale had three minutes of pain and suffering before he died.

THURSDAY, MARCH 2, 2006

THE STAR-LEDGER

LAW & ORDER

Crash victim's family awarded \$1.2 million

NEWARK: The family of a city motorist whose leg had to be amputated after a 2001 car accident will receive \$1.2 million from insurance carriers for the company whose driver was responsible for



the crash, a lawyer said yesterday.

The family of Hector Maldonado, who has since died for reasons unrelated to the accident, will be paid under a settlement with the Newark company, Automatic Electro Plating Corp., whose driver caused the March 13, 2001, accident at Frelinghuysen Avenue and Noble Street, said Gregg Alan Stone, the plaintiffs' attorney.

The company's driver pulled a "box truck" onto Frelinghuysen in front of Maldonado's car, Stone said. Maldonado, then 51, was left with fractures in both legs, his jaw and his right eye socket, the lawyer said. His leg was amputated below the knee, Stone said, because of a post-surgical infection.

Maldonado, a diabetic who was in poor health prior to the accident, was not married but left four adult children. The suit, which had been filed in Superior Court in Newark, was settled Feb. 23, Stone said.

Springfield man hurt in crash wins case

Businessman must pay \$987,819 award

BY NIKITA STEWART
STAR-LEDGER STAFF

A jury in Essex County awarded a Springfield man more than \$987,000 yesterday for the injuries he sustained more than two years ago when a vehicle rear-ended his motorcycle one evening on McCarter Highway in Newark.

In September 2002, Steven Marcketta, who owns Suburban Paints in Millburn, was riding his silver 2002 Honda CBR 1100 on the highway. He was making a right turn onto Third Avenue when he was struck by a convertible T-Bird owned by Antonio Goncalves, a New Jersey restaurateur and businessman.

During a four-day trial before Superior Court Judge Jared Honigfeld, Marcketta's attorney told the jury that Goncalves was not paying attention because he was using his cellular phone when he rear-ended Marcketta.

"The lesson here is that if you are going to use a cell phone, pull over to the side of the road," said Gregg Alan Stone, Marcketta's attorney. "It could be someone's life."

Harry Maskin, who represented Goncalves, said his client only remembered using his cell phone to make a call after the accident. "While he had a cell phone, he had no recollection of using the cell phone prior to the accident," Maskin said.

Maskin said Goncalves was consistent in his testimony and in his deposition before the trial. He said he could not comment on the verdict or whether Goncalves would appeal.

Stone said the jury had to decide whether Goncalves was being "candid."

He said the accident was reported at 9:50 p.m., and Goncalves' phone records showed an outgoing call at 9:45 p.m., an incoming call at 9:49 p.m. and another outgoing call at 9:51 p.m.

"I blew it up on big poster board," Stone said, referring to the phone records.

Marcketta, now 46, suffered a broken back and had hardware inserted into his spine. While hospitalized at University Hospital in Newark, he developed an infection and had to undergo special procedures to stop it, Stone said.

According to the lawsuit Marcketta filed in March 2003, he had incurred more than \$600,000 in past medical expenses. Stone said he was not sure how Marcketta would collect the \$987,819.79 jury award. He said Goncalves' personal assets will likely be protected.

Goncalves, who owns Solar do Minho, a Belleville restaurant, and several other businesses in the area, was insured by Prudential Insurance Co.

The Star-Ledger

THURSDAY, APRIL 21, 2005

Injured X-ray tech awarded \$1.67 million

BLAIRSTOWN: A Hudson County jury yesterday awarded more than \$1.67 million to a 44-year-old township resident who suffered serious back injuries while working as an X-ray technician and trying to stop a 600-pound machine from rolling away.

Susan Peterson was injured at Saint Mary's Hospital in Hoboken in July 1998 when the wheel-lock device on a portable X-ray machine gave out as she was wheeling it down a hallway, her attorney, Gregg Alan Stone said.

Peterson herniated two disks in her back trying to keep the machine from crashing into a wall, Stone said.

"There was no emergency brake," the lawyer said.

Peterson sued the manufacturer, Siemens Medical, and General Electric, which had the service contract on the machine, Stone said.

During the trial, General Electric settled for an amount Stone would not disclose. He said it was less than the company would have had to pay based on the jury's verdict.

A jury ruled that Siemens Medical was 60 percent responsible, while General Electric was 40 percent responsible, Stone said. The total jury verdict was nearly \$2.8 million. Siemens Medical was ordered to pay Peterson its share, or \$1.67 million.