

## CONSTRUCTION ACCIDENT \$11,600,000 VERDICT FOR INJURED PLUMBER



Partner **Frank J. Lombardo** obtained this verdict in Queens county for a Union Plumber. On August 19, 2015, the plaintiff was installing drainage piping to a water pump in a mechanical room when he was struck by a falling 4-inch copper pipe weighing approximately 20 pounds and a 30-40-pound bucket of tools.

Prior to trial, Frank was successful in obtaining summary judgment pursuant to Labor Law § 240(1) due to the defendants' failure to properly secure the materials and equipment that fell from a height. It was alleged that as a result of being struck by the unsecured falling objects, the plaintiff sustained a herniated disc at the L3-L4 level with nerve root entrapment requiring a lumbar laminectomy and discectomy, posterolateral fusion and segmental pedicle fixation. In addition, the plaintiff also sustained a left knee injury requiring a surgery to remove inflammation and scar tissue.

Despite being found responsible for the accident, the defendants' insurer refused to settle the case and never offered more than \$1,000,000 during trial. The defendants' attorney argued that the plaintiff had four prior motor vehicle accidents all involving injuries to the lumbar spine and that the plaintiff was found totally disabled prior to this accident by his chiropractor who treated him for three years. Frank contended that the prior motor vehicle accidents merely involved soft tissue muscle sprains and strains without herniations or radicular symptoms down the left leg, and the plaintiff did not lose any time from work as a result of the four prior accidents.

The jury deliberated for 1 hour and 20 minutes and rendered a unanimous verdict awarding our client \$100,000 for past pain and suffering and \$8,000,000 for future pain and suffering (37 years); \$200,000 for past lost earnings, \$600,000 for future lost earnings (20 years); and \$1,500,000 for future medical expenses (37 years). In addition, the jury awarded the client's wife \$500,000 for past loss of services and \$800,000 for future loss of services (10 years). Lastly, prior to the close of trial the defendants stipulated the cost of prior medical expenses at \$56,810.

## MEDICAL MALPRACTICE \$10,000,000 SETTLEMENT FOR 29-YEAR-OLD WOMAN



Partner **Philip Russotti** obtained a \$10,000,000 settlement at mediation for a 29-year-old woman with pre-existing congenital arthrogryposis multiplex, a birth condition that left her wheelchair-bound with severe lumbar lordosis requiring spinal fusion when she was 12. Our case was that the medical malpractice made her

enjoyment of life far worse. **Kathleen Kettles** worked up the case throughout discovery solidifying the theory of liability.



On a visit to NYC from Luxembourg, the plaintiff sustained displaced nasal fractures as a result of a fall from her wheelchair hitting a pothole. After 24 hours in the defendant's emergency department, she was discharged despite a finding on a CT scan associated

with infection, together with fever, tachycardia and low oxygen saturation rates – all signs of an infectious process and potential sepsis.

The following day, she returned to the hospital but only saw her physician in a hallway. The doctor noted continuing tachycardia but attributed it to pain and did not admit her.

That night, she developed difficulty breathing and in the morning, her parents took her to a private doctor who noted infiltrates on a chest x-ray, and sent her immediately to a local hospital where she was diagnosed with multi-lobar pneumonia.

Within two days, she was transferred back to the defendant-hospital with a diagnosis of septic shock due to acute respiratory distress syndrome. As a result of the use of vasopressors needed to support her blood pressure, the circulation to her extremities was diminished and she developed gangrene of her hands and feet.

She ultimately required amputation of both feet, her left hand and four fingers on her right hand, due to the gangrene.

# BELOW IS A SAMPLING OF SOME OF THE CASES WE HAVE HANDLED:

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## **\$18 MILLION VERDICT**

Construction Accident:  
Labor Law

## **\$17.5 MILLION VERDICT**

Police Brutality:  
Police Shooting Victim

## **\$16 MILLION RECOVERY**

Medical Malpractice:  
Baby Brain Damage: 2 Cases

## **\$12.085 MILLION RECOVERY**

Medical Malpractice:  
Failure to Timely Deliver an  
Infant

## **\$11.76 MILLION VERDICT**

Construction Accident:  
Plumber Injured

## **\$1.3 MILLION SETTLEMENT AND \$10 MILLION JUDGMENT**

Construction Accident:  
Laborer Injured

## **\$11.1 MILLION VERDICT**

Construction Accident:  
Traumatic Brain Damage

## **\$10.7 MILLION VERDICT**

Premises Liability:  
Injured in a Fall Down Flight  
of Stairs

## **\$10.7 MILLION RECOVERY**

Medical Malpractice:  
Delayed Treatment

## **\$10.2 MILLION RECOVERY**

Medical Malpractice:  
Infant Brain Damage

## **\$10 MILLION RECOVERY**

Medical Malpractice:  
Birth Injury

## **\$8.5 MILLION VERDICT**

Medical Malpractice:  
Stroke Victim

## **\$8.326 MILLION VERDICT**

Motor Vehicle Accident:  
Struck by Van

## **\$8.2 MILLION RECOVERY**

Construction Accident:  
Worker Paralyzed in Fall

## **\$7.25 MILLION RECOVERY**

Construction Accident:  
Scaffold Defect

## **\$6.6 MILLION RECOVERY**

Medical Malpractice:  
Spinal Surgery

## **\$6.5 MILLION SETTLEMENT**

Construction Accident:  
Carpenter Injured

## **\$6.2 MILLION RECOVERY**

Medical Malpractice:  
Surgical Error

## **\$6.2 MILLION VERDICT**

Intersection Accident:  
Plaintiff Hit by Truck

## **\$6.15 MILLION RECOVERY**

Medical Malpractice:  
Doctor's Negligence

## **\$6.1 MILLION SETTLEMENT**

Medical Malpractice:  
Union Plumber Trip-and-Fall

## **\$6 MILLION RECOVERY**

Medical Malpractice:  
Birth Injury: Brain Damage

## **\$5.75 MILLION SETTLEMENT**

Construction Accident:  
Day Laborer Injured

## **\$5.5 MILLION RECOVERY**

Motor Vehicle Accident:  
Hit by Con Edison Van

## **\$5 MILLION RECOVERY**

Construction Accident:  
Wrongful Death

## **\$5 MILLION SETTLEMENT**

Construction Accident:  
Wrongful Death of Union  
Carpenter

## **\$4.9 MILLION RECOVERY**

Motor Accident: Pedestrian  
Injured

## **\$4.79 MILLION VERDICT**

Pedestrian Accident: Woman  
Injured by NYPD Vehicle

## **\$4.75 MILLION RECOVERY**

Medical Malpractice:  
Infant Brain Damage

## **\$4.5 MILLION VERDICT**

Emotional Injuries Caused by  
Infant's Death

## **\$4.5 MILLION RECOVERY**

Medical Malpractice:  
Failure to Diagnose

## **\$4.5 MILLION SETTLEMENT**

Construction Accident:  
Laborer Injured in Fall

## **\$4.27 MILLION RECOVERY**

Construction Accident:  
Worker Paralyzed in Fall

## **\$4.25 MILLION RECOVERY**

Medical Malpractice:  
Medication Error

## **\$4.1 MILLION RECOVERY**

Construction Accident:  
Ladder Fall

## **\$4 MILLION RECOVERY**

Construction Accident:  
Brain Injury

## **\$3.9 MILLION RECOVERY**

Obstetrical Malpractice:  
Birth Injury

## **\$3.75 MILLION RECOVERY**

Construction Accident:  
Bricklayer Injury

## **\$3.75 MILLION RECOVERY**

Medical Malpractice:  
Disabled Twin

## **\$3.75 MILLION**

Construction Accident:  
Laborer Injured

## **\$3.625 MILLION SETTLEMENT**

Professional Malpractice:  
Renter Injured

## **\$3.5 MILLION RECOVERY**

Motor Vehicle Accident:  
Run Over by Garbage Truck

## **\$3.5 MILLION SETTLEMENT**

Medical Malpractice: Failure  
to Diagnose

# CHARITY EFFORTS



**Frank Lombardo** serves as Vice President of the New York SportsScene Children's Foundation. He chairs their fundraising events, such as Rock and Bowl for Kids!, the Angela Lombardo Blues Raiser, and the annual Celebrity Golf Classic, and supports their annual Holiday Thrift Store Event.



He also serves as a Special Consultant to the Board of Directors of the Long Island Blues Society, is on the Board of Directors of the Blues In The Bay Music Festival, and supports the Congregational Church of Patchogue.



**Mitchell Kahn** has helped raise over \$30,000 for the Bladder Cancer Advocacy Network.

He participated in the 2019 Walk to End Bladder Cancer.



**Ken Halperin** is a board member of the Precious Dreams Foundation, which provides bedtime comfort items and mental health programs that teach self-soothing techniques to children navigating foster care and homeless shelters.

He is also the Chairperson and former President of the Jewish Lawyers Guild.



**Cliff and Judy Shapiro** were one of the main sponsors of the JCCA's Pleasantville Cottage School Event "A Tree Grows in Pleasantville."

# SETTLEMENTS & VERDICTS

## CONSTRUCTION LITIGATION

### \$6,500,000 SETTLEMENT FOR INJURED CARPENTER



Partner **David M. Hoffman** obtained a settlement of \$6,500,000 for a 50-year-old construction worker who was injured at a jobsite. The plaintiff was injured while working on an elevated section of formwork wall at the construction project and fell approximately 25 feet onto the roadway below because the defendants failed to provide him with a proper harness or safety device, or alternatively, failed to provide a crane or boom lift for him to use to perform his work.

The plaintiff suffered serious and permanent injuries to his head including head trauma, intracranial injury, subdural hemorrhage, subarachnoid hemorrhage, traumatic brain injury, and cognitive deficits. The plaintiff also sustained multiple fractures and lacerations to his nose and face which required facial reconstruction surgery, loss of teeth, a broken knee, and injuries to his shoulder which required surgery.

### \$5,750,000 SETTLEMENT FOR LABORER INJURED AT A CONSTRUCTION SITE



Attorneys **Bryce Moses** and **Mitchell Kahn** obtained a \$5,750,000 settlement for a 50-year-old day laborer injured at his jobsite. At the time of his accident, he was taking down a parapet wall on the roof. While he and a co-worker were carrying a 100 lb. coping stone to a scaffold where the debris bin was located, his foot fell in the gap between the roof of the building and the scaffold. In an attempt to keep from falling off the roof, the plaintiff dropped the stone, which fell onto his right hand, dislocating his distal ulna.

When the plaintiff fell into the subject hole, he was able to catch himself before falling through to the floor below. To implicate New York State Labor Law Section 240(1), Partner **Kenneth Halperin** was able to establish that, but for his left arm stopping his descent, the plaintiff would have fallen completely through the hole. The defendants argued that this was not possible. Mr. Halperin retained a bio-mechanical engineer who used the exact dimensions of the hole and measurements of the plaintiff's body to establish that the hole was of sufficient size that he would have fallen completely through to the level below had he not caught himself. As a result, Mr. Halperin's motion for summary judgment pursuant to Labor Law Section 240(1) was granted by the Court.

As a result of the injury to his hand, the plaintiff underwent a Darrach procedure which removed 2 cm from his ulna to stabilize the wrist. Unfortunately, the surgery failed and the plaintiff was required to undergo six additional hand and wrist surgeries to stabilize the right wrist and repair a severed extensor tendon in his little finger that prevented him from moving it. When the surgeon determined that the extensor tendon was irreparable, the little finger was amputated. Additionally, he had arthroscopic surgeries to his right ankle and right hip.

The economic damages were limited as the plaintiff was a day laborer with an inconsistent work history. Moreover, the pain and suffering attributed to these injuries was limited by previous injuries to his left arm and right shoulder that he had suffered in a prior work-related accident.

The day before jury selection, this matter settled for \$5,750,000.



# SETTLEMENTS & VERDICTS

## \$5,000,000 SETTLEMENT FOR UNION WORKER



Attorneys **Kenneth Halperin**, **Mitchell Kahn** and **Bryce Moses** obtained a settlement of \$5,000,000 for a 49-year-old union worker injured on a construction site when an unhinged door, propped up against a wall, became dislodged and hit him on the head. On the morning of the accident, the plaintiff was tiling in a hallway in a sub-basement. After completing a portion of the tiling, he sought to cover and protect the area with a sheet of Masonite. There was a vacant room adjoining the hallway where the Masonite was stored.

The room was not lit as it had no temporary or permanent lighting. The plaintiff entered the dark room and felt around for the Masonite. He finally got the piece and began dragging it out behind him. He turned and took two steps towards the door into the hallway when, unbeknownst to him, a metal door, which had been propped up against a wall by another subcontractor, fell and hit him on the head knocking him to the floor. He did not know what caused the door to fall. Despite the argument from the defendants that the plaintiff was the sole proximate cause of his own injury, Kenneth and Mitchell were able to win summary judgment on liability under New York State Labor Law 240(1).

He sustained two fractures in his C2 vertebrae and disc herniations at C3-C6 with cord compression. The plaintiff underwent an anterior cervical fusion at C5-C6.

The plaintiff also suffered a traumatic brain injury evidenced by physical damage to brain tissue revealed on an MRI and documented by neuropsychological testing. He suffers from anxiety and depression, and struggles with control of his emotions due to brain damage. Psychiatric evaluation noted that although his speech was normal it was loud and his psychomotor mood was agitated, he was depressed, and had a tangential thought process.

After the case was thoroughly prepared for trial, Bryce settled the case for \$5,000,000 the day the jury was scheduled to be selected. Using a unique negotiation tactic, he was able to get the parties to agree to pay the plaintiff an additional 9% interest on \$3,000,000 for the right to litigate insurance issues between themselves. This effectively allowed the client to recover an additional \$540,000, bringing the total potential sum recovered to \$5,540,000.

## \$3,850,000 SETTLEMENT FOR DEMOLITION WORKER STRUCK BY OVERHEAD HVAC UNIT



Partners **Cliff Shapiro** and **Noah Katz** represented a demolition worker who was struck by an air conditioning unit which was being demolished in the moments before his accident. It was the defendants' position that the unit was supposed to fall directly to the floor as part of the demolition and that the plaintiff knew this and should have avoided being in the "zone of danger." However, in the course of discovery, we showed through the testimony of the general contractor that the unit should have been mechanically lowered instead of simply dropped, which would have prevented this accident. Given this testimony, we obtained summary judgment based upon the defendants' violations of the

New York State Labor Law. Our client, in his 20s, sustained bilateral tibia fractures requiring surgery and had not yet returned to work.

# SETTLEMENTS & VERDICTS

## **\$3,500,000 SETTLEMENT FOR LABORER WHO FELL FROM LADDER WHILE PAINTING FIRE ESCAPE**



Partner **Frank J. Lombardo** settled this matter at mediation for \$3,500,000. The plaintiff, a 36-year-old, non-union laborer fell one floor from an A-frame ladder while painting the bottom of the second-floor fire escape platform. The plaintiff underwent a two-level lumbar laminectomy and interbody fusion at the L4-5 and L5-S1 levels, anterior cervical fusion C3-C4, and a left knee medial meniscectomy.

## **\$3,200,000 SETTLEMENT FOR BRICK WORKER WHO FELL FROM SCAFFOLD**



Partner **Bill Hepner** obtained a \$3,200,000 settlement at a mediation for our client, a member of Local 1, the Pointers, Cleaners and Caulkers Union, who was injured when he fell from a scaffold. Our client, who was 60 years old at the time of his accident, sustained rib fractures and herniations to his cervical spine requiring fusion surgery. He later required additional revision surgeries to his neck.

## **\$2,950,000 SETTLEMENT FOR CONSTRUCTION WORKER INJURED IN FALL FROM LADDER**



Partner **David M. Hoffman** obtained this settlement for a 40-year-old construction worker. The accident occurred while the plaintiff was working on the exterior portion of the building. The plaintiff slipped as he descended an unsecured ladder, and fell approximately 8 feet. He suffered serious injuries to his lower back, shoulder, and wrist, which required lumbar spinal surgery, arthroscopic shoulder surgery, and wrist surgery.

## **\$2,950,000 SETTLEMENT FOR TWO SCAFFOLD WORKERS WHO FELL FROM A SIDEWALK BRIDGE**



Partners **Bryce Moses** and **Noah Katz** obtained a \$2,950,000 recovery for two plaintiffs, who were non-union scaffold workers. Both were working on top of a sidewalk bridge, dismantling a pipe scaffold, when a portion of the bridge collapsed. One plaintiff sustained injuries to his ankle/foot which required two surgeries. The other plaintiff sustained injuries to his back, which caused him to have spinal injections, but he did not undergo surgery.

## **\$2,600,000 RECOVERY IN NEW YORK CONSTRUCTION ACCIDENT**



Partner **David M. Hoffman** obtained \$2,600,000 for a 42-year-old construction worker who was injured at a construction site when the plaintiff stepped down from a window ledge, onto an upside down plastic bucket that was being used as, and instead of, a step ladder. The bucket moved, causing the plaintiff to fall, thereby sustaining serious injuries to his right knee, right shoulder, neck, and lower back, and required both spinal and knee surgery.

## **\$2,500,000 SETTLEMENT FOR CONSTRUCTION WORKER WHO TRIPPED AND FELL OFF LADDER**



Partners **Kenneth Halperin** and **Noah Katz** obtained a \$2,500,000 settlement for a 42-year-old construction worker who tripped and fell on top of plywood stacked next to a ladder he was descending moments before his accident. As a consequence of the accident, the plaintiff injured his ankle and spine, both requiring surgery.

# SETTLEMENTS & VERDICTS

## MOTOR VEHICLE LITIGATION

### \$6,200,000 JURY VERDICT FOR INTERSECTION ACCIDENT



Partner **Andrea V. Borden** was able to obtain a jury verdict in the amount of \$6,200,000 on behalf of our client, a 60-year-old Brooklyn woman involved in a motor vehicle accident. The plaintiff and a truck were turning left at a large intersection. The plaintiff claimed that the truck came into her lane, sideswiping her. The defendant claimed that the plaintiff came into his lane, sideswiping him, and further claimed that she was on the phone and distracted at the time of the accident. The police report attributed fault to both parties. After a trial on liability, the jury unanimously found for the plaintiff and found the defendant 100% responsible for the accident. A trial on damages followed, where the plaintiff claimed to have sustained a severe neck injury, requiring surgery. The defendant claimed that the plaintiff's neck problem was due solely to her advancing age and highlighted that she did not seek any immediate medical treatment, and further claimed that she had a very good result after her surgery. Andrea successfully overcame the defense's allegations and the jury awarded our client \$6,200,000 for her pain and suffering.

### \$3,300,000 SETTLEMENT FOR CLIENT STRUCK BY VAN



Partner **Jason Rubin** obtained a \$3,300,000 settlement on behalf of a 40-year-old man who was struck by the defendant's van, while operating a scooter. Jason was able to obtain video of the collision from a surveillance camera located near the accident site which showed that the defendant's vehicle made a left turn in front of the plaintiff. As result of the accident, the plaintiff suffered a fracture of a thoracic vertebrae requiring fusion surgery, mild traumatic brain injury, and injuries to his bilateral knees and shoulders.

### \$3,000,000 SETTLEMENT FOR PEDESTRIAN STRUCK BY VEHICLE



Attorney **Thomas Pardo** obtained a settlement of \$3,000,000 on behalf of a 56-year-old warehouse worker who was struck by a car when he tried to walk across a dark street at an uncontrolled intersection.

The plaintiff claimed that a truck driver stopped in the middle of the intersection and, while blocking his view of oncoming traffic, waved the client on to go ahead and cross in front of his truck. When the client stepped out past the truck, he was immediately struck by a passenger car traveling through the intersection. The truck driver denied waving the plaintiff on, or even being in the intersection, and the truck was not listed on the police report.

The plaintiff suffered injuries requiring two cervical discectomy and fusion surgeries, a lumbar discectomy surgery followed by lumbar fusion surgery, and surgery to his shoulder. The vehicle that struck the client only had \$100,000 of insurance coverage, but Thomas successfully argued that the accident was also caused by the truck driver's actions. After getting the passenger vehicle to tender its \$100,000 policy, Thomas was able to obtain \$2,900,000 from the truck driver for a total settlement of \$3,000,000.

# SETTLEMENTS & VERDICTS

## MEDICAL MALPRACTICE

### \$6,000,000 SETTLEMENT FOR NEWBORN WHO SUSTAINED BRAIN AND KIDNEY INJURIES



Partner **Kathleen Kettles** obtained a \$6,000,000 settlement for a newborn who sustained brain and kidney injuries during a double-exchange transfusion. Kathleen proved that the nurses failed to physically evaluate the infant prior to complaints by the mother of seeing yellow skin. Their failure to do so delayed the detection of elevated bilirubin, which could have been treated simply by phototherapy, instead of double-exchange transfusion.

By the time the mother noticed the jaundice, the infant had a severely elevated bilirubin necessitating the double-exchange transfusion. During the transfusion, the infant went into cardiac arrest which resulted in hypoxic ischemic injury to the brain and kidneys. The child is developmentally disabled, cannot speak, and has chronic kidney disease stage III which must be monitored by a pediatric nephrologist.

### \$3,500,000 SETTLEMENT FOR MEDICAL MALPRACTICE/WRONGFUL DEATH CASE FOR FAILURE TO DIAGNOSE



Partner **Jason Rubin** obtained a \$3,500,000 settlement in a medical malpractice/wrongful death case involving the failure to diagnose Acute Coronary Syndrome in a 34-year-old married father of two children, resulting in a subsequent myocardial infarction (heart attack) and death several months later.

The decedent presented to an Emergency Room with complaints of chest pains and shortness of breath. No EKG, bloodwork, cardiac enzymes or cardiologic workup was performed, despite the fact that the decedent had several risk factors for heart disease. He was discharged and several weeks later, the decedent presented to the hospital's clinic again complaining of chest pain and was diagnosed with costochondritis. Again no cardiac workup was performed. Approximately 10 months later, the decedent collapsed and died. An autopsy was performed which indicated the cause of death to be total occlusion of the left anterior descending (LAD) artery. Had the proper workup been done, his destructive coronary artery disease would have been diagnosed and treated. The damages were the loss of support to his wife and children and loss of guidance to the children as well.

### \$1,100,000 SETTLEMENT IN A MEDICAL MALPRACTICE



Attorneys **Lauren Pennisi** and **Jason Rubin** recently obtained a \$1,100,000 settlement in a medical malpractice case concerning the failure to timely identify the signs and symptoms of sepsis in a 48-year-old smoker who was taking immunosuppressants for an underlying rheumatological condition.

After receiving a third dose of Orencia, the plaintiff reported to the defendant with complaints of a fever, drenching night sweats, fatigue, low blood pressure, and a high pulse rate. The defendant diagnosed only an infection and prescribed antibiotics. Five days later, the plaintiff reported to another physician with complaints of severe chills and a fever and was referred to the emergency department for further evaluation. After a work-up, the plaintiff was diagnosed with perforated diverticulitis, multiple intra-abdominal abscesses and sepsis. He required multiple surgeries including placement of a colostomy for 5 months, and was hospitalized for 33 days.

The plaintiff claimed that the defendant was negligent in failing to identify the signs and symptoms of early sepsis, and to immediately refer the plaintiff to the emergency department.



# SETTLEMENTS & VERDICTS

## PREMISES LITIGATION

### \$2,300,000 SETTLEMENT FOR 3-MONTH-OLD INFANT BURNED IN NYC SHELTER



Attorneys **Konstantin Burshteyn** and **Victor Goldblum** obtained a \$2,300,000 settlement for a 3-month-old girl who was severely burned while residing with her mother in a New York City shelter. The case claimed that a city worker negligently bumped a baby stroller into our client's stroller which caused our client, who was holding a bowl of soup, to drop it onto her baby. The city claimed the incident did not happen that way. Due to the defendant's negligence, our client's infant sustained severe burns to much of her body, requiring skin graft surgery. After turning down the defendant's initial offer at private mediation, Konstantin and Victor successfully settled the case at a lengthy settlement conference

before a Supreme Court Judge.

### \$1,957,000 SETTLEMENT DURING VIRTUAL MEDIATION FOR A CORRECTIONS OFFICER WHO INJURED HER SHOULDERS AND BACK WHEN A CEILING COLLAPSED



While working remotely due to the New York City lockdown, attorney **Thomas Pardo** successfully secured \$1,957,000 during a virtual mediation for a corrections officer who injured her shoulders, neck, and back when a ceiling collapsed on her. Defendants argued that the ceiling collapse was minor and could not possibly have caused the client's injuries. Additionally, the client did not miss any time from work immediately following the accident and then went out on disability due to a second unrelated accident. Despite those hurdles, Thomas was able to connect the injuries to that incident and secure the substantial settlement for the client.

### \$1,325,000 VERDICT FOR CLIENT WHO TRIPPED AND FELL IN FRONT OF A CHURCH



Partner **Michael Fitzpatrick** obtained a \$1,325,000 verdict for his client, a 60-year-old woman, who tripped and fell in front of a church in Brooklyn due to a defective sidewalk. She suffered multiple broken ribs and neck injuries necessitating a cervical fusion. The matter was tried to verdict in Kings County Supreme Court. The jury awarded \$1,325,000 for past and future pain and suffering, after the plaintiff turned down an offer of \$50,000 at the beginning of trial. The defense relied heavily on inconsistent versions of the accident attributed to the plaintiff contained in the medical records. The defendants called as a witness at trial the ER physician who documented these inconsistent versions of the accident. The jury believed the plaintiff's version of the accident and found the defendant-church negligent for the accident.

# ANNOUNCEMENTS



## I. BRYCE MOSES ADDED AS A NAME PARTNER

Wingate, Russotti, Shapiro, Moses & Halperin, LLP (WRSMH), is pleased to announce that I. Bryce Moses has become a name partner of the firm.

For nearly 30 years, I. Bryce Moses has been trying cases. Hired by former United States Attorney General Janet Reno in 1993, Bryce began his career as an Assistant State Attorney in Miami, Florida, prosecuting criminal cases. Bryce was quickly promoted to the Felony Division where he handled numerous serious criminal trials, including murder. He was described by a Miami Circuit Court Judge as a trial attorney whose "...trial skills and preparation not only showed in his success after success in trial, but earned the respect of opposing counsel."

Since joining WRSMH, Bryce has continued to excel as a trial attorney. His clients have enjoyed a wonderful trial success rate that provides them well-deserved results, most recently a \$5,750,000 settlement for a day laborer injured on a jobsite, and a \$4,790,000 verdict for a woman hit by a NYPD patrol car.

Bryce has earned the privilege of lecturing New York lawyers on winning trial techniques for the New York State Bar Association and New York State Trial Lawyers Association. In addition to trying cases, Bryce, along with founding partner, Phil Russotti, will continue to oversee the trial division of WRSMH and supervise the trial lawyers.

"We are so happy to have Bryce as a name partner. He has been a defining factor in the continued success of our firm," said Phil Russotti.

## MEDICAL MALPRACTICE

### \$10,000,000 SETTLEMENT FOR 29-YEAR-OLD WOMAN (CONTINUED)

Prior to the malpractice she was able to prepare simple meals, feed herself, toilet, wash, dress, brush her teeth, and comb her hair. She could utilize a pen, cell phone and computer independently. She was able to operate her motorized wheelchair, use public transportation, attend school, and spend time with friends independently. She was also able to stand for periods of time in order to relieve pressure and improve her circulation.

However, after the amputations, she could only use one of her hands to push objects across a table and required assistance in all activities of daily living including bathing, toileting, dressing and eating. She had to be fitted for cosmetic prosthetics for her lower legs and feet, and a prosthetic hand which had no functional benefit. The entire experience and resulting deformities caused severe depression, which was treated with medication and psychotherapy.

Despite these overwhelming obstacles, this incredible woman graduated high school at the second-highest grade level and obtained a BA in English at university, also achieving honors. She then went on to earn a Master's in International Relations. Thereafter, she enrolled in a Ph.D. program and is in the last year of the four-year program in International Relations at a London university.

Had the case gone to trial, Phil was prepared to prove that the fall caused nasal fractures which allowed bacteria to seed in the plaintiff's lungs, which over a 72-hour period, developed into multi-lobar pneumonia causing respiratory distress and septic shock based on the theory Kathleen developed. Kathleen retained a pediatric critical care expert who supported her analysis, and was prepared to testify that the failure of the defendant-hospital and its physicians to identify the signs of early sepsis resulting in her discharge from the hospital with just one dose of antibiotic, were departures from accepted practice, which resulted in the development of acute respiratory distress syndrome, septic shock requiring the use of vasopressors for blood pressure support, and resulting in peripheral vasoconstriction causing gangrene of her hands and feet requiring amputation.

The most unique aspect of the case, however, was in trying to determine which future services and equipment she required would be provided to residents of Britain under their National Health System. Payment of medical expenses by such a collateral source reduces the defendants' liability for medical expenses to the extent that those expenses are covered by some other source, in this case the British National Health Service. This turned out to be incredibly complicated because of the nuances of the British system. Phil retained a British health law expert to assist us in making this determination. Needless to say, this was a huge bone of contention between us and the defendants who were claiming that most of what we were projecting would have been covered either entirely or partially by British health insurance programs.

Despite these obstacles at the mediation, Phil was able to obtain this very substantial settlement by focusing on how this lovely woman's enjoyment of life, although clearly diminished by her underlying condition prior to the malpractice, was made so much worse as a result of the malpractice.

## CONGRATULATIONS TO THESE ATTORNEYS CELEBRATING WORK ANNIVERSARIES AT WRSMH



**PHIL  
RUSSOTTI**  
31 YEARS



**CLIFF  
SHAPIRO**  
31 YEARS



**KENNETH  
HALPERIN**  
26 YEARS



**JASON  
RUBIN**  
21 YEARS

## SUPER LAWYERS



### WINGATE, RUSSOTTI, SHAPIRO, MOSES & HALPERIN, LLP HAS 21 LAWYERS RATED AS SUPER LAWYERS OR RISING STARS

- Robert Bellinson
- Michael Fitzpatrick
- Victor Goldblum
- Kenneth Halperin
- William Hepner
- David Hoffman
- Mitchell Kahn
- Noah Katz
- Kathleen Kettles
- Douglas Milch
- Bryce Moses
- Jason Rubin
- Philip Russotti
- Clifford Shapiro

### CONGRATULATIONS TO THE FOLLOWING ATTORNEYS FOR THEIR FIRST YEAR SUPER LAWYERS LISTINGS

- Frank Lombardo
- Stephen Wagner
- Michael Zisser

### CONGRATULATIONS TO THE FOLLOWING ATTORNEYS FOR THEIR SUPER LAWYERS RISING STAR LISTINGS

- Konstantin Burshteyn
- Brielle Goldfaden
- Tracy Kinneary
- Ryan Lawlor

## WINGATE, RUSSOTTI, SHAPIRO, MOSES & HALPERIN, LLP

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# NEWSLETTER

**WRSMH**  
ATTORNEYS AT LAW, LLP

### PRACTICE AREAS

- Construction Accidents
- Medical Malpractice
- Premises Liability
- Products Liability
- Motor Vehicle Accidents
- Wrongful Death
- Birth Injuries
- Brain Injuries

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