

Noteworthy Defense Verdicts

A Selection of Case Summaries Compiled by VerdictSearch New York

Female hospital worker was paid less than male predecessor

A JURY found that the Nassau County Medical Center had not acted in a retaliatory nature when it fired its assistant executive director in January 1998. Plaintiff Catherine Hottendorf had claimed that her annual salary was \$29,000 less than the salary of the previous assistant executive director, a male, and that the hospital paid its female employees less than its male employees. She also claimed that she was fired because of her salary-related complaints. Ms. Hottendorf sued the hospital and the county of Nassau, seeking approximately \$110,000 in back pay and wages lost while she was unemployed. The hospital argued that Ms. Hottendorf was fired because she was uncooperative. A federal court jury rendered a defense verdict on all claims. *Hottendorf v. Nassau County*, No. 99 Civ 5816 (WDW) (U.S. District Court, Eastern District, Sept. 30)

Plaintiff Attorneys: Roberto Campos-Marquetti, New York; Judith F. Katten, New York.

Defense Attorneys: Paul F. Millus and Stewart J. Epstein, of Snitow, Kanfer, Holtzer & Millus, New York;

Dentist blamed for transected lingual nerve

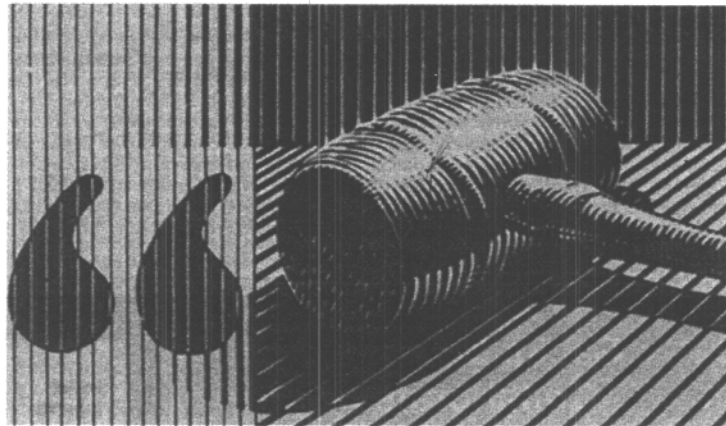
AN ORAL surgeon who nearly severed the lingual nerve of a girl whose molar he was removing was found not liable for her injuries by a jury. Plaintiff Rebecca Taylor claimed that Dr. Michael Freedus failed to obtain her informed consent before he removed her molars. She and her father, James, further claimed that Dr. Freedus performed the procedure incorrectly and caused damage to her nerve as a result. She claimed that she suffers paresthesia of a good part of her tongue and gum, as well as occasional loss of taste. The defense contended that Dr. Freedus always informed his patients of the potential risks of the surgery and that he gave them a written consent form. *Taylor v. Freedus*, No. 38530 (Warren Supreme, Aug. 28)

Plaintiff Attorney: Joseph R. Brennan, of McPhillips, Fitzgerald & Cullum, Glens Falls.

Defense Attorney: Terence P. O'Connor of O'Connor, O'Connor, Mayberger & First, Albany.

Doctors blamed for failing to prevent fatal embolism

TWO ROCKLAND County doctors were found free of negligence in a case involving a man who died from a pulmonary



embolism. Plaintiff was taken to the hospital where he developed a pulmonary embolism. Plaintiff's attorney sought a defense verdict on all claims. *Hottendorf v. Nassau County*, No. 99 Civ 5816 (WDW) (U.S. District Court, Eastern District, Sept. 30)

Plaintiff Attorneys: Roberto Campos-Marquetti, New York; Judith F. Katten, New York.

Defense Attorneys: Paul F. Millus and Stewart J. Epstein, of Snitow, Kanfer, Holtzer & Millus, New York;

Plaintiff Attorney: Joseph R. Brennan, of McPhillips, Fitzgerald & Cullum, Glens Falls.

Defense Attorney: Terence P. O'Connor of O'Connor, O'Connor, Mayberger & First, Albany.

Plaintiff Attorney: Joseph R. Brennan, of McPhillips, Fitzgerald & Cullum, Glens Falls.

Defense Attorney: Terence P. O'Connor of O'Connor, O'Connor, Mayberger & First, Albany.

Plaintiff Attorney: Joseph R. Brennan, of McPhillips, Fitzgerald & Cullum, Glens Falls.

Defense Attorney: Terence P. O'Connor of O'Connor, O'Connor, Mayberger & First, Albany.

Plaintiff Attorney: Joseph R. Brennan, of McPhillips, Fitzgerald & Cullum, Glens Falls.

Defense Attorney: Terence P. O'Connor of O'Connor, O'Connor, Mayberger & First, Albany.

Plaintiff claimed that doctors failed to detect heart disease

DOCTORS Barbara Akresh, Lynn Perry Bottinger and George Shapiro were not liable for the death of Thomas Longo, who died from hypertrophic cardiomyopathy on Dec. 25, 1997. In the 10 months preceding his death, Mr. Longo treated with the doctors for chest pain. Dr. Shapiro ruled out a heart attack, and recommended that Mr. Longo see Dr. Akresh, which Mr. Longo did not do. Dr. Bottinger subsequently diagnosed a left ventricular hypertrophy and recommended that Mr. Longo see Dr. Akresh and a cardiologist. Dr. Akresh then performed a gastrointestinal workup, but made no referral for a cardiologist. Six days later, Mr. Longo died. The jury rendered a defense verdict in favor of the three doctors, Lawrence Hospital and Montefiore Medical Center. Montefiore settled with the plaintiff under a \$875,000/\$300,000 high/low agreement. *Longo v. Bottinger*, No. 15744/98 (Bronx Supreme, June 18)

Plaintiffs' Attorney: George Catlett of the Law Offices of Henry R. Simon, White Plains.

Defense Attorneys: Victoria A. Lombardi of Silverson, Pareres & Lombardi, New York;

Richard W. Nicholson of Schiavetti, Corgan, Soscia, DiEdwards & Nicholson, New York;

Steven M. Sold of Pilkington & Leggett, White Plains;

Esther S. Widowski of Widowski & Steinhart, New York.

Plaintiff Attorney: George Catlett of the Law Offices of Henry R. Simon, White Plains.

Defense Attorneys: Victoria A. Lombardi of Silverson, Pareres & Lombardi,

Corson, New York;

Leggett,

Stein-

ing

injuries

during

ff Florine

myomec-

The pro-

pley West.

doctors

ing inter-

is and an

pped the

Dr. West.

eries was

and that

ocedure.

er failed

l not wait

n to lose

bdomen.

'00 (New

Nolan of

lerner of

stein &

ailure

Genovese

standards

lose lung

-year-old

ordimon-

enovese,

perform

ver lobe,

an and a

lities. Dr.

nd treat-

at there

isy of the

middle lobe

confirmed

his suspicion

of pulmonary

fibrosis, and

that Ms. Fiordimondo

did not report

for scheduled

fol-

low-up treatment. *Fiordimondo v. Genovese*, No. 13911/99 (Queens Supreme, June 3)

Plaintiff Attorney: Steven Cohen of Arye, Lustig & Sassower, New York.

Defense Attorney: David G. Kelton of Bartlett, McDonough, Bastone & Monaghan, White Plains.

Man claimed that doctor misinterpreted abnormal EKG

A JURY rendered a defense verdict in the case of a 52-year-old man who claimed that his doctor misread electrocardiogram results that might have indicated an oncoming heart attack. Plaintiff Alfonso Mercado underwent an EKG after presenting to Good Samaritan Hospital of Suffern for treatment of chest pain. Dr. David Huang reviewed the results and discharged Mr. Mercado several days later. Mr. Mercado suffered an acute myocardial infarction shortly thereafter. He sued Dr. Huang and the hospital, claiming that abnormalities in the EKG mandated a cardiac workup. Dr. Huang contended that Mr. Mercado's EKG produced nonspecific results that were not necessarily indicative of a cardiac problem. The claims against the hospital were dismissed by the court. *Mercado v. Huang*, No. 22685/93 (Suffolk Supreme, Oct. 30)

Plaintiff Attorney: Anthony Mahoney of Wolf & Fuhrman, New York.

Defense Attorneys: Shawn P. Kelly of Kelly, Rode & Kelly, Mineola;

Douglas B. Stebbins of Bower, Sanger & Lawrence, New York.

Weather Conditions Contributed to Single-Car Accident

A NEW YORK County Supreme Court jury returned a defense verdict in a case involving a motorist who was injured when her car slammed into and severed a guide rail in Greenport. The broken rail sliced through the front of the car and crushed the driver's legs. It was snowing heavily at the time of the accident. Defendant A. Colarusso & Son, Inc., which installed the rail, contended that the rail had been approved by the State of New York, that it had been the site of a prior accident, and that motorists had been warned not to travel during the storm. The driver claimed that the rail had been negligently installed, welded and inspected. *Perlmutter v. A. Colarusso & Son Inc.*, No. 115712/95 (New York Supreme, Feb. 25)

Plaintiff Attorney: Robert B. Churbuck of O'Brien & Mayr, Rockville Centre.

Defense Attorney: Lawton W. Squires of Squires, Cordrey & Noble, New York.

Girl sustained leg injury when she was struck by bus

THE COUNTY of Westchester and one of its bus drivers were not liable for the injuries of 7-year-old Celenny Henriquez, who was struck by one of the county's