

JANUARY 2009 CIVIL TRIAL TERM

DONALD C. CLINE
V.
JOHN BOHINC
NO. 634 OF 2005

Cause of Action: Negligence—Motor Vehicle Accident

John Bohinc, Chief of the White Valley Fire Department, was responding to the scene of an automobile accident on Route 22 in Murrysville. While driving at a high rate of speed, Bohinc ran a red light at the intersection of Route 22 and Cloverleaf Drive and struck the vehicle of Donald C. Cline. Bohinc and Cline were both injured in the collision.

Cline filed a negligence action against Bohinc, and Bohinc asserted a counterclaim against Cline for negligence. At trial, the jury was asked to determine whether Bohinc was reckless and to perform a comparative negligence analysis with regard to each negligence claim.

Plaintiff's Counsel: John N. Scales, Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C., Gbg.

Defendant's Counsel: Marianne C. Mnich, Law Offices of Twanda Turner-Hawkins, Pgh.

Counterclaim Plaintiff's Counsel: Rolf Louis Patberg, Patberg, Carmody & Ging, Pgh.

Counterclaim Defendant's Counsel: David L. Haber, Weinheimer, Schadel & Haber PC, Pgh.

Trial Judge: The Hon. William J. Ober

Result: Verdict in favor of Cline in the amount of \$27,000.00. While the jury determined that Bohinc was not operating his vehicle in a reckless manner, it found Bohinc 100% negligent for the accident.

JANUARY 2009 CIVIL TRIAL TERM

JOHN R. SCHOTT, PERSONAL REPRESENTATIVE
OF THE ESTATE OF JOHN C. SCHOTT
V.
WESTMORELAND REGIONAL HOSPITAL AND
JAMES MILLWARD, M.D.
NO. 761 OF 2007

Cause of Action: Negligence—Medical Malpractice—Wrongful Death and Survival

This medical malpractice action stems from Defendant Dr. Millward's psychiatric treatment of the Plaintiff's son, John C. Schott, for depression with suicidal ideation during two mental health commitments. The first voluntary commitment was followed, several months later, by a second, involuntary commitment. Shortly after being discharged by Dr. Millward from the involuntary commitment, Mr. Schott was charged with multiple crimes to which he confessed. Mr. Schott hung himself in his cell while incarcerated in the Westmoreland County Jail.

Plaintiff brought this medical malpractice action claiming that the Defendants breached the standard of care of psychiatrists in releasing Mr. Schott prematurely and in failing to provide an adequate treatment program for follow-up. The Defendants argued that the standard of care had been met. Defendants' expert psychiatrist opined that there were no grounds for the involuntary commitment because there was no evidence at that hearing of an overt act made by Mr. Schott in conjunction with his threats of suicide.

Plaintiff's Counsel: Vincent A. Coppola, Pribanic & Pribanic, Pgh.

Defendants' Counsel: Thomas B. Anderson, Christian W. Wrabley, Thomson, Rhodes & Cowie, P.C., Pgh.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Molded verdict in favor of Defendants. In special findings, the jury found that Dr. Millward's treatment of Mr. Schott met the standard of care of psychiatrists.

JANUARY 2009 CIVIL TRIAL TERM

**BETTY DARLENE PALMER AND
BRIAN PALMER, HER HUSBAND
V.
MARK GRIFFIN
NO. 7951 OF 2003**

Cause of Action: Negligence—Motor Vehicle Accident

On January 7, 2002, Plaintiff Betty Darlene Palmer was traveling on Lloyd Avenue Extension in Latrobe, Pennsylvania, when Defendant, operating his vehicle from a street which intersects with Lloyd Avenue Extension, failed to yield the right-of-way and collided with Plaintiff's vehicle. As a result of the accident, Plaintiff claimed injuries to her neck and left shoulder that caused wage loss, impairment of earning capacity, medical bills, and pain and suffering. Her husband claimed loss of consortium.

Defendant disputed the nature and extent of the injuries claimed by Plaintiff. Also, Defendant maintained that the injuries and damages resulted from pre-existing degenerative disk disease and/or independent causes over which Defendant neither had control nor in any way participated.

Plaintiffs' Counsel: Joyce Novotny-Prettiman, QuatriniRaffertyGalloway, P.C., Gbg.

Defendant's Counsel: Mark J. Golen, Summers, McDonnell, Hudock, Guthrie & Skeel, LLP, Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict in favor of Defendant. In special findings, the jury found: (1) Plaintiff did not suffer economic damages (loss of wages/earning capacity); (2) Plaintiff did not sustain a serious impairment of a body function as a result of Defendant's negligence; and (3) Plaintiff's husband did not suffer damages for loss of consortium.

JANUARY 2009 CIVIL TRIAL TERM

**TIMOTHY W. MARTIN
V.
BETSYANN PEOPLES
NO. 1365 OF 2005**

*Cause of Action: Negligence—Motor Vehicle Accident—
Summary Jury Trial*

Plaintiff Timothy W. Martin and Defendant Betsyann Peoples were involved in an automobile accident on May 14, 2003. Defendant's vehicle collided with the rear of Plaintiff's vehicle while he was making a right-hand turn at an intersection. Plaintiff sustained injuries to his neck and back as a result of the accident. Moreover, because the injuries interfered with his ability to operate his roofing business, Plaintiff hired an additional employee to help him with heavy lifting.

The parties agreed to resolve this dispute by conducting a summary jury trial. The parties litigated the issues of factual cause and damages, which included lost earnings stemming from Plaintiff's need to hire additional labor.

Plaintiff's Counsel: David C. Martin, Martin & Lerda, Pgh.

Defendant's Counsel: Michael C. Maselli, Law Offices of Twanda Turner-Hawkins, Pgh.

Trial Judge: The Hon. William J. Ober

Result: Verdict in favor of Plaintiff in the amount of \$20,344.00.

JANUARY 2009 CIVIL TRIAL TERM

LAURA L. BARNES
V.
MYRON C. MCGRAW AND
GEORGE ROBERT BARNES, JR.
NO. 3660 OF 2002

*Cause of Action: Negligence—
 Motor Vehicle Accident—Summary Jury Trial*

On July 2, 2000, Plaintiff Laura L. Barnes was a front-seat passenger in a vehicle owned by Defendant George R. Barnes, Jr. While stopped for a yellow traffic signal, the Barnes' vehicle was struck in the rear by the vehicle of Defendant Myron C. McGraw. Plaintiff sustained injuries to her neck and upper back as a result of the accident. Plaintiff had elected limited tort insurance coverage.

The parties agreed to resolve this dispute by conducting a summary jury trial. The issues litigated focused on whether Plaintiff sustained injuries that resulted in a serious impairment of a body function and damages.

Plaintiff's Counsel: Robert J. Specht, Morocco Morocco & Specht, P.C., Trafford.

Defendants' Counsel: Kim Ross Houser, Mears, Smith, Houser & Boyle, P.C., Gbg.

Trial Judge: The Hon. William J. Ober

Result: Verdict in favor of Plaintiff in the amount of \$692.38. The jury determined that Plaintiff did not sustain a serious impairment of a body function.

MARCH 2009 CIVIL TRIAL TERM

OLIVIA A. FITCH
V.
MARY JANE HOVANEC
NO. 4795 OF 2003

Cause of Action: Negligence—Motor Vehicle Accident

This rear-end collision occurred on September 27, 2001, in Hempfield Township. Both parties were traveling east on Old Route 30. Plaintiff's vehicle was stopped at the stop sign controlling an intersection when defendant, traveling behind plaintiff, failed to stop for the stop sign, colliding with plaintiff's vehicle. Plaintiff claimed injuries to her shoulder and cervical sprain. Defendant raised numerous affirmative defenses under the Pennsylvania Motor Vehicle Financial Responsibility Law, and asserted that the impact from the collision was minor. At trial, evidence of future elective surgery (not performed despite the passage of eight years from the date of injury) was precluded.

Plaintiff's Counsel: Cindy Stine, Gbg.

Defendant's Counsel: Laura R. Signorelli, Law Offices of Twanda Turner-Hawkins, Pgh.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict in favor of Defendant.

MAY 2009 CIVIL TRIAL TERM

**BRUCE R. MILLER, INDIVIDUALLY AND AS
EXECUTOR OF THE ESTATE OF NANCY M.
MILLER, A/K/A NANCY G. MILLER
V.**

**LATROBE AREA HOSPITAL, INC., CURRENTLY
T/D/B/A EXCELA HEALTH LATROBE HOSPITAL,
EXCELA HEALTH, INC., JOHN P. HORNE, M.D.,
CHARLENE SALOOM, D.O., MARK KIELIOWSKI,
M.D., MT. VIEW FAMILY HEALTH CENTER, AND
EXCELA HEALTH PHYSICIAN PRACTICES, INC.
NO. 1255 OF 2007**

*Cause of Action: Professional Negligence—
Wrongful Death Action*

On February 14, 2005, Nancy Miller (Decedent) was transported by ambulance to the Latrobe Area Hospital emergency room. Decedent was complaining of hoarseness and blurred vision, and that her face and tongue were swollen. The hospital admitted Decedent for a 23-hour observation stay, during which Decedent experienced episodes of chest pain and was treated by the nursing staff with nitroglycerine. Despite her bouts of chest pain, Decedent was sent home on the morning of February 15, 2005. No cardiac tests were performed prior to her discharge. At approximately 3:30 p.m. on February 15, 2005, Decedent's husband found her unresponsive and she was subsequently pronounced dead.

At trial, Plaintiff presented evidence to demonstrate that Decedent died as a result of a cardiac problem and that she would have survived had Defendants performed appropriate cardiac testing. Defendants disputed that Decedent's death was cardiac-related, and they introduced evidence to show that they complied with the standard of care.

Plaintiff's Counsel: Rudolph L. Massa and Gary A. Butler, The Massa Law Group, P.C., Pgh.

Defendants' Counsel: David R. Johnson, Thomson, Rhodes & Cowie, P.C., Pgh.

Trial Judge: The Hon. William J. Ober

Result: Verdict in favor of Plaintiff in the amount of \$1,500,000.00.

MAY 2009 CIVIL TRIAL TERM

**PAUL WASSEL
V.
KENNETH LUDVIK
NO. 7859 OF 2006**

Cause of Action: Negligence—Motor Vehicle Accident

This motor vehicle accident occurred on State Route 130 in the Village of Pleasant Unity on September 24, 2005. As Plaintiff slowed to turn, he was rear-ended by Defendant's vehicle, which knocked his car off the road and through a fence. Plaintiff declined medical treatment at the scene, but had a friend take him to the hospital later that day. A head and neck scan was performed and he was given a prescription for Percocet. Full tort automobile insurance coverage had been elected.

Plaintiff experienced ongoing problems as a result of a catastrophic accident that occurred in 1981. In June of 2005, a morphine pump was implanted underneath Plaintiff's abdominal wall, which provided significant relief and allowed him to resume many of his activities. Plaintiff contended it was necessary to increase the dosage of morphine from 2.88 mg to 10 mg a day as a result of the accident. Plaintiff also claimed severe injuries to his back and left shoulder. The Defendant admitted negligence. At trial, the medical expert testimony focused on the disputed issue of whether the 2005 accident caused an aggravation of Plaintiff's previous condition.

Plaintiff's Counsel: John N. Scales, Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C., Gbg.

Defendant's Counsel: Christopher M. Fleming, Snyder & Fleming, Gbg.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict in favor of Plaintiff in the amount of \$2,000.00, which was molded to \$10,000.00 pursuant to a binding high-low agreement entered into by the parties.

JULY 2009 CIVIL TRIAL TERM

**MICHAEL ZVARA AND
PAULA C. ZVARA, HIS WIFE**

V.

**KRISHNA JETTI, M.D. AND
MERCY JEANNETTE HOSPITAL
NO. 6975 OF 2007**

*Cause of Action: Professional
Negligence—Medical Malpractice*

On May 5, 2006, ten days after a colonoscopy and the removal of a rectal polyp, Plaintiff Michael Zvara experienced a rectal bleed and presented to Defendant Mercy Jeannette Hospital's Emergency Department. In an attempt to locate the source of the bleeding, Defendant Dr. Krishna Jetti—who did not perform the original colonoscopy and polyp removal—performed exploratory surgery that included a division of the mid-sigmoid colon, a bowel resection employing a primary anastomosis, an appendectomy, and a cecopexy. Mr. Zvara experienced post-operative complications, including feculent peritonitis from a leak at the anastomosis site, adhesions, and an incisional hernia.

Mr. Zvara's medical expert testified that given the recent history of a colonoscopy and removal of a polyp, the only possible explanation for the source of the bleeding was the polyp site. Mr. Zvara alleged that Dr. Jetti was negligent for failing to ascertain the location of his post-polypectomy bleed prior to performing the exploratory surgery. Mr. Zvara alleged the exploratory surgery unnecessarily exposed him to the risks of surgery. Dr. Jetti presented expert medical testimony that the care and treatment he provided Plaintiff was within the applicable standard of medical care.

Plaintiff's Counsel: Scott D. Glassmith, Gismondi & Associates, Pgh.

Counsel for Defendant Jetti: Daniel P. Carroll, Davies, McFarland & Carroll, P.C., Pgh.

Counsel for Defendant Mercy Jeannette Hospital: Gayle L. Godfrey, Pietragallo, Bosick & Gordon, LLP, Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict in favor of Defendants. The jury found that Dr. Jetti was negligent, but his negligence was not a factual cause of Mr. Zvara's injuries.

JULY 2009 CIVIL TRIAL TERM

**DEBRA ROGERS, EXECUTRIX OF THE ESTATE
OF MICHAEL A. ROGERS, DECEASED**

V.

**RONALD L. PERRIN, M.D.
NO. 7909 OF 2006**

*Cause of Action: Medical Malpractice—
Wrongful Death and Survival*

On September 8, 2004, Michael A. Rogers (Decedent) underwent a chest X-ray, which was performed by Main Medical, a diagnostic imaging company. Main Medical referred the X-ray for interpretation to Ronald L. Perrin, M.D. (Defendant), who determined that the X-ray was normal. Main Medical had previously performed a chest X-ray of Decedent in February of 2002. However, when it referred the 2004 X-ray to Defendant, Main Medical did not provide Defendant with the 2002 X-ray. A comparison of the 2002 and 2004 X-rays would have revealed that Decedent's heart and aorta had enlarged since 2002.

On November 13, 2004, Decedent died as a result of a ruptured aorta. This wrongful death and survival action alleged that Defendant negligently interpreted Decedent's chest X-ray and thereby caused his death. At trial, Plaintiff argued that Defendant breached the standard of care because he never reviewed the 2002 X-ray, and because he negligently determined that the 2004 X-ray was normal. Defendant argued that he correctly interpreted the 2004 X-ray and that the 2002 X-ray was not available for review.

Plaintiff's Counsel: James R. Moyles, The Moyles Law Firm, Pgh.

Defendant's Counsel: Thomas B. Anderson, Thomson, Rhodes & Cowie, P.C., Pgh.

Trial Judge: The Hon. William J. Ober

Result: Verdict in favor of Defendant.

SEPTEMBER 2009 CIVIL TRIAL TERM

ALLSERVE THERAPIES, INC., A PENNSYLVANIA CORPORATION; ALLSTAR THERAPIES, INC., A PENNSYLVANIA CORPORATION; DANIEL J. WUKICH; DANIEL P. WUKICH; AND NANCY AMOROSE
V.
DALE R. HOHMAN
NO. 6497 OF 2005

Cause of Action: Breach of Fiduciary Duty

Defendant was a part owner, officer, and employee of Plaintiff-corporations during the relevant time period of March 2000 until his resignation in September 2002. It is during this time period that a subordinate employee utilized a stamp bearing a facsimile of Defendant's signature to issue unauthorized checks to herself, which the bankruptcy court determined to be approximately \$50,000.00. Plaintiffs contend that Defendant owed a fiduciary duty to them, as owners of Plaintiff-corporations, and to the Plaintiff-corporations, and that Defendant breached his fiduciary duty by either turning a blind eye to the scheme or by failing to detect it.

Defendant denied that he breached his fiduciary duty. He also denied that he knew or should have known of the unauthorized checks and argued that he should not be held responsible for another employee's criminal acts.

Plaintiff's Counsel: Brian D. Flaherty, Karlowitz Cromer & Flaherty, P.C., Pgh.

Defendant's Counsel: Ned J. Nakles, Nakles and Nakles, Latrobe

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict in favor of Defendant.

SEPTEMBER 2009 CIVIL TRIAL TERM

DONNA SCHEIBLER
V.
MATTHEW D. TRUITT
NO. 677 OF 2006

Cause of Action: Misrepresentation (Negligent and Fraudulent)—Violation of the UTPCPL

Plaintiff's late husband, William Scheibler, submitted an application for a \$20,000.00 life insurance policy through Defendant-insurance agent. The application was prepared at the home of Mr. and Mrs. Scheibler, where Defendant asked health questions of the Scheiblers and then completed the application. Mr. Scheibler signed that the information contained in the application was true and correct, and a life insurance policy was subsequently issued. However, Mr. Scheibler died within one year of the policy's issuance, which permitted the company to obtain Mr. Scheibler's pre-application health records and rescind the policy based upon incorrect answers in the application. After denying Mrs. Scheibler's claim for proceeds, the insurance company reimbursed Mrs. Scheibler for the insurance premiums paid.

Plaintiff admitted that one answer on the application described above was incorrect, but claimed that Mr. Scheibler's health history was disclosed to Defendant, who completed the application incorrectly. Plaintiff testified that Defendant-agent misrepresented that Mr. Scheibler would be "guaranteed" this particular life insurance policy despite his health history. Plaintiff argued that Defendant was liable to Plaintiff in the amount of \$20,000.00, which represented the proceeds of the policy. The insurance company and the insurance broker were granted summary judgment prior to trial.

Defendant testified that he completed the application and filled in the answers as they were conveyed to him by Mr. Scheibler. Furthermore, Defendant testified that he never guaranteed the policy of insurance that was applied for by Mr. Scheibler. At trial, the jury was asked to complete special findings on the elements of negligent misrepresentation, fraudulent misrepresentation, and violation of the Unfair Trade Practices and Consumer Protection Law (UTPCPL).

Plaintiff's Counsel: Mary Ellen Chajkowski, Pgh.

Defendant's Counsel: Donald R. Rigone, Fisher Long & Rigone, Gbg.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Molded verdict in favor of Defendant. The special findings as to each cause of action were answered in the negative.

NOVEMBER 2009 CIVIL TRIAL TERM

**KAREN J. FULTON AND
JOHN FULTON, HER HUSBAND
V.
ROBERT BEGONIA, INDIVIDUALLY;
FRANK LETTERINE, INDIVIDUALLY AND
T/D/B/A FRANK LETTERINE TRUCKING;
AND FRANK LETTERINE TRUCKING
NO. 3316 OF 2004**

Cause of Action: Negligence—Personal Injury

On July 24, 2002, Karen J. Fulton, an employee of the United States Postal Service, was working on the loading dock of a postal facility in Allison Park, Pennsylvania. On that day, Robert Begonia, an employee of Frank Letterine Trucking, was delivering mail to the postal facility. The mail was packed in heavy, wheeled bins, which Begonia was required to roll from his truck and on to the loading dock. While Begonia was unloading his truck, a bin loaded with mail collided with Fulton and pinned her arm against a door. Fulton sustained wrist injuries, including fractures of the distal radius and ulnar styloid, which required surgical repair.

Fulton contended at trial that Begonia was negligent because he pushed the loaded bin on to the loading dock in an unsafe manner and thereby caused her injuries. Begonia and Frank Letterine Trucking denied that they were negligent and contested the nature and extent of Fulton's injuries.

Plaintiffs' Counsel: Thomas J. Smith, Caroselli, Beachler, McTiernan & Conboy, Pgh.

Defendants' Counsel: Robert A. Loch, Robb, Leonard & Mulvihill, Pgh.

Trial Judge: The Hon. William J. Ober

Result: Verdict in favor of Defendant.

NOVEMBER 2009 CIVIL TRIAL TERM

**ADAM M. STEIN
V.
SCOTT D. BRANDT
V.
GEORGE HARTZELL, JR., ET AL.
AND
SCOTT D. BRANDT
V.
GEORGE HARTZELL, JR., ET AL.
AND
GEORGE HARTZELL, JR.
V.
SCOTT D. BRANDT, ET AL.
AND
JOANNE HARTZELL & JEN HARTZELL
V.
SCOTT DAVID BRANDT, ET AL.
CONSOLIDATED AT NO. 6734 OF 2002**

*Cause of Action: Negligence—
Motor Vehicle Accident—Jury Trial*

On April 15, 2002, at approximately 11:15 p.m., George Hartzell, Jr., was driving west on Route 30 in Hempfield Township, while operating a 1991 Mercury Tracer owned by his mother, Joanne Hartzell and his sister, Jen Hartzell. Adam Stein was a passenger in his vehicle. At the same time, Scott Brandt was operating his 1998 Isuzu Amigo west on Route 30, when the passenger's side front corner of the Brandt vehicle collided with the driver's side of the Hartzell vehicle. The Brandt vehicle overturned, coming to rest on the south berm of Route 30; the Hartzell vehicle came to rest in the center lane. Stein and George Hartzell, Jr., filed personal injury actions against Brandt, claiming head, neck and back injuries; and sought compensation for loss of wages. Brandt filed a property damage claim against George Hartzell, Jr. Joanne & Jen Hartzell filed a property damage claim against Brandt.

Counsel for Scott D. Brandt: Scott Mears, Jr., Gbg.

Counsel for George Hartzell, Jr.: Jerome Deriso, Pgh., and Christopher Fleming, Gbg.

Counsel for Joanne & Jen Hartzell: Jerome Deriso, Pgh.

Trial Judge: The Hon. William J. Ober

Result: All cases were consolidated. Adam Stein's suit was settled out of court. The remaining cases were tried. The jury found that George Hartzell Jr. was 100% at fault. Verdict in favor of Plaintiff/Defendant Brandt in the sum of \$9,453.95.