JANUARY 2011 CIVIL TRIAL TERM

TIMOTHY FLYNN, ADMINISTRATOR OF THE ESTATE OF BETTY FLYNN, DECEASED, V. THOMAS N. KAMINSKI, M.D., KENNETH W. BOSCHA, M.D., LYNN & KAMINSKI MEDICAL ASSOCIATES, P.C., AND FRICK HOSPITAL NO. 5792 OF 2007

Cause of Action: Negligence—Wrongful Death—Medical Professional Liability

On March 12, 2006, Plaintiff's mother, Betty Flynn, had a clostridium difficile infection and was admitted to Frick Hospital under the care of Defendant-Doctors Kaminski and Boscha. Plaintiff alleged that Defendants did not properly diagnose or treat his mother's infection, and that as a result, she died on March 13, 2006, while an in-patient at the hospital. Specifically, Plaintiff claimed that Defendants failed to properly administer medications, failed to adequately hydrate her, and failed to recognize that her condition was deteriorating rapidly.

In addition, Plaintiff alleged that Defendant Frick Hospital, through its nurses and staff, were negligent in several respects, including, but not limited to, failing to adequately communicate with the attending physicians, failing to adequately hydrate Plaintiff's mother, and failing to monitor and recognize the rapid deterioration of Plaintiff's mother, leading to her death. Immediately prior to jury selection, Plaintiff and Defendant Frick Hospital reached a settlement agreement and signed a joint tortfeasor release.

At trial, Plaintiff presented one expert witness, a family practitioner, in support of his position that Defendants had deviated from the standard of care. Defendants presented two expert witnesses—a specialist in both internal medicine and geriatrics, and a specialist in infectious diseases—who testified that Defendants did not deviate from the standard of care.

Plaintiff's Counsel: Carlyle J. Engel, Swensen Perer & Kontos, Pgh.

Defendants' Counsel: Steven J. Forry, Marshall, Dennehey, Warner, Coleman & Goggin, Pgh.

Trial Judge: The Hon. Richard E. McCormick, Jr.

Result: Verdict in favor of Defendants. The jury found that Defendants were not negligent.

JANUARY 2011 CIVIL TRIAL TERM

FIRST LATROBE CO. V. COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION NO. 738 OF 2007

Cause of Action: Eminent Domain

Plaintiff owns a shopping center located at the intersection of Routes 30 and 981 in Unity Township. When Defendant PennDOT redesigned the intersection in 2007, access to and from the parking lot of the shopping center was altered. The entrance/exit near the front of the Big Lots store, prior to the taking, was accessible by motorists traveling north and south on Route 981. Subsequent to the taking, access was limited to those motorists heading north on Route 981. In addition, after the taking, customers entering the premises now approach the shopping center along a side wall and do not have a clear view of all of the businesses located in the shopping center.

Both parties filed appeals from the award of the Board of Viewers, which was $650,000.

At trial, Plaintiff's experts, real estate appraisers, testified that Plaintiff suffered damages in the range of $825,000 to $875,000 as a result of the decrease in the fair market value after the taking.

Defendant presented the testimony of the engineer who designed the intersection, who explained why the changes were necessary for public safety. In addition, Defendant presented the testimony of a real estate appraiser who testified that the fair market value of the property decreased by $500,000.

Plaintiff's Counsel: William P. Bresnahan and William P. Bresnahan, II, Hollinshead, Mendelson, Bresnahan & Nixon, P.C., Pgh.

Defendant's Counsel: Ryan J. Kammerer, Assistant Counsel, Commonwealth of Pennsylvania, Pgh.

Trial Judge: The Hon. Richard E. McCormick, Jr.

Result: Verdict in favor of Plaintiff, with compensable damages set at $500,000.

JANUARY 2011 CIVIL TRIAL TERM

ANTHONY R. CESARE
V.
DOMINIC CESARE
NO. 7496 OF 2008

Cause of Action: Defamation

Plaintiff is the father of the Defendant. Both men operate competing local businesses that install custom-built water treatment systems. Plaintiff-Father sued Defendant-Son for defamation, seeking damages for loss of business, due to his son's allegedly defamatory statements made about him to several of his business associates.

By way of background, this case originates in a 2007 custody action, wherein Plaintiff-Father sought visitation with his grandson. Plaintiff's Complaint alleges that during said litigation, Defendant prepared a "Parent Information Form" wherein Defendant wrote, "Throughout my childhood the plaintiff has physically and sexually abused me." Plaintiff further alleges that Defendant made the same statements to other people, who were business associates of Plaintiff.

As a result of the allegedly false statements, Plaintiff alleged not only that his business dealings with his customers have been harmed, but that his reputation in the community was also harmed.

In response, Defendant alleged that the statements were true and, further, that Plaintiff suffered no damages as a result of those statements. Defendant further alleged that Plaintiff made the statements public before Defendant did so.

Plaintiff's Counsel: Amy Cunningham, Gbg.

Defendant's Counsel: Steven L. Morrison, Harrison City

Trial Judge: The Hon. Anthony G. Marsili

Result: Verdict in favor of Plaintiff. The jury found that the communication made by Defendant was defamatory. However, no monetary damages were awarded to Plaintiff.

JANUARY 2011 CIVIL TRIAL TERM

ALBERT BIANCO
V.
MANNI'S LIGHTHOUSE LANDING, INC.
NO. 6189 OF 2008

Cause of Action: Breach of Contract

Plaintiff alleges that Defendant, upon payment by Plaintiff, and pursuant to an oral contract, in the spring of 2007, agreed to de-winterize and launch Plaintiff's boat, a 1983 Carver 28-foot mariner vessel. Plaintiff further alleges that, because of Defendant's failure to properly inspect said boat, the boat sank on or about June 28, 2007, when Defendant placed it into the river.

Defendant alleges that they correctly performed all of the terms and conditions requested by Plaintiff. Defendant further alleges that any damage to the boat was caused by either the Plaintiff or the previous owner of the marina. Defendant claims monetary damages in a Counterclaim, as a result of Defendant's costs in having to raise the sunken vessel.

Plaintiff's Counsel: Tara E. Fertelmes, Pgh.

Defendant's Counsel: Patrick J. McStravick, Philadelphia

Trial Judge: The Hon. Anthony G. Marsili

Result: Verdict in favor of Plaintiff. The jury found that Defendant breached the oral contract, and that the breach was the factual cause of Plaintiff's damages. The jury awarded Plaintiff $9,000 in damages.

MARCH 2011 CIVIL TRIAL TERM

There were no civil jury trials during the March 2011 civil trial term.

MAY 2011 CIVIL TRIAL TERM

PHYLLIS M. SABOL AND RONALD SABOL, HER HUSBAND V. ANTHONY P. DECESARE, AN INDIVIDUAL, THEODORE M. DECESARE, AN INDIVIDUAL, AND DECESARE CORPORATION V. FIVE STAR DRYWALL AND GARY SABOL NO. 9723 OF 2006

Cause of Action: Negligence—Personal Injury—Premises Liability

On May 7, 2006, Plaintiff-Wife was visiting a house under construction in Export, Pa. Plaintiff-Wife's son, Gary Sabol, one of the Additional Defendants, owned the house. In the course of walking across the floor, she stepped on some type of material that was covering a hole in the floor. Plaintiff-Wife fell through the hole into the basement and suffered personal injuries.

Plaintiff and her husband filed an action against the Original Defendants, the general contractor, asserting claims of negligence and loss of consortium. The Original Defendants deny they were at fault and subsequently brought the Additional Defendants into the lawsuit. The Additional Defendant, Five Star Drywall, was a sub-contractor and Gary Sabol was the owner of the property. Original Defendants alleged that one or both of the Additional Defendants were negligent and the cause of Plaintiff's injuries. Each Additional Defendant, independent of one other, denied the allegations made by Original Defendant.

The damages issue was resolved through mediation and the sole issue before the jury was the issue of liability between Original Defendants and Additional Defendants.

Plaintiffs' Counsel: William R. Caroselli, Caroselli, Beachler, McTiernan & Conboy, L.L.C., Pgh.

Original Defendants' Counsel: Dwayne Ross, Latrobe

Additional Defendant Five Star Drywall's Counsel: Paul T. Grater, Pgh.

Additional Defendant Gary Sabol's Counsel: Daniel T. Moskal, Law Office of Joseph F. Weimer, Esq., Pgh.

Trial Judge: The Hon. Anthony G. Marsili

Result: The jury found that Original Defendant DeCesare was 47% negligent, Additional Defendant Five Star Drywall was 24% negligent, and Additional Defendant, Gary Sabol was 29% negligent.

MAY 2011 CIVIL TRIAL TERM

BARBARA STERRETT
V.
RAYMOND WENDLER, AN INDIVIDUAL, AND DINA DECESARE, AN INDIVIDUAL, D/B/A SERENITY HAIR SALON
NO. 2260 OF 2006

Cause of Action: Negligence—
Personal Injury—Premises Liability

On December 10, 2004, Plaintiff Barbara Sterrett slipped and fell down a set of steps located outside of a beauty salon owned and operated by Defendant DeCesare and property owned and maintained by Defendant Wendler. Plaintiff alleged that there was a slippery condition on the stairs, which was caused by Defendant Wendler when he applied a chemical sealant to the stairs five days prior to the incident. Plaintiff alleged that each Defendant had either actual or constructive notice of the dangerous condition and breached a duty to their business invitees, which resulted in Plaintiff sustaining a serious fracture to her ankle.

Plaintiff did not retain an expert to testify about the properties of the chemical sealant. The parties stipulated that Plaintiff incurred medical expenses in the amount of $19,644.

At the conclusion of the Plaintiff's case, both Defendants made motions for non-suit, arguing both that Plaintiff failed to prove what actually caused her fall and that Defendants had neither actual nor constructive notice of a dangerous condition on the business premises.

Plaintiff's Counsel: Matthew T. Logue and William S. Stickman IV, Del Sole Cavanaugh Stroyd LLC, Pgh.

Defendant Wendler's Counsel: Brian J. Smith, Dell, Moser, Lane & Loughney, LLC, Pgh.

Defendant DeCesare's Counsel: Dennis J. Slyman, Gbg.

Trial Judge: The Hon. Richard E. McCormick, Jr.

Result: Judgment of Non-Suit in favor of Defendants.

MAY 2011 CIVIL TRIAL TERM

REBA POPOVICH, AN INDIVIDUAL
V.
LOIS DUNN, AN INDIVIDUAL
NO. 10223 OF 2007

Cause of Action: Negligence—
Personal Injury—Automobile Collision

This cause of action arose out of a motor vehicle collision that occurred on December 3, 2005, on State Route 66 in Penn Township. The Plaintiff was traveling south on Route 66 when the Defendant attempted to make a left turn and failed to yield to the Plaintiff's oncoming vehicle, resulting in a head-on collision. Defendant did not contest her negligence, but did deny that the cervical injuries and bruises suffered by Plaintiff constituted serious impairment of a body function such that she would be entitled to money damages for pain and suffering under the Pennsylvania Motor Vehicle Responsibility Law.

Plaintiff presented the testimony of Plaintiff's primary care physician and Defendant presented the videotaped testimony of an orthopedist who did an independent medical examination of the Plaintiff.

Plaintiff's Counsel: Jeffrey D. Monzo, Galloway Monzo, P.C., Gbg.

Defendant's Counsel: Scott O. Mears, Sr., and Richard F. Boyle, Jr., Mears, Smith, Houser & Boyle, P.C., Gbg.

Trial Judge: The Hon. Richard E. McCormick, Jr.

Result: Judgment in favor of Defendant. The jury found that Plaintiff did not prove that she suffered a serious injury which constituted serious impairment of a body function caused by the accident.

MAY 2011 CIVIL TRIAL TERM

PERRY A. PICKENS, ADMINISTRATOR OF THE ESTATE OF BERNICE A. PICKENS, DECEASED V. YESHVANT A. NAVALGUND, BRINDA K. NAVALGUND AND DAYO NAVALGUND ASSOCIATES, P.C., D/B/A DNA HEALTH SYSTEMS NO. 1233 OF 2008

Cause of Action: Medical Malpractice—Wrongful Death/Survival

Ms. Pickens had a long history of back pain. She came under the medical care of the Defendants, who are pain specialists, in September 2004, and for the next year, they treated her with steroid injections, a spinal cord stimulator, and medications. Eventually, after three trial runs, Defendants recommended the implantation of an intrathecal morphine pump that delivered morphine, a pain killer, directly into her cerebrospinal fluid. On February 1, 2006, Plaintiff's Decedent died at home, twenty hours after Defendant Doctor Yeshvant Navalgund implanted an intrathecal morphine pump in Ms. Pickens' back.

Plaintiff claimed that Ms. Pickens died from respiratory depression produced by an overdose of morphine administered by Defendants. He argued that she was not a candidate for intrathecal morphine therapy; that she was given too high of a morphine dose; and that she should have been monitored in the hospital for at least twenty-four hours before being discharged.

Defendants argued that conservative methods were not successful in minimizing Ms. Pickens' pain, which led to the joint decision to conduct trials and implant the pump. Defendants' experts testified that Defendants did not deviate from the applicable standard of care and that her death was not caused by the negligent conduct of the Defendants.

Plaintiff's Counsel: Michael Louik and Jon R. Perry, Rosen, Louik & Perry, Pgh.

Defendants' Counsel: James W. Kraus, Pietragallo Gordon Alfano Bosick & Raspanti, LLP, Pgh.

Trial Judge: The Hon. Richard E. McCormick, Jr.

Result: Judgment in favor of Defendant. The jury found that the Defendants' conduct fell below the applicable standard of care, but that their negligence was not a factual cause of any harm to the Plaintiff.

MAY 2011 CIVIL TRIAL TERM

FRANCES A. MOLSKY V. THOMAS K. STANG AND IVAN PERBONISH NO. 8622 OF 2006

Cause of Action: Negligence—Motor Vehicle Accident

On November 29, 2004, Plaintiff was traveling west on East Pittsburgh Street in Greensburg. As she was stopped for traffic, waiting to make a left-hand turn into the Davis Center, Plaintiff alleged that Defendant Perbonish, who was in the eastbound lane closest to her, waved her on through traffic to complete her turn. As she was attempting to make the turn, Plaintiff's vehicle collided with Defendant Stang's vehicle in the far right-hand lane of eastbound traffic. As a result of injuries sustained in the collision, Plaintiff claimed damages for medical bills, loss of enjoyment of life, pain and suffering, humiliation, and embarrassment.

Defendant Perbonish maintained that he was not present at the scene of the accident at the date and time the accident occurred and was not liable in any manner for the accident. Defendant Stang maintained he was lawfully traveling in his lane of travel when Plaintiff made a left turn directly in front of him thereby causing the collision.

Plaintiffs' Counsel: Daniel S. Soom, New Castle

Defendant Stang's Counsel: Christopher M. Fleming, Snyder & Andrews, Wexford

Defendant Perbonish's Counsel: Dwayne E. Ross, Reeves and Ross, P.C., Latrobe

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict in favor of Defendants and against Plaintiff.

MAY 2011 CIVIL TRIAL TERM

KEVIN C. NIXON
V.
WESTMORELAND REGIONAL HOSPITAL
NO. 5130 OF 2009

Cause of Action: Negligence—Personal Injury

On June 4, 2007, Plaintiff arrived in a moving truck at the loading dock of Defendant Hospital to pick up medical equipment and furniture to move to another facility. Defendant's metal hinged loading dock plate was placed on the back of the truck to serve as a ramp in order for Plaintiff and his co-worker to walk back and forth to the hospital to load the equipment. At the end of the loading job, Plaintiff and his co-worker attempted to lower the loading dock plate off the back of the truck and the dock plate dropped, landing on and causing injuries to Plaintiff's hand.

Plaintiff maintained that Defendant was negligent for failing to have hospital personnel at the dock site to assist Plaintiff with the loading dock ramp. The failure to have personnel present to assist Plaintiff breached the duty Defendant owed Plaintiff as a business invitee. Defendant maintained it was the negligence of Plaintiff's co-worker in dropping the loading dock plate on Plaintiff's hand that caused Plaintiff's injuries.

Plaintiff's Counsel: E. J. Julian, Julian Law Firm, Washington, Pa.

Defendant's Counsel: Christian W. Wrabley, Thomson, Rhodes & Cowie, P.C., Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Verdict in favor of Defendant and against Plaintiff. The jury found that Defendant was negligent, but there was no causal connection between its negligence and Plaintiff's injuries.

JULY 2011 CIVIL TRIAL TERM

GARY AMATO AND QIN AMATO, HIS WIFE,
V.
SHANE HALL
V.
DANIEL DENTON
NO. 14324 OF 2008

Cause of Action: Negligence—Personal Injury—Automobile Collision

On June 19, 2007, Plaintiff-Husband was stopped at a stop sign in the eastbound lane of North Hills Road at its intersection with School Road in Murrysville. Defendant Hall was at a stop sign on the westbound side of North Hills Road. Defendant Hall failed to yield the right of way to oncoming traffic on School Road and, as a result, drove his vehicle directly into the path of Additional Defendant Denton's vehicle. The resulting collision pushed Hall's vehicle into Plaintiff's car, which allegedly caused Plaintiff to suffer injuries.

Prior to trial, Plaintiff entered into an out-of-court settlement with Defendant Hall. Plaintiff and Additional Defendant agreed to bifurcate the trial, first asking the jury to make a determination as to liability.

Plaintiff attempted to establish at trial that Additional Defendant failed to have his vehicle under control, exceeded the speed limit, and failed to exercise reasonable care in proceeding through the intersection. Additional Defendant asserted that Defendant's vehicle suddenly appeared in his path and that he had no time to avoid the collision.

Plaintiffs' Counsel: James B. Cole, Pgh.

Defendant's Counsel: Dennis J. Slyman, Gbg.

Additional Defendant's Counsel: David M. McQuiston, Pgh.

Trial Judge: The Hon. Richard E. McCormick, Jr.

Result: Jury found that Defendant was negligent; Additional Defendant was not negligent. Verdict in favor of the Additional Defendant.

SEPTEMBER 2011 CIVIL TRIAL TERM

AMERICAN NATIONAL PROPERTY AND CASUALTY COMPANY V. HEATHER GODZIN, NADINE ORD, A/K/A NADINE GODZIN, KERRY ORD, AND DONALD W. KOOSER, AND DONALD A. KOOSER NO. 10075 OF 2009

Cause of Action: Declaratory Judgment—Insurance Coverage

On June 4, 2006, Heather Godzin was operating a 1990 Toyota 4Runner, which was owned by her parents, Nadine Godzin (a/k/a Ord) and Kerry Ord, when she was involved in a two-car accident on Route 31 in Mount Pleasant Township, Westmoreland County. The other vehicle was owned and operated by Donald W. Kooser; his son, Donald A. Kooser, was a passenger in the vehicle at the time.

At the time of the accident, the vehicle driven by Heather Godzin was insured by Infinity Leader Insurance Company, not the Plaintiff, American National, and there was no dispute as to the applicability of the Infinity policy to the loss. At the time of the accident, Heather Godzin, who obtained her driver's license two days before the accident, resided with her parents, the named insureds on a policy of liability insurance provided by Plaintiff. The policy contained a "regular use" exclusion. The issue before the jury was whether the 1990 Toyota 4Runner was an insured car and whether the "regular use" exclusion of the insurance policy was applicable under the circumstances.

Plaintiff filed a declaratory judgment action against the injured persons and the alleged insureds (parents of Heather Godzin) for a legal determination as to whether there was excess coverage from Plaintiff on behalf of alleged insureds to compensate the injured parties.

Plaintiff's Counsel: Joseph A. Hudock, Jr., Summers, McDonnell, Hudock, Guthrie & Skeel, P.C., Pgh.

Defendants Kooser's Counsel: Donald J. McCue, McCue & Husband Law Firm, Connellsville

Trial Judge: The Hon. Anthony G. Marsili

Result: Verdict in favor of Plaintiff. The jury found that the alleged insureds were not insured by Plaintiff, so no excess coverage was available.

SEPTEMBER 2011 CIVIL TRIAL TERM

MARIE G. BLATNIK V. THE CATHOLIC DIOCESE OF GREENSBURG; AND THE EPIPHANY OF OUR LORD PARISH NO. 6953 OF 2008

Cause of Action: Negligence—Premises Liability—Slip and Fall

On or about July 20, 2006, Plaintiff slipped and fell when she was attending a meeting in the basement of The Epiphany of Our Lord Church in Monessen, Westmoreland County. When Plaintiff went to get a glass of water, she slipped and fell on a wet substance on the floor near the water fountain. Plaintiff sustained injuries including an L2 compression fracture and lumbar pain that radiated to the spine and hip.

Plaintiff alleged that Defendants knew, or in the exercise of reasonable care, should have known about the existence of the substance before her fall, and failed to correct, remedy, remove, or repair the area, making it safe for the intended users of the hall. Plaintiff introduced videotaped expert testimony of her treating physician, Eric C. Chamberlin, M.D., at trial.

Plaintiff's Counsel: Cynthia M. Porta-Clark, Porta-Clark & Ward, LLC, Pgh.

Defendants' Counsel: Bernard P. Matthews, Jr., Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C., Gbg.

Trial Judge: The Hon. Anthony G. Marsili

Result: Verdict in favor of Defendants. The jury found that Defendants were not negligent and entered a unanimous verdict in their favor.

NOVEMBER 2011 CIVIL TRIAL TERM

KEVIN T. MIYAMOTO
V.
HEARTLAND EXPRESS INC. OF IOWA AND JACK KYTTLE, SR.
NO. 2469 OF 2009

Cause of Action: Negligence—
Personal Injury—Automobile Accident

On March 18, 2007, Plaintiff was driving in the westbound lane of State Route 70 in South Huntingdon Township when a large slab of ice dislodged from the roof of a tractor-trailer truck owned by Defendant Heartland Express and operated by Defendant Jack Kyttle. The slab of ice struck and shattered the front windshield of Plaintiff's vehicle, causing ice and glass to hit the Plaintiff, cutting his face, eyes, upper body and arms, and causing injury to his right shoulder.

Passing motorists called 911 to report the incident and identified the Defendants' truck as the offending vehicle. Section 3720 of the Pennsylvania Motor Vehicle Code, 75 P.S. § 3720, provides that a fine may be imposed on the operator of a motor vehicle who causes serious bodily injury or death when snow or ice dislodges from his moving vehicle and strikes another. Defendant was not cited for violating this code. At trial, liability was not in dispute.

As a result of Plaintiff's injuries, Plaintiff received both emergency room and follow-up medical treatment and has facial scarring that he alleged is permanent in nature.

Plaintiff's Counsel: Timothy Conboy, Caroselli Beachler McTiernan & Conboy, Pgh.

Defendants' Counsel: Gary Scoulos, Meyer Darragh Buckler Bebenek & Eck PLLC, Pgh.

Trial Judge: The Hon. Richard E. McCormick, Jr.

Result: Verdict in favor of Plaintiff in the amount of $5,000.

NOVEMBER 2011 CIVIL TRIAL TERM

LEVI WRIGHT
V.
MANOR HOUSE KITCHENS, INC.
NO. 1220 OF 2009

Cause of Action: Negligence—
Personal Injury—Premises Liability

On September 22, 2007, while Plaintiff was shopping at the Defendant's outlet store, a store employee offered Plaintiff a seat in a plastic resin chair that was seated on a tile floor. Plaintiff was 6'6" tall and weighed 400-450 pounds. Plaintiff sat in the chair for approximately thirty minutes, but when he leaned backwards on the two back legs of the chair, the chair collapsed and broke and Plaintiff fell to the floor.

As a result of the fall, Plaintiff alleged that he sustained injuries to his neck and back, and experienced numbness in his hands. He was treated by a chiropractor.

Plaintiff alleged that the chair was in an unsafe, dangerous and/or defective condition, and that Defendant knew or, in the exercise of reasonable care, should have known that the chair was defective.

Plaintiff introduced testimony from the treating chiropractor at trial. Defendant offered testimony from a physician who conducted an independent medical examination of Plaintiff.

Plaintiff's Counsel: Justin R. Lewis, Law Offices of Justin R. Lewis, PLLC, Pgh.

Defendant's Counsel: Brian J. Smith, Dell, Moser, Lane & Loughney, LLC, Pgh.

Trial Judge: The Hon. Richard E. McCormick, Jr.

Result: Verdict in favor of Defendant. The jury found that Defendant was not negligent and entered a unanimous verdict in favor of Defendant.

NOVEMBER 2011 CIVIL TRIAL TERM

JOHN M. LEONARD, EXECUTOR OF THE ESTATE OF DOROTHY J. LEONARD, DECEASED V. GEORGE R. BOU SAMRA, M.D., WESTMORELAND COUNTY CARDIOLOGY, INC., A PROFESSIONAL CORPORATION, WESTMORELAND REGIONAL HOSPITAL, A CORPORATION, AND EXCELA HEALTH, A CORPORATION NO. 12363 OF 2008

Cause of Action: Professional Negligence—Medical Malpractice

On October 31, 2007, Defendant Dr. Bou Samra performed angioplasty on Dorothy Leonard's lower left leg. Following surgery, Dorothy suffered the onset of retro-peritoneal hemorrhaging ("RPH"), or internal bleeding, in the abdominal cavity. Early the next day on November 1, 2007, a responding intensive care physician ordered that a CT scan be performed, which confirmed a massive retroperitoneal hematoma. Dorothy was transferred to the hospital's critical care unit. After suffering excruciating pain and several cardiac arrests, Dorothy died later that day. At the time of her death, Dorothy was obese and suffered from diabetes, kidney, and cardiac diseases.

Plaintiffs contend that Defendant Doctor knew or should have known that RPH is the most common serious complication of a vascular procedure like the angioplasty Dorothy Leonard underwent. Also, the type of angioplasty performed by the Defendant elevated the risk of RPH due to the increased difficulty in properly accessing the femoral artery below the abdominal cavity. Plaintiffs also maintain that no effort was made by any nurses, agents, and/or employees of Defendant Westmoreland Regional Hospital/ Excela Health to notify any designated interventional cardiologist of Dorothy's change in condition at or around the time she was transferred to the critical care unit after the angioplasty procedure. Defendants presented expert medical testimony that the care and treatment they provided Dorothy Leonard was within the applicable standard of medical care.

Plaintiff's Counsel: Todd R. Brown, Meyers Giuffre Evans & Schwarzwaelder, LLC, Pgh.

Defendant Dr. Bou Samra's Counsel: Lynn E. Bell, Davies McFarland & Carroll, P.C., Pgh.

Defendant Excela Health/Westmoreland Regional Hospital's Counsel: Linton L. Moyer, Thomson, Rhodes & Cowie, P.C., Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Verdict in favor of Defendant Dr. Bou Samra and against Plaintiff. The jury found that Defendant Westmoreland Regional Hospital/Excela Health was negligent but there was no causal connection between its negligence and any harm to the deceased Plaintiff.

NOVEMBER 2011 CIVIL TRIAL TERM

SHELDON R. BARKER AND FRANCESCA BARKER, HIS WIFE, INDIVIDUALLY, AND SHELDON R. BARKER, AS EXECUTOR FOR THE ESTATE OF WILLIAM D. BARKER
V.
GERARD D. WHITNEY
NO. 4369 OF 2010

Cause of Action: Breach of Contract—Real Property

Defendant entered into various agreements with the Plaintiffs for the purpose of purchasing property they owned in North Huntingdon. The total purchase price was approximately $140,000.00. Plaintiffs allege that Defendant failed to make various payments to them under the contracts, addenda and Note and claim that Defendant caused damage to the home while he was in possession of it. Plaintiffs sought monetary compensation from Defendant.

The Defendant denied Plaintiffs' allegations and filed a counterclaim alleging that the agreements were not valid, and that Defendant signed some of the documents under duress. He further claimed that he repaired numerous defects in the home, and that he should be compensated for renovations and improvements.

Plaintiffs' Counsel: Timothy Lijewski, Pgh.

Defendant's Counsel: Donald R. Rigone, Gbg.

Trial Judge: The Hon. Anthony G. Marsili

Result: Molded verdict in favor of Defendant/Counterclaim Plaintiff in the amount of $3,959.00. The jury unanimously found in favor of Plaintiffs in the amount of $4,141.00 and in favor of Defendant/Counterclaim Plaintiff in the amount of $8,100.00.