



N E W J E R S E Y

JURY VERDICT

REVIEW & ANALYSIS®

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**SUMMARIES
WITH TRIAL
ANALYSIS**

**Volume 36, Issue 7
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*A monthly review of
New Jersey State and
Federal civil jury verdicts
with professional analysis
and commentary.*

*The New Jersey cases
summarized in detail herein
are obtained from an on-
going monthly survey of the
State and Federal courts in
the state of New Jersey.*

\$7,765,778 VERDICT – CEPA case – Wrongful termination – Plaintiff corrections officer terminated in retaliation for co-operation with FBI and grand jury testimony against former deputy commissioner of corrections, who subsequently pled guilty to criminal charges of extortion. 2

\$4,500,000 RECOVERY – Motor vehicle negligence – Rear end collision – Plaintiff driver/wife and husband/passenger struck in rear while stopped at toll booth by defendant suv driver who fell asleep at wheel – injuries. 3

\$1,570,000 RECOVERY – F.E.L.A. case – Defective step ladder used by plaintiff in attempt to climb down into car for transport for inspection/repair – Step ladder shifts – Ankle rolls and suffers fracture and ligamental damage – Lumbar herniation and surgery. 4

\$1,400,000 RECOVERY Medical malpractice - Nursing home negligence - Choking injury and death - Failure to monitor elderly resident with known swallowing disorder and high choking risk while while resident eating breakfast - Failure of defendant to report incident so state as is required - wrongful death.. . . . 4

\$725,000 RECOVERY – Medical malpractice – Cardiology negligence – Failure to remove cardiac pacemaker as required when patient suffers infection of leads. 5

**VERDICTS BY
CATEGORY**

*This publication includes
a capsulized summary of
significant verdicts from
our companion publications.*

Published monthly.

Bus Neglligence	7	Negligent Supervision	12
Civil Rights	7	Premises Liability (2)	
FTC Violation	8	Fall Down	13
Homeowner 's Negligence	8	Hazardous Premises	14
Motor Vehicle Negligence (7)		Property Owner's Liability	15
Auto/Motorcycle Collision	9	State Liability	15
Head-on Collision	9	Supplemental Verdict Digest	16
Intersection Collision	10		
Left Turn Collision	11		
Rear End Collision	12		

\$1,400,000 RECOVERY – MEDICAL MALPRACTICE – NURSING HOME NEGLIGENCE – CHOKING INJURY AND DEATH – FAILURE TO MONITOR ELDERLY RESIDENT WITH KNOWN SWALLOWING DISORDER AND HIGH CHOKING RISK WHILE RESIDENT EATING BREAKFAST – FAILURE OF DEFENDANT TO REPORT INCIDENT TO STATE AS IS REQUIRED – WRONGFUL DEATH.

Bergen County, NJ

This case involved an 85-year-old resident of the defendant nursing home. The plaintiff contended that although the resident had swallowing difficulties and was assessed as an individual who was at significant risk of choking and who should be monitored and closely supervised while eating, the defendant failed to provide an individual to monitor the decedent as he was eating breakfast. The plaintiff contended that, as a result, the decedent began choking on his food and died as a result of airway obstruction. The defendant denied the plaintiff's claims that the decedent died from choking and maintained that it was likely that he aspirated and that the death was not caused by his choking on his food. The plaintiff countered that one of the defendant nurse's notes reflected that the decedent choked to death. The plaintiff further contended that the defendant was probably understaffed on the day in question and that because of such understaffing; it did not provide the required monitoring.

The plaintiff also maintained that the defendant nursing home failed to report the choking death to the State as required. The plaintiff argued that the defendant nursing home failed to report the incident because it wanted to avoid a full scale investigation to be conducted. The plaintiff contended that the pain and suffering from the choking death was severe. The plaintiff was prepared to present testimony from an expert pathologist who testified that although the decedent was probably conscious for less than three minutes from the time his airway was blocked, the panic and physical pain of choking and air hunger in

such a manner was extreme. The pathologist also testified that the portion of the brain that controls fear is one of the last portions of the brain to shut down upon a deprivation of oxygen, including that the panic continued until the moment of the decedent's death.

The case settled prior to trial for \$1,400,000.

REFERENCE

Plaintiff's nursing home liability expert: Bonnie Catarick from Sparta, NJ. Plaintiff's pathologist (on causal relationship and damages) expert: Ian Hood, MD from Phila, PA.

Larson vs. The New Jersey Veterans Memorial Home, et al. Docket no. BER-L-2916-13, 10-00-15.

Attorney for plaintiff: Barry R. Sugarman of Sugarman Law, LLC in Somerville, NJ. Attorney for plaintiff: Michael S. Ringold of Dansky, Katz, Ringold, York in Marlton, NJ.

COMMENTARY

The plaintiff obtained a very significant recovery based pain and suffering of less than three minutes as provided by expert opinion of his forensic pathology expert. This is thought to be predicated upon the strong proof of the defendant nursing home's negligent care of the resident and the horrific nature of a choking death. The evidence is alleged to have shown that the defendant nursing home was understaffed that day and, although the decedent had been assessed as being at high risk of choking, the defendant failed to provide supervision with eating. It is expected this would have evoked a very strong jury reaction had the case proceeded to trial. Moreover, the evidence that the defendant failed to report the incident to the State would have been further evidence of misconduct.

\$725,000 RECOVERY – MEDICAL MALPRACTICE – CARDIOLOGY NEGLIGENCE – FAILURE TO REMOVE CARDIAC PACEMAKER AS REQUIRED WHEN PATIENT SUFFERS INFECTION OF LEADS.

Passaic County, NJ

This case involved a 39-year-old decedent, who had been a cardiac pacemaker patient for approximately 20 years and who had undergone the replacement of the pacemaker approximately one year earlier. The plaintiff maintained that the leads that are attached to the heart muscle became infected several months after the new pacemaker was installed, and that when presenting on a number of occasions with signs and symptoms of infection, including fever and chills, antibiotics were administered, temporarily masking the infection. The plaintiff contended that it was necessary to remove the pacemaker in order to save the plaintiff's life and that the

repeated administrations of antibiotics reflected negligence, which was a substantial factor in the death. The defendants included a cardiologist and a family physician, who saw the plaintiff commencing in the months after the replacement of the pacemaker, as well as a cardiac electrophysiologist, whose duties included the monitoring of the pacemaker, and became involved in the patient's treatment a number of months before her death. Another defendant was an infectious disease specialist, to whom the patient had been referred by the cardiac electrophysiologist. The plaintiff maintained that the conscious pain and suffering was severe for several months before the patient succumbed. The