

Verdicts & SETTLEMENTS



PREMISES LIABILITY

Hazardous stairwell at museum

Anne McDonald, 52, was taking a tour of the Noah Webster House museum. While ascending a winding wooden stairwell, she lost her balance and fell, striking the back of her head

and right shoulder on the stairway and wooden floor. She suffered a traumatic brain injury and fractured her shoulder. She required surgery to stop a brain bleed and underwent two weeks of rehabilitation. She also required a total right shoulder replacement.

McDonald, whose medical expenses totaled approximately \$194,000, returned to work as an editorial database specialist. Nevertheless, she suffers from cognitive deficits and has an increased risk of seizures and early dementia.

McDonald sued Noah Webster House, Inc., alleging that the stairwell was unreasonably hazardous and too steep, in violation of applicable building and fire safety codes. The plaintiff also asserted that the stairwell lacked a handrail and adequate lighting.

The defense argued the plaintiff had failed to exercise reasonable caution while ascending the stairs.

The parties settled for \$2 million.

CITATION: *McDonald v. Noah Webster House, Inc.*, No. HHD-CV18-6094251-S (Conn. Jud. Dist. of Hartford at Hartford Super. Ct. July 6, 2020). **PLAINTIFF COUNSEL:** AAJ member Stewart M. Casper, Stamford, Conn. **PLAINTIFF EXPERTS:** Gregory O'Shanick, brain injuries, Richmond, Va.; Michael Shanok, forensic engineering, Cheshire, Conn.; and Frederick Kadushin, neuropsychology, Springfield, Mass. **DEFENSE EXPERT:** Nancy Hebben, neuropsychology, Hartford, Conn.

Failure to supervise car show

Omarie Stephens, 30, went to a restaurant at the Lauderhill Mall. That day, a car show was taking place in the mall's parking lot, and thousands of people and cars were on the premises. Two men in the parking lot had an altercation, and shots were fired. Stephens, a bystander, was fatally injured. He is survived by his two minor children.

Stephens's estate sued the security company that the mall had hired, alleging the defendant failed to patrol the parking lot and remove trespassers. The plaintiff claimed that people on the premises had been taking drugs

and drinking alcohol and the event was unsupervised.

The parties settled for \$1 million policy limits.

CITATION: *Stephens v. State Security, Inc.*, No. CACC20-1522 (Fla. Cir. Ct. Broward Cty. July 31, 2020). **PLAINTIFF COUNSEL:** AAJ members Todd Michaels and Michael Haggard, both of Coral Gables, Fla.

Lack of working carbon monoxide detector

Heather Roush, who was in her 20s and 35 weeks pregnant; and her husband, Jaymeson Roush, 27, checked into The Kimball, a condominium hotel, to celebrate their anniversary. Their room,

which was located next to the hotel's boiler room, became filled with carbon monoxide when exhaust from a boiler vented into the boiler room and the building's hotel rooms instead of to the outside. Both Heather and Jaymeson fell ill and went to a hospital, where testing revealed they were suffering from carbon monoxide poisoning.

Despite hyperbaric chamber therapy, both sustained permanent brain damage, which has manifested in memory and word-finding difficulties, noise intolerance, and anxiety and depression. Additionally, the birth of Heather's baby was complicated by her condition.

Heather incurred past medical

expenses totaling approximately \$22,300, and Jaymeson's past medical expenses totaled approximately \$15,400.

The couple sued the condominium owners association, alleging the premises lacked working carbon monoxide detectors at the time of the incident. Suit also alleged that the defendant had failed to properly service its boilers. The plaintiffs did not claim lost income.

The court awarded the plaintiffs more than \$4.8 million. The parties later reached a confidential settlement.

CITATION: *Roush v. Kimball Condominiums Owners Ass'n*, No. 15-09-02951 (Utah Dist. Ct. Salt Lake Cty. May 18, 2020).

PLAINTIFF COUNSEL: Blake Johnson, Orem, Utah; and AAJ member Ronald Kramer, West Jordan, Utah. **PLAINTIFF EXPERTS:** Lindell Weaver, carbon monoxide, Salt Lake City; and Sheryl Wainwright, life care planning, St. George, Utah. **DEFENSE EXPERTS:** Stephen Thom, carbon monoxide, Fishing Creek, Md.; Alan Goldman, neurology, Salt Lake City; and John Knippa, neuropsychology, Long Beach, Calif.

MEDICAL NEGLIGENCE

Failure to prevent patient's fall

Carolyn Parris, a 76-year-old woman suffering from dementia, was taken by ambulance to the Mary Black Health System Gaffney Emergency Room. She was admitted for pneumonia and identified as a moderate fall risk.

Early one morning, Parris's bed alarm sounded, prompting staff to come to her room, where they found her in the doorway of her bathroom. An X-ray revealed that Parris had suffered a fractured ankle. She required open reduction and internal fixation surgery and was transferred to a nursing home.

Parris's estate sued the hospital, alleging failure to monitor Parris, provide a safe environment, and follow proper protocols for a high-risk patient.

The defense argued that Parris's injuries resulted from her own negligence.

The parties settled for \$285,000 plus attorney fees and costs.

CITATION: *Peeler v. Mary Black Health Sys.*, No. 2019-CP-42-01020 (S.C. Ct. Com. Pl. Spartanburg Cty. June 25, 2020).

PLAINTIFF COUNSEL: Mackenzie G. Archenhold and AAJ member Steven Blakely Smith, both of Greenville, S.C.

MOTOR VEHICLE LIABILITY

Failure to yield right-of-way

One night, Yijing Chen, 26, was walking with her mother, Hong Fen Shen, 53, along a public sidewalk near a freeway on-ramp. When the traffic signal turned green, the two walked across the on-ramp. A pickup truck operated by Nicole Herschel turned right onto the ramp, striking Chen and Shen. Shen suffered traumatic injuries from which she later died. Chen suffered a fractured left leg, necessitating surgery.

Chen sued Herschel, alleging she had failed to yield the right-of-way. The plaintiff also contended that the defendant exited her vehicle after the incident and dragged Shen's body to the curb instead of calling 911 and that she denied involvement in the collision when responding officers asked her what happened.

Herschel admitted negligence before trial. The jury awarded \$18 million, including \$5 million for the plaintiff's emotional distress.

CITATION: *Chen v. Herschel*, No. BC685291 (Cal. Super. Ct. Los Angeles Cty. May 2020). **PLAINTIFF COUNSEL:** Jonathan Ritter and Joshua Ritter, both of Los Angeles.

Failure to heed red light

Doe, 7, was riding in a van operated by his classmate's mother. As the van entered an intersection controlled by a traffic light, Roe, an employee of a contracting company, collided with the van, causing it to strike a telephone pole.

Both Doe and his classmate were ejected and landed on the roadway. Doe suffered a traumatic brain injury (TBI).

Doe sued the contracting company and his classmate's mother, alleging liability for the crash. The plaintiff claimed that Roe's failure to heed a red traffic light caused the collision.

The defense disputed that Doe had suffered a TBI, arguing that he had struggled in school due to a learning disability. The defendants blamed one another for the collision.

The parties settled at mediation for \$2 million.

CITATION: *Doe v. Roe*, Undisclosed Dkt. No. (Va. Confidential Ct. June 19, 2020).

PLAINTIFF COUNSEL: AAJ member John E. Zydron, Virginia Beach, Va.; and Robert G. Byrum, Chesapeake, Va.

Negligent operation of vehicle

Donna Errichetti, 60, was driving her vehicle on a southbound roadway when Frank Dadino, who was traveling in the opposite direction, crossed over the roadway's double yellow lines and struck Errichetti's vehicle. Errichetti suffered multiple orthopedic injuries, including cervical, arm, and rib fractures. Her medical expenses totaled more than \$44,700.

She sued Dadino, alleging negligent operation of his vehicle. Suit did not claim lost income.

The defense argued that Dadino had suffered a sudden medical emergency.

The parties settled for \$600,000.

CITATION: *Errichetti v. Dadino*, No. BUR-L-1552-18 (N.J. Super. Ct. Burlington Cty. June 20, 2020). **PLAINTIFF COUNSEL:** AAJ member Franklin Strokoff, Philadelphia.

Failure to yield, maintain proper lookout

Timothy Walsh, 56, was traveling home from work on his motorcycle. As he entered an intersection, he collided with Raul Bahena, a porter for Muller