

and shoulders. Lewis treated with massages, electrical stimulation and spinal manipulation through 2018.

In August 2017, Lewis underwent MRI scans to her neck and back. She was diagnosed with herniations of intervertebral discs C5-6, C6-7 and L4-5, and bulging at C4-5 and L5-S1. She was also diagnosed with radiculitis at L5.

In November and December 2017, Lewis received trigger-point and epidural injections to her cervical and lumbar spine.

In July 2018, Lewis underwent another lumbar MRI due to ongoing complaints. The MRI was read to show bulging at L4-5 and a protrusion at L5-S1.

On July 9, 2018, Lewis came under the care of a physiatrist, who administered facet-joint injections at L4-5. The next day, she underwent thermal ablation of problematic spinal nerves. No further treatment was rendered.

Lewis testified that she continues to suffer neck and back pain. This allegedly causes difficulty sitting and standing for long periods, as she experiences pain while driving her bus.

Lewis sought recovery of damages for past and future pain and suffering.

The defense's expert in neurosurgery, who examined Lewis, testified that, at most, Lewis suffered a minor cervical or lumbar strain because of the fall and made a full recovery. According to the expert, there was no evidence of ongoing neurological impairment in either Lewis' cervical or lumbar spine.

RESULT The jury rendered a defense verdict. It attributed 82 percent liability to Lewis and 18 percent liability to Big Plan Group.

TRIAL DETAILS Trial Length: 2 days

PLAINTIFF

EXPERT(S) Lance O. Yarus, D.O.,
pain management,
Philadelphia, PA
(non-treating)

DEFENSE

EXPERT(S) Howard J. Senter, M.D.,
neurosurgery,
Pittsburgh, PA

EDITOR'S NOTE This report is based on information that was provided by plaintiff's and defense counsel.

—Aaron Jenkins

BUCKS COUNTY

PREMISES LIABILITY

Negligent Repair and/or Maintenance — Dangerous Condition

Cabin's staircase lacked secure railing, fallen woman claimed

VERDICT \$400,000

CASE Angela Jackson and Robert Jackson v.
Milford Township, No. 2015-07650
COURT Bucks County Court of Common Pleas
JUDGE Robert J. Mellon
DATE 7/11/2019

PLAINTIFF

ATTORNEY(S) Anthony J. Baratta, Baratta, Russell &
Baratta, Huntingdon Valley, PA
Bruce D. Hess, Howland, Hess, Guinan,
Torpey, Cassidy & O'Connell, LLP.,
Philadelphia, PA

DEFENSE

ATTORNEY(S) Brian G. Welsh, Law Office of
Dennis O. Wilson, Mount Laurel, NJ

FACTS & ALLEGATIONS On Aug. 29, 2014, plaintiff Angela Jackson, 52, fell down the exterior steps of a cabin in Quakertown. She claimed that she suffered an injury of a knee.

Jackson sued the property's owner, Milford Township. She alleged that the township was negligent in allowing a dangerous condition to exist.

The cabin was part of a campsite owned by the township, and it was one of 21 similar cabins. Jackson claimed that she was descending the steps when the handrail collapsed, causing her to fall and strike her left knee.

Jackson's counsel relied on the testimony of the township building-maintenance code-enforcement official. The official testified that the exterior and interior of any residence transferred in the township was required to be inspected for compliance with safety codes. Jackson's counsel asserted that the township did not inspect these cabins because the township ultimately planned to demolish them.

The cabin's handrail was made of polyvinyl chloride piping. Jackson's expert in architecture testified that the handrail was inadequate and in clear violation of township code, which mandated that all handrails be firmly fixed and capable of supporting normal loads.

The defense contended that, though the handrail was in violation of a code, Jackson was at fault because she was a trespasser. Therefore, the town maintained that it was not liable for her injuries. Additionally, since the township

intended to demolish the property, the defense asserted that the town had no obligation to inspect the property and apply the provisions of its building code to the building.

INJURIES/DAMAGES *aggravation of pre-existing condition; decreased range of motion; knee*

Three weeks after the accident, Jackson met with her rheumatologist for a scheduled appointment. The appointment was due to a diagnosis of end-stage degenerative joint disease in both knees that existed before her accident. At the appointment, Jackson complained of pain in her left knee that developed after the accident. She was diagnosed with an aggravation of the pre-existing degenerative joint disease in her left knee.

Jackson consulted with four orthopedists through February 2015. They all confirmed her aggravation of pre-existing degenerative joint disease. Each physician recommended a knee replacement, but Jackson received no further treatment.

Jackson's rheumatologist and expert in orthopedic surgery testified that Jackson requires a left knee replacement due to the accident. According to the physicians, though Jackson may have needed a knee replacement prior to the accident due to her degenerative joint disease, she might have been able to avoid it had it not been for the accident. Jackson's counsel asserted that a knee replacement had not been recommended prior to the accident and that the decision to perform a replacement was based on Jackson's increased pain and lack of function after the accident.

Jackson testified that, despite the pre-accident diagnosis of end-stage degenerative joint disease in both knees, she had been extremely active, including performing household chores and yard work and walking her dogs. Jackson claimed that the aggravation to her left knee prevented her from walking up and down steps, causing her to relocate her bedroom to the first floor of her home. Additionally, she said she uses the kitchen sink to bathe because she has difficulty going upstairs to shower. Jackson's husband testified that he took over the yard work.

Ms. Jackson sought to recover \$162,000 in future medical costs, plus damages for past and future pain and suffering. Jackson's husband sought damages for loss of consortium.

The defense questioned the legitimacy of Ms. Jackson's knee injury since she did not first report any complaints until three weeks post-accident and then only during a previously scheduled appointment with her rheumatologist.

The defense's expert in orthopedic surgery testified that Jackson had long-standing degenerative joint disease in her knee and that she would have needed a knee replacement regardless of the accident.

RESULT The jury found that Milford Township was negligent and that its negligence was a factual cause of harm to Jackson. The jury determined that the plaintiffs' damages totaled \$400,000.

ANGELA JACKSON \$300,000 future medical cost, past pain and suffering, future pain and suffering

ROBERT JACKSON \$100,000 loss of consortium

DEMAND OFFER None
\$25,000
(total, for both plaintiffs)

INSURER(S) Selective Insurance Group Inc.

TRIAL DETAILS Trial Length: 4 days
Trial Deliberations: 2 hours

PLAINTIFF EXPERT(S) David J. Chesner, D.O.,
rheumatology,
Willow Grove, PA
(treating doctor)
Walter W. Dearolf III, M.D.,
orthopedic surgery,
Philadelphia, PA
Walter E. Green, A.I.A.,
architecture, Ambler, PA
Valerie V. Parisi, R.N.,
life care planning,
Doylestown, PA

DEFENSE EXPERT(S) Paul A. Horenstein, M.D.,
orthopedic surgery,
Broomall, PA

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' and defense counsel.

—Aaron Jenkins

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