

VERDICTS & SETTLEMENTS

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Cabin Stairs Lacked Secure Railing, Fallen Woman Claimed

Jackson v. Milford Township

\$400,000 Verdict

Date of Verdict:
July 11.

Court and Case No.:
C.P. Bucks No. 2015-07650.

Judge:
Type of Action:
Slip-and-fall, premises liability.

Injuries:
Knee injury.
Plaintiffs Counsel:
Anthony J. Baratta, Baratta, Russell & Baratta; Bruce D. Hess, Howland, Hess, Guinan, Torpey, Cassidy & O'Connell.

Plaintiffs Expert:
David J. Chesner, rheumatology, Willow Grove.

Defense Counsel:
Brian G. Welsh, Law Office of Dennis O. Wilson, Mount Laurel, New Jersey.

Defense Expert:
Paul A. Horenstein, orthopedic surgery, Broomall.

Comment:
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.

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.

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 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.

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.

This report is based on information that was provided by plaintiffs and defense counsel.

—This report first appeared in *VerdictSearch*, an ALM publication •

Defense: Parking Lot Accident Didn't Cause Couple's Injuries

Cummings v. Thomas

Defense Verdict

Date of Verdict:
July 16.

Court and Case No.:
C.P. Chester No. 2017-06757.

Judge:
Mark L. Tunnell.

Type of Action:
Motor vehicle.

Injuries:
Arm, back, neck injuries.

Plaintiffs Counsel:
Timothy Jeffrey Domis, Spear, Greenfield, Richman Weitz & Taggart.

Plaintiffs Expert:
Mark D. Allen, orthopedic surgery, Lansdowne.

Defense Counsel:
K. Reed Haywood, Palmer & Barr, Philadelphia.

Defense Expert:
Laurence R. Wolf, orthopedic surgery, Wynnewood.

Comment:
On Dec. 13, 2015, plaintiff Anthony Cummings, a man in his mid-50s, was driving in a parking lot in Kennett Square. His wife, plaintiff Tanya Curtis, a woman in her 50s, was a passenger.

Cummings claimed that his sport utility vehicle was rear-ended by a car that was being driven by Kevin Thomas. Cummings claimed that he suffered injuries of his back, a knee and his neck. Curtis claimed that she suffered injuries of her back and neck.

Cummings and Curtis sued Thomas. They alleged that Thomas was negligent in the operation of his vehicle.

Cummings and Curtis testified that they were traveling through the parking lot when they stopped at a stop sign, at which point they were struck by Thomas' car. Their counsel contended that Thomas was negligent for failing to keep a proper lookout and failing to maintain a safe following distance. Plaintiffs counsel cited photographs of the couple's SUV, which had scratches on the rear bumper. Counsel claimed that the scratches were from the impact with Thomas' car.

Thomas testified that he was not sure whether he struck Cummings' vehicle. He stated that he had come to a stop behind the SUV when Cummings exited the vehicle and approached him, alleging that Thomas had rear-ended him. The defense contended that any contact with Cummings' vehicle would have been minimal.

A few days after the accident, Cummings and Curtis presented to an emergency room. They were examined and released.

Cummings was ultimately diagnosed with an aggravation of degenerative joint disease in his left knee, a cervical strain and

sprain, and protrusions of his L2-3, L3-4 and L5-S1 intervertebral discs.

Within days of his emergency room visit, Cummings presented to an orthopedist. He had complaints of pain in his neck, back and left knee. He underwent MRIs and was diagnosed with the aforementioned injuries.

Cummings was put on a course of chiropractic care, which lasted through June 2016. His treatment consisted of massage and spinal manipulation.

Following the completion of his chiropractic treatment, Cummings consults with orthopedists for the remainder of the year and through 2017. It was determined that he required knee replacement, which was performed Oct. 27, 2017.

From Nov. 16, 2017, to Feb. 6, 2018, Cummings underwent physical therapy. No further treatment was administered.

Cummings' orthopedist opined that Cummings suffered serious impairment of bodily function in his left knee and lumbar region.

Cummings testified that he continues to suffer pain in his left knee and lower back. He stated that he is no longer able to perform certain physical activities, including riding a motorcycle, due to his knee and back injuries.

Cummings sought damages for past and future pain and suffering.

Curtis was ultimately diagnosed with protrusions of her C2-3, C3-4, C4-5, C5-6, C6-7, L2-3, L3-4 and L4-5 disc strains and sprains of the cervical, the thoracic and lumbar regions; and cervical radiculopathy.

Within days of the accident, Curtis presented to an orthopedist, who confirmed her injuries. In addition to the neck and back pain, Curtis alleged numbness and tingling in her arms. Curtis was put on a course of physical therapy which lasted through June 27, 2017. Her treatment consisted of massages and exercises.

During her course of treatment, Curtis consulted with a neurosurgeon, who administered a series of trigger-point injections to her lumbar spine. No further treatment was rendered. Curtis' orthopedist opined that Curtis suffered serious impairment of bodily function in her cervical and lumbar spine.

Curtis testified that her ongoing neck and lower back pain, coupled with numbness and tingling in her arms, has significantly impaired her quality of living. Allegedly, she can no longer dance and has difficulty participating in her church activities and performing household chores, including vacuuming and cooking. Curtis stated that she is unable to stand or sit for long periods and that she has difficulty caring for her small dog.

Curtis sought damages for past and future pain and suffering.

The defense maintained that, if there was a collision between the parties' vehicles, it was minimal and could not have caused

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