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## Dog Knocked Bicyclist To the Ground, Causing Brain Injury

*Callaghan v. Allen*  
\$425,000 Verdict

**Date of Verdict:**

March 10.

**Court and Case No.:**

C.P. Chester No. 2019-11620.

**Type of Action:**

Recreation, animal control.

**Injuries:**

Brain injury.

**Plaintiffs Counsel:**

Anthony J. Baratta, Baratta, Russell & Baratta, Philadelphia.

**Plaintiffs Expert:**

Brian T. Kucer, physical medicine, Philadelphia.

**Defense Counsel:**

Daniel M. Brown, William J. Ferrén & Associates, Blue Bell.

**Comment:**

On March 24, 2019, plaintiff Eileen Callaghan, 59, a product designer, was bicycling on St. Matthews Road, in West Vincent Township. A boxer dog crashed into her bike, knocking her to the ground. Callaghan suffered brain and shoulder injuries.

Callaghan sued the dog's owners, Samuel R. Allen III and Karen Allen. Callaghan alleged that they were negligent in the possession of their dog. Callaghan's counsel maintained that the dog was unleashed and unchained when it charged down the Allens' driveway and into the road, where it crashed into Callaghan's bike.

According to Callaghan's counsel, the Allens had an electric fence in place that was in working order, and the dog was wearing its collar with the batteries working. The dog had simply ignored the shock when it went through the electric fence, Callaghan's counsel asserted.

The defense maintained that the Allens were not negligent. According to the Allens, they relied on the electric fence to control the dog. A test that they conducted indicated that the fence was working properly. Also, the dog was wearing the collar with working batteries.

Callaghan was temporarily knocked unconscious. She was taken by ambulance to a hospital and was admitted. She was diagnosed with a nondisplaced right clavicle fracture, of her dominant arm; a subdural hematoma; and a subarachnoid hemorrhage. Callaghan was hospitalized for four days, until March 28, 2019, during which time she was monitored. Her arm was stabilized in a sling.

After her hospitalization, Callaghan was transferred to a rehabilitation facility and was treated on an inpatient basis through April 13. During that time, she treated with speech therapy, having suffered speech impairment, and with physical

and occupational therapy. Following her discharge, Callaghan received some outpatient therapy. By May of the same year she was able to return to work.

Callaghan alleged that she resumed her competitive long-distance bike riding soon after returning to work. She felt no residual symptoms and was able to make a 100% recovery by July 2019. She sought to recover \$115,000 in medical bills and \$14,000 in lost wages, plus damages for past and future pain and suffering.

The defense maintained that Callaghan was able to make a full recovery from her injuries.

The parties negotiated a pretrial settlement. The Allens' insurer agreed to pay \$425,000 from a policy that provided \$600,000 of coverage.

This report is based on information that was provided by plaintiffs counsel. Defense counsel did not respond to the reporter's phone calls.

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

## Severed Nerve During Hand Surgery Not a Deviation: Defense

*Williams v. Avart*  
Defense Verdict

**Date of Verdict:**

March 12.

**Court and Case No.:**

C.P. Montgomery No. 2016-13726.

**Judge:**

Thomas P. Rogers.

**Type of Action:**

Medical malpractice.

**Injuries:**

Nerve injury.

**Plaintiffs Counsel:**

R. Emmett Madden, ThePhillyLawyers, Philadelphia.

**Plaintiffs Expert:**

Jeffrey K. Miller, hand surgery, Morristown, New Jersey.

**Defense Counsel:**

Kevin H. Wright, Kevin H. Wright & Associates, Lansdale.

**Defense Expert:**

Pedro K. Beredjikian, orthopedic surgery, Philadelphia.

**Comment:**

On June 19, 2013, plaintiff Maylanna Williams, 35, an administrative assistant, underwent a carpal tunnel release procedure on her left hand, of her nondominant arm. The procedure was performed by an orthopedic surgeon, Mark Avart, in Wynnewood. Williams alleged that Avart was negligent in performing the surgery, resulting in damage to her median nerve.

Williams sued Avart. Williams alleged that Avart failed in his standard of care toward her and further alleged that his failure

constituted medical malpractice. Williams' last expert in hand surgery testified that Avart severed the common digital nerve intra-operatively, which was a deviation from the accepted standard of medical care. The expert further faulted Avart for failing to detect the severed nerve following the procedure.

The defense maintained that Avart provided proper and appropriate medical treatment to Williams, and that at all times he acted within the applicable standard of medical care.

The defense's expert in hand surgery testified that nerve injury following a carpal tunnel release procedure is not a deviation from the standard of care. According to the expert, it is well known and established in medical literature that a nerve injury is a known complication following any type of surgical intervention. Even with the best of care, and even with the best intentions, a nerve injury can and does occur with unfortunate frequency, the expert stated. Many patients that do have carpal tunnel release surgery do have postoperative paresthesia and numbness; therefore, failure to recognize the partial injury does not constitute a deviation of the standard of care, the expert concluded.

Through Oct. 15, 2013, almost four months after the surgery, Williams followed up with Avart; at the time of her

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