

CIVIL JURY TRIALS

FRANKLIN COUNTY COMMON PLEAS COURT

By Belinda S. Barnes and Monica L. Waller

Verdict: \$2,482,029.80 (Compensatory: \$1,000,000.00; Punitive: \$750,000.00; Attorney's Fees: \$718,936.54). **Breach of Contract/Breach of Fiduciary Duty.** Owners of Accu-Check Instrument Service, a small family owned company, wanted to sell the company and hired Sunbelt Business Advisors of Central Ohio to help find a buyer. Accu-Check told Sunbelt that confidentiality regarding the sale was critical because employees may leave if they found out the company was for sale. Sunbelt assured them information would remain confidential and no one would be introduced to Accu-Check's owners unless they signed a non-disclosure agreement. Sunbelt located a potential purchaser, who was told of the confidentiality and signed a non-disclosure agreement. A meeting was arranged by Sunbelt. The potential purchaser brought his wife to the meeting. Sunbelt never told the wife about confidentiality and never told wife to sign a non-disclosure agreement. After extensive negotiations, the wife told a friend about the potential purchase of Accu-Check. The news spread to Accu-Check employees resulting in the departure of key employees and losses in customers and profits. Sunbelt did nothing to investigate the breach of confidentiality. The potential purchaser told Sunbelt they still wanted to proceed with the purchase. However, Sunbelt failed to convey this message to Accu-Check. Instead, Sunbelt's owner wrote a letter to Accu-Check indicating it must respond by a deadline, or the potential purchaser would move on. However, Sunbelt's owner never sent the letter to Accu-Check. Instead he only sent a copy to the potential purchaser. When Accu-Check did not respond by the deadline about which it did not know, Sunbelt solicited and signed the potential purchaser as a Sunbelt client. Accu-Check alleged that Sunbelt's actions resulted in a loss of profits between \$787,000 and \$1,317,000. Plaintiff's Expert: Brian Russell, CPA. Defendant's Expert: Ronald Vanke, CPA. Settlement Demand: \$1,000,000.00. Settlement Offer: \$25,000.00. Length of Trial: 5 days. Plaintiff's Attorney's: Daniel R. Mordarski and Diane Einstein. Defendant's Attorney: George Georgeff. Judge Brown. Case Caption: *Accu-Check Instrument Services, Inc. v. Sunbelt Business Advisors of Central Ohio, et al.* Case No. 07 CVH 05-6901 (2008).

Verdict: \$440,339.81. Premises Liability. Plaintiff Angela York was 32-years-old at the time of the accident. She was shopping at Meijer. As she attempted to pull a box from a shelf, she claimed that another box that had been stacked on a higher shelf fell and hit her in the neck and shoulders. Plaintiff claimed that she did nothing to cause the higher box to fall. There were no witnesses. Plaintiff testified that a Meijer employee told her that the box

that fell had been stored improperly, but nobody from Meijer admitted that at trial. Photos were taken at the scene but Meijer could not produce them at trial. Meijer maintained that the photos were not available because the store where the accident occurred had subsequently been closed. Plaintiff alleged that the photos were not produced because they were damaging to Meijer's position. Plaintiff had a bulging disk in her cervical spine that did not require surgery. Defendant's medical expert opined that she had sustained nothing more than a cervical strain. Medical Bills: \$22,339.81. Lost Wages: None. Plaintiff's Expert: Ronald Linehan, M.D. Defendant's Expert: Martin Gottesman, M.D. Settlement Demand: \$50,000. Settlement Offer: \$20,000. Length of Trial: 4 days. Plaintiff's Attorney: Ronald E. Plymale. Defendant's Attorney: W. Charles Curley. Judge Bessey. Case Caption: *Angela York v. Meijer Stores Limited Partnership.* Case No. 08 CVC-02-2990 (2009). Note: The verdict consisted of \$22,339.81 in economic loss and \$418,000 in non-economic loss. The trial judge applied Ohio's damage cap statute and entered judgment against Meijer for \$272,339.81. Plaintiff filed a motion for pre-judgment interest. Defendant filed a motion for a new trial and/or remittitur. While those motions were pending, the case was settled.

Verdict: \$54,132.98. Auto Accident. Plaintiff was a passenger in a car traveling 35 mph when Defendant turn left in front of Plaintiff causing a collision. Plaintiff complained of immediate right shoulder pain and back pain at the scene of the accident. Plaintiff was diagnosed with a torn rotator cuff which required surgical repair. Plaintiff also completed physical therapy for the back and right shoulder. Plaintiff's Expert: Gerald Rosenberg, M.D. Defendant's Expert: Gerald Steiman, M.D. Settlement Demand: \$400,000. Settlement Offer: \$30,000. Length of Trial: 3 Days. Plaintiff's Attorney: Sean Harris. Defendant's Attorney: Ed Hollern. Judge: Cocroft. Case Caption: *Hutchinson v. Ensign.* Case No. 08 CVC 6446 (2009).

Verdict: \$35,000.00. Auto Accident. The automobile collision occurred on August 13, 2003 on I-70. Marshone Garland (age 33) was a passenger in a car that was insured by American Family Insurance Company. An uninsured driver caused the accident and fled the scene. Marshone Garland alleged injuries to his teeth, right shoulder sprain and strain and left foot sprain and strain. Medical Bills: \$4,012.45. Lost Wages: None. Plaintiff's Expert: Charles Kistler, M.D. Defendant's Expert: None. Settlement Demand: \$10,256.00 (amount awarded in arbitration). Settlement Offer: \$7,500.00. Length of Trial: 2 days. Plaintiff's Attorney: Jeffrey Bibbo. Defendant's Attorney: Mark

Maddox. Judge Fais. Case Caption: *Marchone Garland v. American Family Insurance*. Case No. 05 CVC-08-08738 (2008).

Verdict: \$34,507.00 (\$5,507.00 in Past Medicals, \$4,000.00 in Past Pain and Suffering, \$25,000 in Future Pain and Suffering.) Auto Accident. Plaintiff Allison Rosier was driving in heavy rush-hour traffic in Columbus when she stopped for traffic ahead of her. Defendant Aleksic rear-ended her. Plaintiff estimated that Defendant's speed was 35 mph at the time of impact. Plaintiff claimed injuries to her neck as a result of the accident. She went to the emergency room and followed up with her family physician and went on to have physical therapy. She consulted with a physiatrist who diagnosed her with myofascial pain in her neck. Defendant disputed Plaintiff's claimed injuries. Medical Bills: \$5,507.00. Plaintiff's Expert: Michael Yaffe, M.D. Defendant's Expert: David Ryan, D.O. Settlement Demand: \$20,000. Settlement Offer: \$10,000. Length of Trial: 3 days. Plaintiff's Attorney: Michael T. Irwin. Defendant's Attorney: LeAnna Smack. Judge Pfeiffer. Case Caption: *Allison Rosier v. Shane Aleksic*. Case No. 07 CV-010688 (2008). The Court denied Plaintiff's motion for prejudgment interest.

Verdict: \$12,816.91. Auto Accident. Plaintiff alleged that defendant failed to yield from a private drive and entered the path of a vehicle in which he was a passenger. Both vehicles were total losses. Plaintiff was 32-years-old at the time of the accident. She claimed a neck injury resulting in a diskectomy and fusion at C5-6. Defendant claimed plaintiff sustained a cervical strain superimposed over pre-existing degenerative disk disease. The jury awarded plaintiff \$10,316.91 in past medical bills and \$2,500 in past pain and suffering. Medical Bills: \$70,627.43. Lost Wages: Plaintiff claimed to be disabled as a result of the accident. Plaintiff's Expert: Carole Miller, M.D.; Robert Brooks, D.C. Defendant's Expert: Walter Hauser, M.D. Settlement Demand: \$70,627.43. Settlement Offer: \$15,000.00. Length of Trial: 3 days. Plaintiff's Attorneys: Lisa Christensen and Amy Milam. Defendant's Attorney: Belinda Barnes. Judge Holbrook. Case Caption: *Timmy Frye v. Ashley Mullins, et al.* Case No. 06 CVC 06-7150 (2008).

Verdict: \$11,669.37 (Reduced to \$5,834.69 for Plaintiff's Comparative Negligence). Auto Accident. Plaintiff Glen Dudley was driving eastbound on Henderson Road and started to turn left onto Olentangy River Road when his uninsured Lexus was struck in the intersection by Defendant Jared Miller who was traveling westbound on Henderson Road in his Honda. Each driver claimed that the other failed to stop for a red light. The jury concluded that each driver was equally responsible for the accident. The jury concluded that the plaintiff was entitled to \$4,150 for medical expenses, \$0 for pain and suffering, \$0 for loss of self-employment income, \$6,398.49 for property damage and \$1,120.88 for car rental expenses. In a separate administrative proceeding involving the suspension of Plaintiff's license for failure to maintain insurance, Plaintiff was required to pay all of defendant's property damage. Defendant did not claim that he sustained any injuries in the accident. Plaintiff's Expert: Brian Briggs, D.C. Defendant's Expert: Joseph Schlonsky, M.D. Settlement Demand: \$15,000. Settlement Offer: \$1,500. Length of Trial: 4 days. Plaintiff's Attorney: J. Scott Bowman. Defendant's Attorney: Kelly M. Morgan. Judge Bender. Case Caption: *Glen Dudley v. Jared Miller*. Case No. 06 CV 00777 (2008).

Verdict: \$10,500.00. Auto Accident. The plaintiff, 47-years-old, claimed that she sustained injuries in a collision caused by

the defendant's failure to yield in an intersection controlled by a traffic signal. With a prior history of an auto collision causing chronic neck and right hip pain, the plaintiff claimed aggravation of these pre-existing conditions from the subject collision. Medical Bills: \$21,614.90. Lost Wages: \$933.00. Plaintiff's Expert: Steven A. Severyn, M.D. Defendant's Expert: Walter Hauser, M.D. Settlement Demand: \$90,000.00. Settlement Offer: \$16,000.00. Length of Trial: 3 days. Plaintiff's Attorneys: Janica A. Pierce and James D. Abrams. Defendant's Attorney: John C. Cahill. Judge Bessey. Case Caption: *Sally A. Hess v. Traci L. Coffman*. Case No. 05 CVC05-5700 (2006).

Verdict: Defense Verdict. Medical Malpractice. Child with temporal lobe mass underwent craniotomy for removal. During surgery the removal was determined to be too hazardous due to potential for catastrophic vascular damage. The mass was biopsied and the diagnosis upon pathological examination was 'A-D hamartomatous lesion. The patient developed a seizure disorder which became intractable. Later the patient underwent formal epilepsy surgery with removal of the tumor and a portion of the amygdala resulting in seizure abatement. Plaintiff's claim was that the first surgeon allegedly told the child's parent that the operation was risk free and then, post operatively, that the tumor had been completely removed. Defendant was awarded summary judgment on most of the plaintiff's complaint. The only claim that went to the jury was fraud. Medical Bills: Unknown. Plaintiff's Expert: None. Defendant's Expert: None. Settlement Demand: None. Settlement Offer: None. Length of Trial: 4 days. Plaintiff's Attorney: Steven E. Hillman and Don E. Wolery. Defendant's Attorney: Mark L. Schumacher. Judge Travis. Case Caption: *Grant Steven Hillman, et al. v. Edward Kosnik, M.D., et al.* Case No. 00 CVA-06-5277 (2006).



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