

Verdicts

Continued from Page 2

traffic, and that Prinz and Olsen failed to place appropriate signage and early warning indicators (i.e. flares, orange cones) notifying oncoming traffic that their vehicle was on the shoulder of the road assisting a disabled vehicle.

During his deposition, Carter admitted that he had a clear view of the roadway and saw the stranded motorist and Prinz and Olsen before losing control of his tractor-trailer. The deposition of an independent witness truck driver, who was driving in the same direction as Carter, testified that in his professional judgment Carter was traveling at a rate of speed too fast for the weather conditions.

The trucking company stipulated to Carter's negligence but denied vicarious liability, asserting that was not on its payroll. Rather, he was a "borrowed servant" from another company.

Prinz and Olsen were taken to Lancaster General Hospital, where Prinz was discharged after 10 days and Olsen was treated and released. Prinz suffered a C1-2 fracture, L2 and L3 fractures, six comminuted rib fractures, flail chest and pneumothorax injuries, cervical radiculopathy, cervical strain and two chipped teeth. Prinz was fitted with a neck brace, which he wore for 12 weeks, and underwent six months of physical therapy. He sought \$57,361 in past medical specials.

Through written a report, Gasraldo, Prinz's neurologist expert, discussed that Prinz suffered subjective stiffness and indefinite limited range of motion in his neck. He sought an unspecified amount in past and future pain and suffering. Jackson, plaintiff's family medicine expert, wrote that Prinz suffered radiating pain in his right arm and that it was permanent in nature. Prinz missed nine months of work and sought \$32,711 in past lost wages.

Olsen suffered double incisional hernia, lumbar strain, epicondylitis, post-traumatic carpal tunnel syndrome and chronic pain syndrome. From April 2004 to October 2005, he underwent three incisional hernia repairs, carpal tunnel release and repair on his elbow. He sought \$27,067 in past medical specials. Beatty, Olsen's thoracic

surgeon, wrote that the surgery was necessary, and Peart, Olsen's orthopedic surgeon, wrote that Olsen's carpal tunnel was traumatically induced and could not confirm that his elbow injury was related to the accident.

Olsen's injuries caused him to miss 10 months of work, for which he claimed \$37,216 in past lost wages.

Rosenthal, Olsen's pain management physician, wrote that Olsen would suffer chronic pain in his abdomen region for the rest of his life. Olsen sought an unspecified amount in past and future pain and suffering. Plaintiff's counsel argued that Olsen is unable to stretch, bend over or climb due to the chronic pain in his abdomen from his hernia and scarring. He sought an unspecified amount in past and future pain and suffering.

In a written report, Perry, defense orthopedic surgeon expert, reported that both men recovered from their injuries with the exception of Prinz's limited range of motion in his neck. Genovese, general surgery expert, wrote that it was too early to tell whether Olsen's abdominal injuries were permanent in nature.

The trucking company settled for \$1,750,000 prior to trial.

This report is based on information that was provided by plaintiff's counsel. Defense counsel declined to comment.

This report first appeared in VerdictSearch Pennsylvania, an ALM publication.

Plaintiff Secures Settlement in Fall From Roof

Stevens v. Gordan

\$425,000 Settlement

Date of Settlement:

March 30, 2007.

Court and Case No.:

C.P. Northampton, No. C-48-CV-2004-7874.

Judge:

Isaac Garb.

Type of Action:

Premises liability.

Injuries:

Multiple fractures to temporal bone, ribs

and back.

Plaintiff's Attorney:

Richard M. Jurewicz, Galfand Berger, Philadelphia.

Plaintiff's Experts:

Len McCuen, P.E., Moreland, Pa., architectural, and Robert Maurice, M.B., Quakerown, physical rehabilitation.

Defense Counsel:

James F. Swartz III, King Spry Herman Freund & Paul, Berthelam, Pa. No representation for Larry Klingler.

Defense Experts:

Scott Natlin, M.D., Berthelam, Pa., physical rehabilitation, and Isadore Mihalakis, Ph.D., Phillipsburg, N.J., forensic pathology.

Comment:

On June 26, 2004, plaintiff James Stevens, 35, a roofer, and his brother were at a bar for two hours in Baagor and met defendant Klingler, who invited the men back to his apartment, located two blocks away. The three men walked up a metal staircase in the back of the building to gain access to the roof of Klingler's apartment. While on the roof of Klingler's apartment, the three men were consuming alcohol along with other individuals.

Witnesses alleged that Stevens walked over to the side of the roof and believing that there was a wall, as there was a two-foot alleyway between the apartment and another building, he attempted to lean, which caused him to fall from the roof approximately 25 feet to the concrete.

Stevens sued building owner Douglas Wolfe Gordan, who brought in Klingler as a third-party defendant and was not represented, for premises liability. Plaintiff's counsel argued that notwithstanding Stevens' alcohol consumption, Gordan failed to provide a perimeter railing, which he agreed to do, for a roof structure that served as a patio deck and was responsible for the accident. According to plaintiff's counsel, when Gordan leased the apartment to Klingler, he told him that he was allowed to have a gas grill on the roof. McCuen, plaintiff's civil engineer and architect, testified that the building's roof was intended for multi-purpose use, which included usage of it as a patio, and that a perimeter railing should have existed.

The defense denied the allegations. Defense counsel for Gordan contended