RYAN BRENNAN, A MINOR, BY HIS PARENT AND NATURAL GUARDIAN, LINDA MONAHAN
V.
LEVEL GREEN ATHLETIC ASSOCIATION AND PENN-TRAFFORD SCHOOL DISTRICT
NO. 3198 OF 1997

Cause of Action: Negligence

While trying out for little league, plaintiff caught his upper lip on metal wire protruding from the top of the outfield fence. Damages included laceration of right upper lip and permanent scarring.

Plaintiff brought this negligence action against the defendants for failure to maintain and repair the fence, failure to inspect and failure to provide reasonably safe premises. The school district maintained that the field was in the possession and control of the athletic association through a lease agreement. Defenses were raised under the Recreation Use of Land and Water Act, the Political Subdivision Tort Claims Act and Claims Against Local Agencies Act. The athletic association was not represented at trial.

Plaintiff's Counsel: William R. Caroselli, Susan A. Meredith, Caroselli, Spagnolli & Beachler, Pgh.

Counsel for Defendant Penn-Trafford School District: Michael L. Fitzpatrick, The Daniel F. LaCava Law Firm, P.C., Carnegie.

Trial Judge: The Hon. Gary P. Caruso

Result: Verdict for Plaintiff in the amount of $5,000. 100% causal negligence attributed to Defendant Level Green Athletic Association.

RHONDA E. WHITE
V.
MINDE S. CUP
NO. 2493 OF 1997

Cause of Action: Negligence—Motor Vehicle Accident

Plaintiff was stopped at the red light in the left turning lane when struck by Defendantís car. Damages included bodily injuries, pain and suffering, impairment of wages and/or wage earning ability in excess of first party coverage and medical bills in excess of first party coverage.

The defendant, in New Matter, raised contributory/comparative negligence, assumption of the risk, the statute of limitations, and the Pennsylvania Motor Vehicle Financial Responsibility Act.

Plaintiff's Counsel: Daniel Joseph, George & Joseph, New Kensington.

Defendant's Counsel: Christopher M. Fleming, Jacobs & Saba, Gbg.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict for Plaintiff in the amount of $3,000.

KATHLEEN L. MYERS AND
ROBERT G. MYERS, HER HUSBAND
V.
BETH A. MAXWELL,M.D., AN ADULT INDIVIDUAL;
AND GYNO ASSOCIATES, INC., A PENNSYLVANIA
PROFESSIONAL ASSOCIATION
NO. 7030 OF 1998

Cause of Action: Negligence—
Medical Malpractice—Loss of Consortium

The plaintiff's medical malpractice action arose from an alleged delayed diagnosis of breast cancer by defendant. The radiologist's report from a 1992 mammogram identified two small calcifications in the right breast and recommended a sixth-month follow-up mammogram to rule out the remote possibility of malignant type calcification. Results of this report were not communicated to the plaintiff by the defendant. The breast cancer subsequently spread and is believed to be terminal. Her husband claimed loss of consortium.

The defendant contended she was unaware of the radiologist's recommendation for follow-up study because she read only the summary portion of his report, which did not contain the recommendation. The defendant admitted negligence in failing to read the entire report, but denied liability in that no masses were palpated in the breast at that time; a six-month follow-up mammogram would not have required a biopsy since the calcifications had not changed; and the lesion would have been too small to have been perceived by repeat mammography even if it had been performed.

Plaintiff's Counsel: Harry S. Cohen, Harry S. Cohen & Associates, Pgh.

Counsel for Defendant Beth A. Maxwell, M.D.: Christopher C. Rulis, O'Brien, Rulis & Bochicchio, LLC, Pgh.

Counsel for Defendant GYNO Associates, Inc.: Mark R. Hamilton, Zimmer Kunz Professional Corporation, Pgh.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict for Defendants.

JOANN VARSEL
V.
CHARLES E. HUDSON
NO. 1012 OF 1997

Cause of Action: Negligence

Plaintiff was mowing defendant's lawn with defendant's lawnmower. While operating the mower, the side discharge area became clogged with grass. As plaintiff tried to remove the clumps of grass, the mower lurched backwards, causing the blades of the mower to strike her fingers. Injuries included partial amputation of the third and fourth fingers of the right hand. Plaintiff alleged that defendant was negligent in disconnecting, altering or removing safety equipment on the lawnmower, and in failing to warn plaintiff of the same.

The defendant maintained that, at the time of the accident, the mower was in the complete, lawful control and use of the plaintiff. In New Matter, the defendant raises contributory/comparative negligence, assumption of the risk, and that plaintiff's actions were not reasonably foreseeable.

Plaintiff's Counsel: Michael D. Ferguson, Ferguson Law Associates, Latrobe.

Defendant's Counsel: Richard F. Andracki, The Law Offices of Richard F. Andracki, Pgh.

Trial Judge: The Hon. Charles H. Loughran, President Judge

Result: Verdict for Defendant.

NANCY P. OTTO
V.
GIANT EAGLE, INC., A PENNSYLVANIA CORPORATION, A/K/A GIANT EAGLE MARKETS, INC., A PENNSYLVANIA CORPORATION
NO. 2435 OF 1998

Cause of Action: Negligence—Slip and Fall

As the plaintiff was leaving defendant's store, she tripped over a projection or platform at the base of a display counter protruding into the aisle leading to the exit. Injuries alleged were a fractured left wrist, a fracture of the left distal radius, severe bruising of her entire body and that her vision and hearing had been adversely affected. Plaintiff claimed that defendant was negligent, inter alia, in failing to maintain its premises in a reasonably safe condition for customers and in failing to post warning signs.

The defendant claimed that it acted with reasonable, ordinary and prudent care and skill with respect to the inspection, operation and maintenance of areas under its control. The defendant also asserted that negligent acts of third parties/entities not affiliated with the defendant may have constituted an intervening/superseding cause of plaintiff's injuries.

Plaintiff's Counsel: Christ. C. Walthour, Jr., Walthour and Garland, Gbg.

Defendant's Counsel: James F. Rosenberg, Marcus & Shapira, LLP, Pgh.

Trial Judge: The Hon. Charles H. Loughran, President Judge

Result: Molded verdict for Plaintiff in the amount of $600. Causal negligence apportioned 50/50 between the parties.

STEVEN B. BUSH
V.
ROBERT J. KEY AND R.J.K., INC., T/D/B/A R.J. KEY RACING STABLE
NO. 7991 OF 1996

Cause of Action: Breach of Oral Contract

Defendant engaged the services of the plaintiff to train his race horses. Plaintiff contended that the oral contract, as well as industry standard regarding compensation for trainers, included a weekly salary, free housing and 5% of the gross annual purse earnings. Although defendant provided plaintiff with a weekly salary and free housing, plaintiff maintained that he never received 5% of the gross purse for 1992 as per their oral agreement.

Defendant denied that plaintiff was entitled to a percentage of the gross purse earnings of any horses he trained, and denied that receiving a percentage is standard in the industry when the trainer is a full-time salaried employee. Defendant alleged that a written contract or assignment was entered into, whereby plaintiff assigned all training fees withheld by race tracks to defendant, and counterclaimed for commission checks received directly from out-of-state racetrack and retained by plaintiff.

Plaintiff's Counsel: Mark J. Homyak, The Homyak Law Firm, Pgh.

Defendant's Counsel: John M. O'Connell, Jr., O'Connell & Silvis, Gbg.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict for Plaintiff in the amount of $44,086.30, and for Plaintiff/Counterclaim Defendant on the counterclaim.

MICHAEL DEDO, AN INDIVIDUAL
V.
DISALVO'S INC., A CORPORATION, T/D/B/A DISALVO'S STATION
NO. 2477 OF 1997

Cause of Action: Unpaid Wages—Arbitration Appeal

Plaintiff was employed by defendant as a line cook. Plaintiff brought this action to recover unpaid overtime wages from March, 1994, through his termination from employment in September, 1995. Plaintiff also requested liquidated damages and attorney's fees.

The defendant claimed that plaintiff was fairly and fully compensated for the work performed, none of which consisted of overtime. In New Matter, defendant raised the affirmative defenses of the statute of limitations; Title 29, Part 542 of the Code of Federal Regulations; and the Minimum Wage Act of 1968.

Plaintiff's Counsel: Bernard T. McArdle, Stewart, McCormick, McArdle & Sorice, Gbg.

Defendant's Counsel: John P. Smarto, Gbg.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict for Defendant.

SONJA VON WEILAND
V.
VIVEK SRIVASTAVA
NO. 1888 OF 1998

Cause of Action: Negligence—Motor Vehicle Accident

Plaintiff alleged that defendant ran a stop sign and struck Plaintiffís automobile broadside on the right passenger side, injuring Plaintiff, a guest passenger. Injuries included an acute cervical antrapezius strain and post traumatic vertigo.

In New Matter, defendant contended that the plaintiff failed to allege an election of full tort under automobile insurance policy, precluding her from maintaining an action for non-economic loss. Defendant also relied upon plaintiff's receipt of first-party benefits or worker's compensation payments to preclude recovery.

Plaintiff's Counsel: Susan N. Williams, McDonald, Moore, Mason & Snyder, Latrobe.

Defendant's Counsel: Scott O. Mears, Jr., Mears and Smith, P.C., Gbg.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict for Plaintiff in the amount of $10,000.

JOANNE T. SMAIL, EXECUTRIX OF THE ESTATE OF WILLIAM R. SMAIL, DECEASED
V.
JILL M. BERTANI
NO. 6898 OF 1996

Cause of Action: Negligence—Motor Vehicle Accident

The Plaintiff's decedent was traveling west, while defendant was heading east. The complaint alleged that defendant lost control of her car, crossed the center line and impacted plaintiff's decedent's vehicle, resulting in his death.

In Answer and New Matter, defendant contended that plaintiff's decedent crossed the center line, proceeded into defendant's lane of travel and impacted head-on with her vehicle. Defendant asserted that the Pennsylvania Motor Vehicle Financial Responsibility Act (MVFRL) operated as a total or partial bar to plaintiff's recovery, and raised the Comparative Negligence Act.

Plaintiff's Counsel: Robert T. Kane, Munhall.

Defendant's Counsel: Kenneth S. Mroz, Dickie, McCamey & Chilcote, P.C., Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict for Defendant.

CHERYL CLINE AND JIM CLINE
V.
GARY LASCEK
NO. 9414 OF 1994

Cause of Action: Negligence—Motor Vehicle Accident—Loss of Consortium

On December 2, 1992, plaintiff drove onto the rear entrance of the Riverside Plaza parking lot in New Kensington. After stopping at a stop sign and while turning left into the parking area, her vehicle was struck by the defendant's. Plaintiff alleged, inter alia, that defendant was negligent in driving at an excessive speed, and by operating his vehicle at night without lights. Injuries included severe chest pain, headaches, injuries to the upper back and numbness in the left arm and hand. Her husband claimed loss of consortium.

In New Matter, defendant maintained that he operated his vehicle in a careful and prudent manner. The affirmative defenses of contributory/comparative negligence and assumption of the risk were raised. Defendant contended that plaintiff's recovery was precluded by receipt of first-party benefits or worker's compensation payments.

Plaintiff's Counsel: Michael C. Pribanic, Pribanic & Pribanic, P.C., Pgh.

Defendant's Counsel: Kenneth Ficerai, Mears and Smith, P.C., Gbg.

Trial Judge: The Hon. Gary P. Caruso

Result: Verdict for Defendants.

ELIZABETH M. CAMBRUZZI AND ELIZABETH L. CAMBRUZZI
V.
DAVID B. WHITE
NO. 676 OF 1999

Cause of Action: Negligence—Motor Vehicle Accident

This collision occurred at the intersection of State Route 3020 (Barnes Lake Road) and State Route 30 in North Huntingdon Township. Plaintiffs' vehicle was stopped at a stop sign waiting to make a right turn onto Route 30 East when defendant's vehicle struck the rear of the plaintiffs' vehicle. The complaint alleged that defendant was negligent, inter alia, in failing to apply his brakes properly. Both plaintiffs alleged traumatic injuries to the general area of the neck, spine, head and back.

The defendant raised the affirmative defenses of contributory/ comparative negligence and assumption of the risk. Defendant also raised a sudden emergency, in that his brakes failed at the time of the collision.

Plaintiffs' Counsel: Jeffrey D. Monzo, Belden, Belden, Persin & Johnston, Gbg.

Defendant's Counsel: Maria Spina Altobelli, Jacobs & Saba, Gbg.

Trial Judge: The Hon. Gary P. Caruso

Result: Verdict for Plaintiff in the amount of $5,000.

ERIC A. GALLEY
V.
LORI L. DRYLIE
NO. 3654 OF 1997

Cause of Action: Negligence—Motor Vehicle Accident

On July 6, 1995, plaintiff was operating his motorcycle in an easterly direction on T-819 in Hempfield Township, while defendant was heading west. The complaint alleged that plaintiff was making a left turn when defendant caused her vehicle to strike his motorcycle on the right side. Injuries included fractured right ankle and foot; all toes fractured on right foot; deep lacerations on right and left legs; open wound on right calf; and neck and back injuries.

In her Answer, defendant averred that the collision was caused by plaintiff making a left turn immediately in the path of defendant's oncoming vehicle. Defendant pled the affirmative defenses of a Joint Tortfeasor Release executed by plaintiff's passenger, as well as the provisions of the MVFRL.

Plaintiff's Counsel: Bruce W. Blissman, East McKeesport.

Defendant's Counsel: Scott E. Becker, Law Office of John A. Bonacci, Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict for Plaintiff in the amount of $10,000. Causal negligence attributed 50/50 between the parties.

BEATRICE E. PORTER AND CHRISTOPHER J. PORTER, A MINOR, BY HIS PARENT AND NATURAL GUARDIAN, BEATRICE E. PORTER, AND BEATRICE E. PORTER, IN HER OWN RIGHT V. JASON MCGEE NO. 4271 OF 1996

Cause of Action: Negligence—Motor Vehicle Accident—Arbitration Appeal

On October 11, 1994, defendant was traveling behind plaintiffs' vehicle, headed south on Freeport Road in Arnold. The complaint alleged that defendant's vehicle collided with the rear of plaintiffs' vehicle. Plaintiffs claimed injuries to the neck and back, and that muscles, ligaments, tissues, tendons and nerves were torn and dislocated. Plaintiff Beatrice Porter also claimed injuries to the left upper extremity and left hand.

Defendant raised the affirmative defense of contributory/comparative negligence in that plaintiff brought her vehicle to a quick stop, which caused the collision. Defendant also raised the MVFRL, and the amendments known as Act 6; assumption of the risk; and the statute of limitations. The minor's claim was settled prior to trial.

Plaintiffs' Counsel: John E. Quinn, Mark J. Reiter, Evans, Portnoy & Quinn, Pgh.

Defendant's Counsel: John C. Donaher, III, Jacobs & Saba, Gbg.

Trial Judge: The Hon. Charles H. Loughran, President Judge

Result: Verdict for Defendant.

ALLEN DODD V. TAWNYIA DODD NO. 3879 OF 1998

Cause of Action: Negligence

In Summer of 1996, plaintiff was aligning a trailer hitch, attempting to connect a camper to a tow vehicle operated by defendant. The complaint alleged that defendant backed up her vehicle, trapping and crushing plaintiff's left index finger, and causing severe injuries to the same.

The defendant asserted the affirmative defenses of contributory/ comparative negligence; assumption of the risk; and the MVFRL and Act 6 amendments.

Plaintiff's Counsel: Richard H. Galloway, Dennis B. Rafferty, QuatriniRaffertyGalloway, P.C., Gbg.

Defendant's Counsel: Kim Ross Houser, Mears and Smith, P.C., Gbg.

Trial Judge: The Hon. Charles H. Loughran, President Judge

Result: Verdict for Defendant. 51% causal negligence attributed to plaintiff.

ALICE THIEM
V.
DAVID P. KUNKLE, AS EXECUTOR/PERSONAL REPRESENTATIVE OF THE ESTATE OF JOSEPH PAUL KUNKLE, A/K/A PAUL J. KUNKLE, DECEASED
NO. 2480 OF 1998

Cause of Action: Negligence—Motor Vehicle Accident—Arbitration Appeal

On May 10, 1996, plaintiff was traveling east on Traffic Route 414 (Pinewood Drive) in Sewickley Township. The complaint alleged that defendant's automobile suddenly and unexpectedly struck the left driver's side of plaintiff's vehicle. Injuries included headaches; neck, shoulder and arm pain; left shoulder contusions; and aggravation of herniated disc.

The defendant raises, in New Matter, the affirmative defenses of contributory/comparative negligence; assumption of the risk; the MVFRL, as well as Act 6; the Dead Man's Act; and the statute of limitations.

Plaintiff's Counsel: Jerome L. Tierney, North Huntingdon.

Defendant's Counsel: John C. Donaher, III, Jacobs & Saba, Gbg.

Trial Judge: The Hon. Charles H. Loughran, President Judge

Result: Verdict for Plaintiffs in the amount of $10,000 for economic loss.

LLOYD BASINGER, AN INCAPACITATED PERSON, BY JAMES BASINGER, GUARDIAN
V.
THOMAS L. WHITTEN, M.D., FRICK HOSPITAL/COMMUNITY HEALTH CENTER, A PENNSYLVANIA HOSPITAL CORPORATION, AND JAMES D. BRUBAKER, M.D.
NO. 1290 OF 1998

Cause of Action: Negligence—Medical Malpractice

On August 26, 1997, plaintiff sought emergency room treatment from defendant hospital following an altercation with his neighbor. Dr. Whitten treated plaintiff's injuries to the face, arms and back, and instructed him to follow up with his family physician. On August 28, plaintiff presented himself to Dr. Brubaker, who ordered a CT scan scheduled five days later. That evening, however, plaintiff required treatment at another emergency room. That CT scan showed a skull fracture and bifrontal contusions of the brain with subarachnoid hemorrhage. Plaintiff sued defendant physicians for failure to timely diagnose and treat the skull fracture, and brought this corporate negligence action against the hospital.

In New Matter, defendant physicians asserted, inter alia, that plaintiff's alleged injuries were caused by superseding and intervening causes, and/or by a pre-existing medical condition.

Plaintiff's Counsel: Harry S. Cohen, Harry S. Cohen & Associates, Pgh.

Counsel for Defendant Thomas L. Whitten, M.D.: David B. White, Burns, White & Hickton, Pgh.

Counsel for Defendant Frick Hospital/Community Health Center: Donald H. Smith, Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C., Gbg.

Counsel for Defendant James D. Brubaker, M.D.: Stephen J. Dalesio, Gaca Matis Baum & Rizza, Pgh.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Molded verdict for Defendants as a result of special findings of the jury.

JOHN FICK AND ARABELLE FICK, HIS WIFE
V.
THRIFT SUPPLY, INC. OF NEW KENSINGTON
NO. 6767 OF 1996

Cause of Action: Negligence—Slip and Fall—Loss of Consortium—Arbitration Appeal

Plaintiff entered the defendant's hardware store near closing time on May 29, 1995. Since the primary entrance was closed, defendant's employees allegedly required plaintiff to enter through the "exit" door. The complaint asserted that the door jam of the "exit" door was raised one to two inches above the concrete pad without a metal bevel on the outside of the door jamb, causing plaintiff to trip and fall. Injuries included those to the neck, back, right shoulder, left knee and head, as well as acute exacerbation of his chronic arthritis. His wife claimed loss of consortium.

In New Matter, defendant claimed contributory/comparative negligence and assumption of the risk. Defendant also asserted lack of duty and/or proximate cause; plaintiff's damages were unforeseeable consequential damages; and plaintiff had notice of the alleged dangerous condition.

Plaintiffs' Counsel: Stephen Yakopec, Jr., Arnold.

Defendant's Counsel: Paul G. Mayer, Jr., Sheehy Mason, Pgh.

Trial Judge: The Hon. Charles H. Loughran, President Judge

Result: Verdict for Defendant

DAVID J. TRUEMAN, AN INDIVIDUAL
V.
RON DAVIS, AN INDIVIDUAL, AND KOOL RADIATOR, INC., A CORPORATION, JOINTLY AND/OR SEVERALLY T/D/B/A RON DAVIS RACING PRODUCTS, DEFENDANT
V.
TONY CONOVER, T/D/B/A TONY CONOVER'S CLASSIC CARS, ADDITIONAL DEFENDANT
NO. 405 OF 1999

Cause of Action: Breach of Implied Warranty of Merchantability—Breach of Implied Warranty of Fitness for Particular Purpose—Negligence

The plaintiff purchased two radiators with integral oil coolers from the defendant for use in his vintage 1966 Mustang Shelby GT 350 race car. The radiators were installed by the additional defendant. While racing on two separate occasions, the radiators allegedly developed leaks in the oil coolers and destroyed the engines. Plaintiff brought this action against the defendant for breach of implied warranties of merchantability and fitness for the particular purpose of racing. Damages included the replacement of two engines and accessory parts.

The defendant, in new matter, asserted that the radiators/oil coolers were not defective; improper installation and misuse of the product; and plaintiff's failure to test, inspect and monitor the condition of the car and engines prior to and/or during operation. The defendant joined the additional defendant for improper installation and failure to monitor, check or ascertain the condition of the radiators/oil coolers prior to and during operation of the vehicle.

Plaintiff's Counsel: Bernard T. McArdle, Stewart, McCormick, McArdle & Sorice, Gbg.

Defendant's Counsel: Paul G. Mayer, Jr., Sheehy, Mason, Hitson & Mayer, Pgh.

Additional Defendant's Counsel: Kenneth B. Burkley, Gbg.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict for plaintiff in the amount of $17,778.72 for defendant's breach of implied warranty of fitness for a particular purpose.

GEORGE AND CLARA SORBIN
V.
REGIS W. MCHUGH, M.D., JAMIE J. MCHUGH, JEFFREY WOLFF, M.D. AND JILL G. WOLFF, ORIGINAL DEFENDANTS
V.
KEN RODDY, INDIVIDUALLY AND T/D/B/A KENNETH RODDY LAWN CARE AND LANDSCAPE MAINTENANCE, A/K/A KENNETH RODDY LAWN CARE AND LANDSCAPING, A/K/A KENNETH RODDY LAWN CARE, ADDITIONAL DEFENDANT
NO. 1348 OF 1997

Cause of Action: Negligence—Slip and Fall—Loss of Consortium

The husband-plaintiff brought this negligence action against the original defendants when he slipped and fell in the defendants' parking lot. The plaintiff, a business invitee, alleged that the defendants allowed a dangerous condition to exist, i.e., an unlit parking lot with black ice existing under a puddle of water that formed due to the runoff water from a snowpile on the property. Injuries included a right distal fibula fracture with displacement requiring open reduction internal fixation. The wife-plaintiff claimed loss of consortium.

In new matter, the defendants asserted that they exercised reasonable care in the maintenance of their premises and had neither actual nor constructive knowledge of any defect or hazardous condition of the premises; they also asserted comparative/contributory negligence. The additional defendant, hired for snow removal and ice maintenance of the parking lot, was joined for contribution and indemnity.

Plaintiffs' Counsel: Alexander J. Jamiolkowski, Margaret Egan, Egan Jamiolkowski, Pgh.

Counsel for Original Defendants: Bernard P. Matthews, Jr., Meyer, Darragh, Buckler, Bebenek & Eck, Gbg.

Counsel for Additional Defendant: Tracey A. Wilson, Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict for Defendants.

JAMES T. HOPKINSON
V.
JENNIFER REINSTADTLER
NO. 3958 OF 1997

Cause of Action: Negligence—Motor Vehicle Accident

This negligence action arises out of a motor vehicle accident at the intersection of State Route 136 and State Route 3016. The plaintiff was travelling north on Route 136. The defendant, Jennifer Reinstadtler, was proceeding south on Route 136. The complaint alleges that the defendant made a turn directly in front of the plaintiff and hit the front of the plaintiff's vehicle. Injuries included those to the face and leg, a closed head injury and aggravation of existing medical problems.

The defendant denied that she drove in a negligent manner and asserted that she gave warning to the defendant by using her turn signal. In new matter, the defendant asserted comparative/contributory negligence; the lack of causal connection between the injuries and damages claimed and the accident; that plaintiff's election of limited tort barred recovery of non-economic damages, and the total lack of negligence of the defendant.

Plaintiff's Counsel: Robert L. Blum, Blum Reiss & Plaitano, Mount Pleasant.

Defendant's Counsel: Dwayne E. Ross, Latrobe.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Molded verdict for Defendant.

JOSEPH A. CARNERA
V.
JEAN A. ANTOLINE
NO. 4665 OF 1998

Cause of Action: Negligence—Motor Vehicle Accident

The plaintiff brought this negligence action as a result of a motor vehicle accident which occurred on State Route 3077 in Hempfield Township.

The plaintiff alleged that he brought his vehicle to a stop as he waited for the vehicle in front of him to make a left turn. The complaint alleges that the defendant's vehicle came into contact with the vehicle immediately behind the plaintiff, which caused plaintiff's vehicle to be struck from the rear and pushed into the vehicle making the left turn. Plaintiff alleged severe injuries to the low back and neck areas.

The defendant asserted all rights, privileges and/or immunities accruing pursuant to the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law (MVFRL).

Plaintiff's Counsel: Christ. C. Walthour, Jr., Walthour and Garland, Gbg.

Defendant's Counsel: Joseph A. Hudock, Jr., Summers, McDonnell, Walsh & Skeel, Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Verdict for Defendant.

STACIE L. MINNICH
V.
LUCIA MARIE BASSELL
NO. 3050 OF 1998

Cause of Action: Negligence—Motor Vehicle Accident

Plaintiff was travelling south along McKee Road in North Huntingdon Township near its intersection with Seminole Drive. The plaintiff alleges that the defendant failed to obey the stop sign restricting defendant's access from Seminole Drive onto McKee Road, thereby striking the plaintiff's vehicle on the passenger side. Injuries to the face, back, neck, left shoulder, left arm and headaches were averred to constitute serious injuries as deemed in the MVFRL.

The defendant raised comparative negligence and the terms of the MVFRL, including but not limited to the "limited tort" provisions.

Plaintiff's Counsel: Gary A. Falatovich, Fisher, Long & Rigone, Gbg.

Defendant's Counsel: Susan D. O'Connell, Law Office of Marianne C. Mnich, Pgh.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Molded verdict for Plaintiff in the amount of $9,372.00. The jury awarded non-economic damages of $5,000.00, while the parties stipulated to economic damages of $4,327.00.

JEFFREY ADAM POLOVINA
V.
RICHARD A. GRIMALDI, D.M.D.
NO. 51 OF 1997

Cause of Action: Medical Malpractice

The plaintiff brought this action against the defendant dentist as a result of the defendant's surgical removal of the plaintiff's tooth on January 12, 1995. Subsequently, the plaintiff developed an infection at the site of the tooth extraction, gums, cheek and face, and a large bubble developed on plaintiff's left cheek. The complaint alleges that the defendant failed to properly perform the extraction and failed to adequately diagnose and treat plaintiff's post-operative condition. Among the injuries alleged were the development of a severe infection, scarring of the left cheek as a result of surgery to alleviate the infection, and numbness in the area of the surgery.

In his pre-trial statement, the defendant contended that he examined the plaintiff post-operatively on two occasions, during which the plaintiff made no complaints regarding an infection, nor did the defendant witness any evidence of infection. The plaintiff returned to the defendant on April 13, 1995, and complained of swelling in his cheek which the defendant attributed to a minor muscle spasm. The plaintiff, although instructed to return in two weeks, returned on May 11, 1995, where the defendant observed that his condition had worsened and referred him to an oral surgeon to drain the infection. The defendant counterclaimed for the plaintiff's unpaid share of the cost of the dental treatment.

Plaintiff's Counsel: Dante G. Bertani, Gbg.

Defendant's Counsel: Michael L. Magulick, Wayman, Irvin & McAuley, Pgh.

Trial Judge: The Hon. Charles H. Loughran, President Judge

Result: Verdict for Defendant.

CLARA R. GALLICK AND
JOHN GALLICK, HER HUSBAND
V.
WAL-MART STORES, INC.
NO. 4062 OF 1999

Cause of Action: Negligence—Slip and Fall—Loss of Consortium—Arbitration Appeal

On October 4, 1997, the wife-plaintiff was a business invitee at the defendant's Wal-Mart Super Center in Belle Vernon. The complaint alleges that the defendant permitted a dangerous and defective condition to remain on the premises, i.e., water or foreign substances on the floor which caused the floor to be slippery. The plaintiff slipped and fell on the substance and suffered alleged injuries to the bones, muscles, tissues and ligaments of her right knee, hip and back, and internal injuries. Her husband claimed loss of consortium.

In its pre-trial statement, the defendant maintained that a Wal-Mart employee noticed liquid dripping from a customer's cart and stood over the spill for approximately five minutes while he waited for another employee to approach the site. The employee walked five to seven feet away from the spill to call for a cleanup when the plaintiff fell.

Plaintiffs' Counsel: John R. Kane, Goldberg, Persky, Jennings & White, P.C., Pgh.

Defendant's Counsel: Cary W. Valyo, Gorr, Moser, Dell & Loughney, Pgh.

Trial Judge: The Hon. Charles H. Loughran, President Judge

Result: Verdict for Defendant.

RHONDA SCHROCK
V.
KEVIN JOHN JACKSON
NO. 5685 OF 1995

Cause of Action: Negligence—Motor Vehicle Accident—Arbitration Appeal—Binding Summary Jury Trial

On July 29, 1993, the plaintiff was a guest passenger involved in a motor vehicle accident on State Route 66 near its intersection with Alternate State Route 66, within Washington Township. According to the complaint, both vehicles were travelling north on State Route 66 when the defendant failed to observe the vehicle containing the plaintiff and caused his vehicle to crash into the rear of the plaintiff's vehicle. Plaintiff alleged serious injuries to her head, neck and back; and that she suffered a 30% whole person impairment which caused serious and permanent impairment of body functions.

In new matter, defendant raised the statute of limitations, the provisions of the MVFRL and that the plaintiff did not sustain a serious bodily injury, thereby barring plaintiff from recovering non-economic losses.

Plaintiff's Counsel: Timothy P. Geary, Geary and Loperfito, Vandergrift.

Defendant's Counsel: Kim Ross Houser, Mears and Smith, P.C., Gbg.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict for Defendant. Jury found that plaintiff did not suffer a serious impairment of a body function as a result of the accident.

KERRY RICHARD BURROWS
V.
DAVID E. PLASKON
NO. 5773 OF 1998

Cause of Action: Negligence—Motor Vehicle Accident

The plaintiff brought this negligence action as a result of a motor vehicle accident that occurred on State Route 30 near the junction of State Route 48 on the morning of April 3, 1997. According to the complaint, the plaintiff stopped his vehicle because two vehicles were stopped in his lane of travel. The defendant, traveling behind the plaintiff, failed to stop and collided with the rear of plaintiff's vehicle. The plaintiff sought damages for soft tissue injuries.

The defendant asserted that he acted with due care, and raised comparative negligence, the statute of limitations, and the Pennsylvania Motor Vehicle Financial Responsibility Law (MVFRL).

Plaintiff's Counsel: Bernard P. Matthews, Jr., Meyer, Darragh, Buckler, Bebenek & Eck, PLLC, Gbg.

Defendant's Counsel: Michael C. Maselli, Law Office of Marianne C. Mnich, Pgh.

Trial Judge: The Hon. Charles H. Loughran, President Judge

Result: Verdict for Plaintiff in the amount of $5,000.

MUSTAFA MOHAMED
V.
GIANT EAGLE, INC.
NO. 7962 OF 1995

Cause of Action: Negligence—Duty of Owner/Occupier of Land to Invitee—Arbitration Appeal

On March 1, 1994, the plaintiff was a business invitee at defendant's store in New Kensington. As he exited the front of the building, he was struck by the electronically operated automatic door. The plaintiff asserted that the defendant was negligent in failing to properly maintain and repair or monitor the maintenance and repair of the automatic door; in failing to inspect/warn of the condition; and in failing to make safe the condition with knowledge of the same.

Alleged injuries included aggravation of glaucoma in the right eye, and injuries to the neck, back and right leg and knee.

The defendant, in new matter, asserted that it acted with reasonable, ordinary and prudent care and skill with respect to the inspection, operation and maintenance of the store. Defendant also contended that plaintiff's alleged damages and injuries may have resulted from negligent acts or conduct of third parties or entities not the agents, servants or employees of the defendant, and that such acts constituted an intervening or superseding cause.

Plaintiff's Counsel: Irving M. Green, John D. Ceraso, New Kensington

Defendant's Counsel: James F. Rosenberg, Marcus & Shapira LLP, Pgh.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict for Defendant.

JANICE KEITH AND HAROLD KEITH, HER HUSBAND
V.
ADIB H. BARSOUM, M.D., AN INDIVIDUAL, AND ADIB H. BARSOUM, M.D., P.C., A PENNSYLVANIA PROFESSIONAL CORPORATION
NO. 3967 OF 1991

Cause of Action: Negligence—Medical Malpractice—Loss of Consortium

The defendant performed surgery on the plaintiff for a herniated disc on July 10, 1989. Four months later, a second surgery was performed by another surgeon on an area of the spine directly below the first surgical site. In this professional negligence action, plaintiff alleged that defendant negligently performed a non-indicated surgical procedure despite reports of three radiologists which plaintiff maintained indicated a contrary diagnosis. Additionally, plaintiff contended that defendant was negligent in failing to discover or consider the spinal stenotic lesion at the level immediately below his chosen surgical site, which necessitated further surgery. Her husband claimed loss of consortium.

The defendant maintained that surgery was necessitated based on his clinical assessment, diagnostic evaluation and plaintiff's symptomatology. Furthermore, defendant contended that he was aware of the stenotic lesion at the time of the surgery, but did not address it surgically because it was not symptomatic. In new matter, the defendant raised the statute of limitations, contributory negligence and assumption of the risk, and that plaintiff's alleged injuries and damages were caused or contributed to by the conduct of others over which the defendant had no control.

Plaintiffs' Counsel: Thomas S. Barry, Pgh.

Defendant's Counsel: Robert W. Murdoch, Zimmer Kunz Professional Corporation, Pgh.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict for Defendant.

DAVID A. SADECKY AND JUDITH A. SADECKY, HIS WIFE V. JOHN W. THROWER, INC., A CORPORATION NO. 7062 OF 1998

Cause of Action: Negligence—Loss of Consortium

On June 18, 1998, the plaintiff purchased concrete from the defendant to be poured as a garage floor at the plaintiff's residence. As the defendant began to pour the concrete, plaintiff realized that they were "losing" the concrete and got onto his knees to save it. Although plaintiff claimed he was wearing pants, rubber gloves and 13-inch-high rubber boots, the plaintiff's knees were burnt by the "hot" batch of concrete, which allegedly sat too long in the mixing truck before its arrival. Plaintiff suffered caustic burns to his left and right legs, and suffered permanent disfigurement and scarring. His wife claimed loss of consortium.

The defendant denied all allegations of liability and negligence. In new matter, defendant raised the contributory negligence of the plaintiff, assumption of the risk, and the plaintiff's failure to mitigate damages by seeking proper treatment.

Plaintiffs' Counsel: John E. Quinn, Evans, Portnoy & Quinn, Pgh.

Defendant's Counsel: Mark L. Reilly, Pgh.

Trial Judge: The Hon. Charles H. Loughran, President Judge

Result: Molded verdict for Plaintiff in the amount of $17,850. 51% causal negligence attributed to defendant. No damages awarded to wife on the consortium claim.

LYNN M. JELOVICH V. JOSEPH A. HOUSLEY NO. 2129 OF 1997

Cause of Action: Negligence—Motor Vehicle Accident—Arbitration Appeal

The plaintiff brought this negligence action as a result of a motor vehicle collision that occurred at the intersection of Routes 51 and 981 in Rostraver Township. The plaintiff, traveling south on Route 51, was in the left hand turning lane of the intersection, which was controlled by a traffic light. According to the complaint, the plaintiff proceeded to make a left hand turn onto Route 981 when the light indicated a green arrow. As she was turning, plaintiff was struck by the defendant, who was traveling north on Route 51. The plaintiff alleged soft tissue injuries.

In new matter, the defendant raised comparative negligence and the MVFRL, including but not limited to the "limited tort" provisions.

Plaintiff's Counsel: Charles A. Frankovic, Pribanic & Pribanic, P.C., Pgh.

Defendant's Counsel: Michael C. Maselli, Law Office of Marianne C. Mnich, Pgh.

Trial Judge: The Hon. Charles H. Loughran, President Judge

Result: Verdict for Defendant.

THOMAS M. NAMEY AND WENDY NAMEY, HIS WIFE V. KARL W. SALATKA, M.D. NO. 1064 OF 1997

Cause of Action: Negligence—Medical Malpractice—Loss of Consortium

On August 17, 1993, the plaintiff underwent a colonoscopy performed by the defendant during which a lesion was found. While performing endoscopic surgery to remove the lesion, the defendant perforated the plaintiff's sigmoid colon. The plaintiff averred, inter alia, that the defendant was negligent in performing endoscopic and invasive surgery that was medically unnecessary, and in undertaking surgical techniques involving endoscopic surgery and repair when the defendant had insufficient knowledge, experience and training. Injuries alleged included a perforated sigmoid colon, infections and surgeries, including a colostomy and subsequent reversal of a colostomy. His wife claimed for loss of consortium.

The defendant raised the affirmative defenses of contributory/comparative negligence, assumption of the risk and the statute of limitations. Defendant also asserted that the negligence of others, including but not limited to plaintiffs, was an intervening and superseding cause of any alleged injury and loss.

Plaintiffs' Counsel: Joseph D. Talarico, Talarico, Paladino & Berg, Pgh.

Defendant's Counsel: Korry Alden Greene, Grogan Graffam McGinley, P.C., Pgh.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict for Defendant.

DOUGLAS BUCHER V. J.A. DAVIS, INC. AND EASTGATE SHOPPING CENTER, INC. NO. 6117 OF 1997

Cause of Action: Negligence—Duty of Owner/Occupier of Land to Invitee

On January 23, 1996, the plaintiff was employed by defendant supermarket to clean two exhaust fans on the roof at night. When plaintiff stepped from a hatch onto the roof and took a few steps, he fell approximately four and one-half feet to the bottom of the two-tiered roof. As a result, plaintiff fractured his right shoulder and injured his right knee. Plaintiff sued defendant for failing to warn a business invitee of the dangerous condition created from inadequate lighting and the lack of a railing or other markings indicating the significant drop.

Defendant supermarket denied that it breached any duty of care owed to the plaintiff or that it was otherwise negligent. In new matter pursuant to Pa.R.C.P. 2252, defendant asserted a claim against the owner/lessor of the premises for indemnification.

Plaintiff's Counsel: John A. Adamczyk, Pgh.

Counsel for Defendant J.A. Davis, Inc.: Gary M. Scoulos, Meyer, Darragh, Buckler, Bebenek & Eck, Pgh.

Counsel for Defendant Eastgate Shopping Center, Inc.: Mark L. Reilly, Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict for Plaintiff against Defendant J.A. Davis, Inc., in the amount of $16,000.00. 80% causal negligence attributed to defendant. Verdict in favor of Defendant Eastgate Shopping Center, Inc., on the indemnification claim.

IN RE: CONDEMNATION BY THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION, OF RIGHT OF WAY FOR STATE ROUTE 1048, SECTION 009, IN THE TOWNSHIP OF BELL

CONDEMNEE: P.L.T.M., INC.
V.
COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION
NO. 6680 OF 1996

Cause of Action: Eminent Domain—
Appeal from Board of View

In this condemnation proceeding, a portion of plaintiff's property, located in Bell Township, was taken by the Pennsylvania Department of Transportation (PennDOT) for the Salina Bypass Project. The public highway was located and relocated through the land of the plaintiff. The right of PennDOT to condemn the property for a public purpose was not disputed. In its petition for appointment of viewers, plaintiff asserted that defendant created damage by the taking and altering of plaintiff's access to the property, causing the market value of the property to depreciate. In this appeal from the board of view, the sole task for the jury was to determine the amount of damages entitled to plaintiff.

Plaintiff's Counsel: Donald J. Snyder, Jr., McDonald, Snyder & Williams, P.C., Latrobe

Defendant's Counsel: Walter F. Cameron, Jr., Senior Assistant Counsel, Office of Chief Counsel, Pgh.

Trial Judge: The Hon. Daniel J. Ackerman

Result: The jury found a fair market value of P.L.T.M., Inc.'s entire property interest prior to condemnation of $248,000.00, and a fair market value of $205,000.00 after condemnation, resulting in an award of $43,000.00.