

New Jersey Law Journal

PERSONAL INJURY

An **ALM** Publication | MONDAY, AUGUST 28, 2017



Top 20 Personal Injury Awards of the Year

Recoveries fall sharply in 2017

By Juliette Gillespie

The dollar amounts of New Jersey's top 20 personal injury recoveries took a precipitous drop this year.

The largest 20 awards reported by the Law Journal between Aug. 20, 2016, and Aug. 21, 2017, totaled less than \$100 million (about \$97.38 million). For the same period last year, the awards totaled almost \$158 million.

The top payout this year was \$9.5 million—just more than half the amount of last year's top payout, which was \$18.5 million.

The lowest award this year—ranked at number 20—is \$2.95 million. That is the

smallest award to hold 20th place since at least 2011.

For the time period covered here, the average amount of the top 20 awards is \$4.9 million. That is well below the averages from the last six years, which range from \$5.8 million to \$10.2 million.

This year's median recovery is \$4.7 million. Since 2011, the median recovery has been between \$5 million and \$7 million.

The next tier of recoveries ("More Awards Worth Noting") ranges from \$2.7 million down to \$2.05 million. Over the last

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TOP 20 PERSONAL INJURY AWARDS OF THE YEAR

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six years, this tier has ranged between \$4.2 and \$2.6 million. Not surprisingly, this year's numbers are on the low side.

As usual, the top awards are listed in order of compensatory damages, as of the date of verdict or settlement, even if there were punitive damages as well.

Awards of equal value share a ranking. For example, there are two cases ranked at number 13, and two cases ranked at number 17. The total number of recoveries listed is still 20.

Awards for multiple parties are ranked by their lump-sum value. Awards are listed according to their original amounts, even if they were subsequently reduced. Unilateral decisions by governmental entities to compensate injured parties are not included.

1 Jury Awards \$9.5M to Sisters Injured in Boat Collision

A Bergen County jury on July 26 awarded \$9.5 million in *Franzino v. McCarthy's Marine Sales* to sisters from Mahwah who were injured when their boat collided with another in the Manasquan Inlet.

The jury awarded Gina Franzino, now 30, \$5.6 million, and Jamie Franzino, now 26, \$3.9 million, said one of their attorneys, **Christopher Karounos**, who heads a firm in Elmwood Park.

The sisters were injured on May 22, 2005, when the 15-foot boat in which they were riding was struck by a 31-foot boat owned by McCarthy's Marine Sales of Brielle and piloted by an employee. Edward McCarthy, said Karounos, who handled the case with **Samuel Davis of Davis, Saperstein & Salomon** in Teaneck.

At the time, Karounos said, McCarthy was returning from sea trials.

Gina Franzino sustained a shattered pelvis that required open reduction surgery and internal fixation with pins, plates and screws. Her spleen was severely damaged, requiring removal. She also sustained a concussion that placed her in a coma for several days. She also sustained significant scarring of her abdomen, hip and legs due to the spleen and pelvic surgeries, Karounos said.

The hardware remaining in Gina's pelvis, and the intense radiation she received after surgery to stem complications as her bones healed, causes her great concern about being able to maintain a pregnancy to term or even attempt to deliver naturally, Davis said.

Jamie Franzino sustained a collapsed lung that required chest tube insertion, intubation and placement on a ventilator; a broken rib; bilateral lung contusions; a complex fracture to her right pelvis; a concussion; scalp lacerations; shattered teeth; loss of sense of smell and taste; and permanent nerve damage to her left foot, Karounos said.

She has also been hospitalized numerous times since the accident for breathing difficulty stemming particularly from her right lung that had collapsed, Karounos said.

Both sisters also suffer from post-traumatic stress disorder, he said.

The pilot of their boat, Kyle Tavis, died in the accident, and his family is pursuing a separate claim.

Superior Court Judge Charles Powers Jr. presided over the trial.

McCarthy's Marine's carrier, Swiss Re, retained **Joseph Gallo**, of the Florham Park office of **McGivney & Kluger**. He didn't return a call seeking comment.

2 Bench Trial Ends in \$7M Award for Plaintiff Who Lost Leg in Accident

A Bergen County judge awarded \$7 million to a woman whose right leg was amputated after she was struck by a car, though the defendant's insurance policy limit is less than that.

Superior Court Judge Charles Powers Jr. awarded \$7 million to Rita Fiorino, now 52, of Hillsdale, after a bench trial on June 20, 2016.

Fiorino, who was an employee of the Trader Joe's store in Westwood, was in front of the store while on her break when a driver lost control, jumped the curb and struck Fiorino. She was pushed back into the store's plate glass window, pinned between the vehicle and the cart corral, said plaintiff lawyer **Samuel Davis of Davis, Saperstein & Salomon** in Teaneck.

The car's driver, Maryann Lewis, who was 75 at the time of the crash, told police she thought she was stepping on the brake when she instead stepped on the accelerator, said Davis.

Fiorino underwent an amputation above the knee, and has undergone 13 surgical procedures on her leg, as well as rehabilitation and physical therapy. Since the accident she has suffered from growth of nerve bundles, infection and unconstrained bone growth, Davis said. She suffers phantom limb pain and needs strong and potentially habit-forming pain medication, he said.

Fiorino sued Lewis as well as the owner of the property, A&P Real

Property LLC, a subsidiary of the A&P grocery store company, but that company went into bankruptcy.

Powers entered a \$7 million judgment against Lewis, whose auto insurance policy limit was \$300,000.

Davis said he intends to recover on Lewis' other assets.

Lewis' lawyer, **Patricia Palma**, who heads a firm in Berkley Heights, did not return a call about the case.

3 Settlement of \$5.975M in Case of Child Struck by Vehicle

A boy struck by a car in the street and his family settled a Monmouth County suit, *Moreno-Flores v. Fell*, for \$5.975 million on Nov. 7, 2016.

In June 2015, Guadalupe Janeth Moreno-Flores and her two-and-a-half-year-old son, Aldo, were in a park on Lake Terrace in Bradley Beach when the boy ran into the street. Moreno-Flores chased him, but while Aldo was in the street, he was struck by an SUV driven by Eileen Fell, according to the plaintiffs' lawyers.

Aldo was struck and dragged, sustaining bone fractures, a brain injury and other injuries that led to permanent scarring on his head and neck, said **Norman Hobbie of Hobbie, Corrigan & Bertuccio** in Eatontown, counsel to Moreno-Flores and father Saul Esparza Guzman, and **Robert Fuggi of the Fuggi Law Firm** in Tonis River, who represents Aldo.

The suit included a claim under *Portee v. Jaffee* on behalf of Moreno-Flores, who claimed she sustained psychological injuries because she witnessed Aldo's injury and underwent counseling. Moreno-Flores and Esparza Guzman also lodged loss of consortium and loss of companionship claims.

The defense contested liability as well as the severity of the injuries, according to Hobbie and Fuggi.

The parties had completed expert discovery when they settled, on Nov. 7, 2016, during mediation with retired Ocean County Superior Court Judge James Clyne of Benchmark Resolution Services in New Egypt.

The sum is made up of \$3.25 million for Aldo, \$2.5 million for Moreno-Flores, and \$225,000 for Esparza Guzman, Hobbie and Fuggi said.

Fuggi noted that the settlement sum for Aldo is subject to court approval.

Fell was represented by **Jeffrey Bell of Golden Rothschild Spagnola Lundell Boylan & Garubo** in

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