

NJ LAW PAGE

ROSSETTI & DEVOTO PC
ATTORNEYS AT LAW

Fall 2008

20 Brace Road, Suite 115 • Cherry Hill, NJ 08034
Phone: 856.354.0900 • Fax: 856.354.0920

Volume Four

STATE OF NJ PAYS \$1.5 MILLION TO INJURED MOTORCYCLIST DURING TRIAL

The State of New Jersey paid \$1.5 million to our client who was seriously injured on October 15, 2005 after slamming into a State Trooper car that negligently entered an intersection without waiting for traffic to clear. The settlement occurred on May 15, 2008 after three days of trial before the Honorable Martin Herman, JSC in Cumberland County.

Lou DeVoto represented the plaintiff. It was alleged that the Trooper was negligent in crossing into the intersection by darting out in front of the plaintiff leaving no chance for the motorcyclist to avoid the crash. Our client was seriously injured and hospitalized at Cooper Hospital for three weeks. He suffered non-displaced fractures of the ribs and pelvis and his spleen was removed.

The dispute centered largely around the validity and ongoing effects of post-concussive syndrome and our client's ability to be employed. The plaintiff alleged that despite his efforts, he could no longer run his business and that he lost and would continue to lose substantial personal income as a result. The State claimed that the lingering effects of the brain injury had been overstated and that our client could work. DeVoto acknowledged that mild brain injuries can often be

Continued on page Four

CAMDEN PAYS FAMILY \$1,850,000.00 FOR BOTCHED 9-1-1 CALL

After seven years, a wrongful death lawsuit filed by the family of Christine Eberle who was abducted from the Ferry Avenue High Speed Line Station and killed in 2001, has been settled. Andy Rossetti represented the family. Christine Eberle was abducted and brutally murdered by two savages as she was returning to her car after work. The incident occurred at approximately 8:45 pm at the Ferry Avenue station of the High Speed Line. An eyewitness on his way home witnessed the abduction. After hearing a scream, he called "9-1-1". The "9-1-1" call was routed to Camden City where the on-duty dispatcher was responsible for handling the call. Inexplicably, the dispatcher told the caller that it "sounds like a domestic going on" and wrote the information down on a piece of paper. She subsequently lost the paper and never entered the information. As a result of her negligence, no police were dispatched to the scene of this horrific crime. The dispatcher was fired for her failure to dispatch police in violation of her mandated, non-discretionary job responsibilities. Rossetti hired police procedure expert James Williams who established the exact location of every police vehicle throughout the city at the time of

Continued on page Four



Lou DeVoto, Dave Nemeth & Andy Rossetti

Rossetti & DeVoto

*Welcome to NJ Law Page
In this issue:*

- LIABILITY FOR NJ BARS INCREASES • HANDS FREE!
- \$50,000 JURY VERDICT IN CAMDEN COUNTY FOR BULGING DISK;

www.njlawpage.com

Compensation Corner

BEWARE OF THE RECORDED STATEMENT!



Dave Nemeth

If you have suffered a work-related injury and reported that injury to your employer, chances are that you will soon be contacted by the workers' compensation insurance carrier and asked to give a recorded statement of how you were injured. BEWARE - the insurance carrier has other motives. Very often, the unstated purpose of the statement is

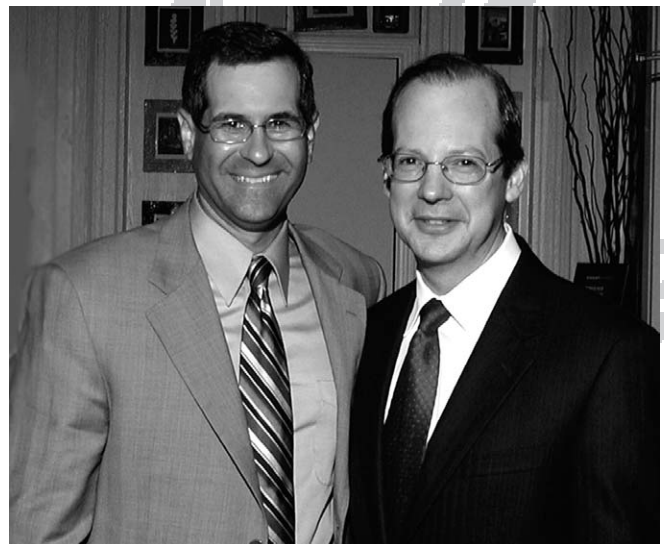
to gather information so that the carrier has a basis to deny your claim for benefits. Initially, the insurance adjuster will contact you at home by phone hoping that you are not yet represented by an attorney. The adjuster will begin by asking you a series of questions and when he or she thinks they have information that is beneficial to them, they will ask for your permission to record the statement and re-ask the questions. Only later, when your benefits are denied, do you find out that you walked into a trap. The difference in winning and losing a workers' compensation case often turns on seemingly minor facts. For that reason, it is extremely risky to give any statement without having your attorney present. Call us for a free consultation to ensure that you have the right representation at the right time.

ATTORNEY UPDATES

Andy recently gave a seminar along with a distinguished panel of judges and experienced trial lawyers at the New Jersey Law Center titled, Selecting the Ideal Juror. The seminar can be seen on our website at www.njlawpage.com by clicking on the firm news section. Andy also was present at the NJ State Bar convention in Atlantic City where he presided over his final meeting as Chairman of the Product Liability Section. He was presented with an award by the committee for his year of service.



Andy Rossetti being presented with an award by the committee for his year of service as Chairman of the Product Liability Section.



Lou DeVoto & Chief Justice Stuart Rabner of the New Jersey Supreme Court

Lou hosted the Annual Meeting of the Trial Attorneys of New Jersey on June 10, 2008 in Belmar, NJ. Chief Justice Stuart Rabner of the New Jersey Supreme Court was the featured speaker. Lou also attended the winter seminar of the Trial Attorneys of New Jersey held at Paradise Island, Bahamas in February where he moderated a seminar on jury selection.

Hands Free!



NJ law now prohibits the use of hand-held devices while driving. Most of us are guilty of driving while talking on the cell phone. Statistics show an alarming rate of 73% of the drivers doing just that. The distraction of taking your eyes off the road for even a second can and has led to serious car crashes. A recent study from the Institute for Highway Safety show that an accident is

four times more likely to happen when drivers are using cell phones. Teenagers are often seen "texting" while driving. It's time to stop! Lawmakers in New Jersey have also seen enough. Starting March 1, 2008, police began ticketing drivers seen using a hand-held device while driving in New Jersey. We all have an obligation to keep our roadways safe. Don't take the chance of seriously injuring someone else because you were talking on the phone. And when you are with someone who is doing it, tell them to stop before you or your loved one becomes the next victim.

VERDICTS & SETTLEMENTS

\$95,000 for our 85 year-old client who was struck by a car while crossing the street and fractured her hip.

\$97,500 for our client who was involved in a motor vehicle accident and suffered neck and back injuries.

\$75,000 for our client who suffered a herniated disc as a result of a car wreck.

\$470,000 settlement for our client, a Mexican immigrant, who was injured while working for a sanitation services company and fractured his pelvis.

\$115,000 for our client who suffered a displaced fracture in his leg.

\$100,000 for our client who had facial scarring and a displaced fractured arm following a car crash.

\$200,000 for our client who sustained a worsening of her pre-accident stroke condition after a car accident left her less capable.

\$100,000 for our client who was injured in a fall at a nursing home.

\$100,000 for our client who was left with a large scar from shoulder surgery after a serious car crash.

\$185,000 for our client who was involved in a car accident and sustained serious injuries disabling her from future employment.

\$400,000 for the wrongful death of our client where medical malpractice resulted from the failure to take emergent action after complications arose from a routine angioplasty.

\$95,000 for our client who sustained a torn rotator cuff and neck and back injuries in a car crash.

\$145,000 for our client who was injured in a forklift incident.

\$85,000 for our client who suffered a 7 inch disfiguring scar on her leg following a car crash.

\$225,000 for our client who underwent multiple spinal surgeries after a construction site accident.

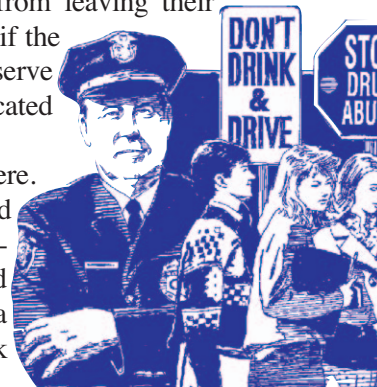
\$90,000 for our client who was hurt on the job site while delivering fuel.

Liability for NJ Bars Increases

The responsibility of taverns and restaurants to protect people from drunken drivers has dramatically expanded. The Appellate Division has ruled that taverns have a duty to prevent drunks from leaving their premises and driving, even if the tavern or restaurant did not serve any alcohol to the intoxicated patron.

The court did not stop there. It also ruled that taverns and restaurants have an additional duty to protect intoxicated patrons from getting into a car with another drunk patron.

Previously, liability was limited to whether the tavern served alcohol to a visibly intoxicated patron.



\$50,000 JURY VERDICT IN CAMDEN COUNTY FOR BULGING DISK; *Final Judgment in the Amount of \$97,500.00*

A Camden County jury awarded our client \$50,000 for pain and suffering caused by a bulging disk in her back. The client had selected the "limitation on lawsuit" option under her car insurance policy thereby forcing her to prove that any injury she sustained was "permanent." Andy Rossetti tried the case for R&D in front of Judge F.J. Fernandez-Vina over a four day period. In order to prove the case, Rossetti brought in several doctors who not only testified about their treatment, but also concluded that our client's injuries were permanent. The defense hired an expert who said the injuries were the result of aging changes to the spine. Rossetti challenged the jury to give the plaintiff nothing if they felt that she was being dishonest about her symptoms. Said Rossetti, "our client was telling the truth and made a great witness. The jury believed her as evidenced by their verdict." Rossetti used the offer of judgment rule prior to trial to enable him to obtain attorney fees on top of the verdict which resulted in a final judgment of \$97,500.00.

State of NJ pays \$1.5 Million

Continued from page One

difficult to prove. "Unless you are around a person on a regular basis, you may not notice the subtle changes in memory, personality and their ability to think clearly. In order to convince the jury of the validity and magnitude of the injury, DeVoto called "before and after witnesses" who testified about the change in his client's personality and his ineffectiveness and inability to work. Experts in the fields of neuropsychology and vocational economics concluded that our client had a serious brain injury. The plaintiff, who had yet to testify, was going to be the last witness in the case.

Said Attorney DeVoto, "We are pleased with the settlement." Our client can now begin to get some much needed medical treatment and therapy and begin to put the pieces of his life back together."

CAR CRASHES No. 1 KILLER OF TEENS



It's time to take action. More than 5,000 teens die in car crashes every year. That's 35,000 teen deaths since 2001, ten times the loss of 9/11. Unfortunately, we have had to face the parents of these children on too many occasions. The senseless loss of life cannot be predicted and certainly immaturity and inexperience are factors. However, there are ways for parents to reduce the risks dramatically so their kids are not the next victims. Don't speed and teach your kids not to speed. It is a factor in 35% of teen driving deaths. Don't use the cell phone when you drive and don't let your kids do it. Cell phone use increases the crash risk by 400%. Don't let your child travel with more than one passenger, especially at night. Driving with a second passenger increases the risk by 158% and driving at night will increase the death risk by another 300%. Nearly half of all teen deaths happen at night. By setting a good example and by using some simple rules, you can reduce the risk by as much as 900%. A new program, Alive at 25, may

also help parents of new drivers. You can learn about the program by visiting the National Safety Council website at www.NSC.org/issues/teendrivers. Together, we can begin saving one teenager at a time.

BOTCHED 9-1-1 CALL

Continued from page One

the abduction. This mapping proved that the killers would have passed several police vehicles including one that was just a block away at the time of the abduction. The expert concluded that the entire Camden Police force would have responded with lights and sirens which probably would have prevented the murder of Christine Eberle. At one point, the suit was dismissed by the Camden Superior Court Judge when he ruled that the dispatcher was immune from liability. In February 2008, an Appeals Court found that the trial judge was mistaken and re-instated the case for trial on June 9, 2008. Prior to trial, the City of Camden and the Eberle family agreed to present the case to a Mediator, Retired Judge Charles E. Previte, in a last effort to resolve the case.

The case settled for \$1,850,000 at the mediation. "It was a hard-fought and tedious mediation lasting an entire day. It did offer the family a sense that the City of Camden and its employee were finally being held responsible for the botched 9 1 1 call" said Rossetti. The settlement reflects the legal difficulty presented when comparing the conduct of the killers to the conduct of the City of Camden. While the damages would no doubt have been high, the percentage of Camden's conduct to that of the killers would have been much lower. The killers pled guilty and are serving lengthy prison terms.

Mrs. Reis is hopeful that this lawsuit will cause all 9 1 1 dispatch centers to re-evaluate their procedures. In an effort to keep their daughter's memory alive, the Reis family has built "Shining Star" park in Audubon named and maintained after her daughter, set up scholarship funds in her daughter's name at several Audubon schools, and runs a widely attended Easter egg hunt in Mount Ephraim.

ADDRESS SERVICE REQUESTED

20 Brace Road, Suite 115 Cherry Hill, NJ 08034

ROSETTI & DEVOTO
ATTORNEYS AT LAW

