

\$15,000,000 SACRAMENTO MEDICAL MALPRACTICE VERDICT RETURNED FOR STROKE VICTIM

Walkup partner Doris Cheng, medical negligence counsel Christian Jagusch, M.D., J.D., and associate Ashcon Minoiefar, combined to obtain a Sacramento jury verdict in the total amount of \$15,308,604 after a three-week trial on behalf of a 23-year-old college student. The client became unresponsive at home and was taken by ambulance to UC Davis Medical Center. The Emergency physicians considered stroke as a differential diagnosis but did not activate the hospital's stroke protocol. They instead pursued diagnoses including drug toxicity, seizure disorder, infection, trauma, and electrolyte abnormality. Mr. Beaver was ultimately seen by 10 different physicians, none of whom

diagnosed his stroke until a day later when an MRI showed damage to three lobes of the left hemisphere of his brain. As a result of the delay in treatment, our client suffered major neuro-cognitive injuries including the inability to form and express complete sentences, difficulty with processing and sequencing, and restrictions in the use of his right hand.

The team's neurological standard of care expert testified that the Emergency physicians acted below the standard of care by failing to act on the initial differential diagnosis of stroke, in failing to activate the institution's stroke protocol, and failing to emergently order a CT angiogram. They proved that at the time the

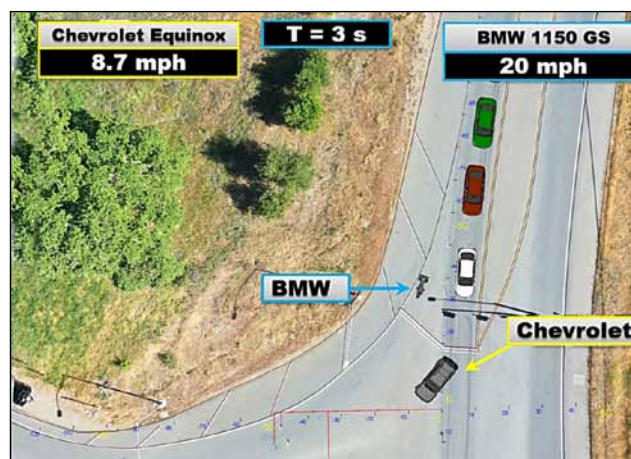
plaintiff was in the Emergency Department, he was eligible for tPA and thrombectomy. Had he been timely treated, he would have been able to live independently. Instead, the negligent delay in diagnosis and treatment resulted with him requiring 24/7 supervision.

Defense counsel argued that all UCD physicians met the standard of care and disputed causation, alleging that the initial head CT scan showed areas of brain injury indicating that any stroke must have occurred more than six hours before he presented to the Emergency Department. He therefore would not have been a candidate for tPA

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Record Sonoma County Verdict Returned Against Caltrans In Highway 12 Case

In Lindquist v. State of California, Walkup partners Rich Schoenberger and Doug Saeltzer, together with associate Joseph Nicholson, obtained what is believed to be a record verdict for Sonoma County against Caltrans for a dangerous condition of public property. Following a highly contested trial, the jury awarded Scott Lindquist \$15,136,112 for his injuries, and his wife Alania Lindquist \$1,211,250 for her loss of consortium.



Mr. Lindquist was injured while riding his motorcycle on south-bound Highway 12 between Santa Rosa and the town of Sonoma. At the junction of Highway 12 and Arnold Drive he was using the shoulder to turn onto Arnold because there was no dedicated right turn lane. As he turned he was struck by an SUV that was also turning right onto Arnold. Rich and Doug contended that the roadway was in a dangerous

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FAREWELL DIANE BRYCHTA

After more than 40 years of service, our friend and colleague, Diane Brychta retired on May 31, 2024. A native San Franciscan who grew up in the Castro District, Diane originally joined the firm as the legal assistant to Mike Kelly, for whom she had worked while he was an associate attorney at Sutton, Needham and Hull in the late 1970s. While at Walkup, she had a dizzying array of responsibilities including keeping Mike organized and pointed in the right direction, connecting with and comforting clients in the toughest times of their lives, assisting with the firm's adaptation to changing technology, and contributing in innumerable ways to the firm's growth and suc-



cess. To say she has seen it all would be an understatement: from carbon paper and fax machines to everything on a memory stick, from walls lined with law books to digital

libraries on each lawyer's cell phone, from electric typewriters and Dictaphone transcription to voice recognition and Chat GPT, Diane has literally done it all. In addition to working as a legal assistant for over 30 years, she also served as the firm's third office manager for a decade before transitioning into a position where she coordinated firm events, organized and ran focus groups, assisted with case intake and marketing, helped publish the firm's Focus on Torts newsletter, and served as a reservoir of firm knowledge and traditions. Her free time now is well earned. Her presence at 650 California Street will be greatly missed. ▲

WALKUP VOTED #1 FIRM IN CALIFORNIA

For the fifth consecutive year, the Walkup Law Firm has been voted the #1 Personal Injury Law Firm in California as recognized by The Recorder's Best Of 2024 Awards. The firm's unwavering commitment to injured consumers and their consistent efforts to hold large corporations accountable for wrongdoing were significant in the eyes of fellow attorneys, in-house counsel, judges, and legal department administrators who voted in this year's poll. Our team members are leaders in both mass torts and individual injury claims. Trucking crashes, product liability, auto accidents, bicycle injuries, medical malpractice, sexual abuse, civil rights violations, and government liability are all within our areas of expertise. We boast more members of ABOTA than any other northern California law firm regardless of size. Five of our members have served as President of the SFTLA. One of our members will soon be President of CAOC. Our ranks include five members of the American College of Trial Lawyers, four members of the International Academy of Trial Lawyers, five fellows of the International



Society of Barristers, and teaching faculty at USF Law, Stanford Law School, UC Berkeley Law School and UC Law SF. In the mass tort arena, firm members serve in leadership roles in the Paraquat MDL venued in the Southern District of Illinois, and the Uber Sexual Abuse MDL venued in the Northern District of California. In single event cases we are always ready to associate with, or takeover for, referring counsel in auto, truck, products, government liability, premises liability and medical malpractice cases. Call and partner with us. ▲

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and thrombectomy, defeating the claim that early intervention would have made a difference in Mr. Beaver's outcome. All defense damage experts disputed the extent of the client's residual disabilities including the need for 24/7 care, arguing that his needs were modest.

Economic damages awarded by the jury totaled \$7,308,604 (present cash value), while non-economic damages were \$8,000,000. The general damages were subsequently reduced to \$250,000 under the pre-2023 MICRA cap. The jury poll was 10-2 on negligence, 11-1 on causation, and 12-0 on damages.

Prior to trial the case was mediated three times, with the last offer at \$4,200,000. Doris, Christian and Ashcon served a CCP 998 statutory offer of \$7,200,000 approximately six months before trial, resulting in entitlement to expert costs and prejudgment interest. We congratulate the team on an outstanding result for a deserving client. ▲

MAJOR CIVIL RIGHTS SETTLEMENT ACHIEVED

The City of Sacramento is paying \$4.35 million to the family of an unarmed Black man who died after police officers restrained him, handcuffed and face down, in his parents' living room with no suspicion of any crime. This matter was previously reported on in our last issue of FOCUS. Since then Walkup litigators Khaldoun Baghdadi and Joseph Nicholson brought the matter to conclusion on behalf of the family of Reginald "Reggie" Payne achieving what is believed to be the largest settlement for a death-in-custody case that Sacramento has ever paid.

Mr. Payne's mother had called 911 because her son was experiencing a medical emergency due to low blood sugar. Five firefighters responded to the house and called for police assistance. The responding officers spent less than one minute attempting to communicate with Mr. Payne before

initiating a "take down" that put him face down in the prone position with his legs in a figure four leg lock. Though no crime was



suspected, Mr. Payne was handcuffed in this position creating the risk of sudden and unexpected death due to positional asphyxia.

Within a minute of being restrained, Reggie Payne can be heard on the police

body-worn camera video shouting, "I can't breathe!" In all, he was restrained prone for about seven minutes, sufficient time for the position to be lethal.

In addition to the individual officers and firefighters, the Payne lawsuit named the City of Sacramento as a defendant for its lack of policies and failure to train for medical-only calls.

This case reflects the growing national awareness of police violence, particularly against Black Americans and the dangers of prone restraints. The risk of positional asphyxia has been well documented and understood within police departments for decades but some departments, including several within California, refuse to train officers on the risks. It is hoped that this settlement which brought local, regional, and national attention to the Payne case will help establish a consensus that national restraint policies are needed. ▲

Record Sonoma County Verdict Returned Against Caltrans In Highway 12 Case

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condition because it did not conform to the Caltrans design plans, it failed to give clear guidance to motorists where to make a right turn, and because Caltrans had failed to take action to prevent drivers from using the shoulder to make this right turn, knowing full well that this had become the custom at this location.

Caltrans argued that the roadway was not dangerous as proved by the lack of any similar accidents in the prior 10 years. It also alleged that Mr. Lindquist violated the Vehicle Code when he passed stopped traffic using the shoulder to make his right turn, and that he was driving too fast for conditions. Caltrans also sought to shift blame to the driver who struck him, claiming that driver was the cause of the injuries. Finally, the State asserted Government Code section 830.6 (Design Immunity) which went to the jury.

The SUV driver denied he was negligent and contended plaintiff was at

fault for using the shoulder to make his right turn and for driving at an excessive speed. Plaintiff conceded his own negligence, but demonstrated that Caltrans was primarily responsible for the tragic collision.

Mr. Lindquist, 68, suffered multiple orthopedic injuries and a severe traumatic brain injury which left him comatose for weeks, and physically unstable thereafter. By the time of trial, he required constant supervision. His frontal lobe damage left him impulsive, paranoid, and without motivation, a shell of the dynamic person he once was. Past and future medical expenses exceeded \$7 million.

After two days of deliberations the Sonoma County jury delivered a verdict finding the roadway dangerous, and rejecting Caltrans's design immunity defense. The jury apportioned 60% of fault to Caltrans and 40% to plaintiff.

We congratulate Rich, Doug and Joseph for their superior work on behalf of the Lindquist family, and for obtaining a result which will provide Scott Lindquist with the supervision and care he requires in order to optimize his quality of life during his retirement years. ▲

MIKE KELLY REAPPOINTED TO CACI COMMITTEE

Mike Kelly has been reappointed by Chief Justice Patricia Guerrero to the Judicial Council's CACI Committee for a new two year term running through 2026. A member of the original CACI "plain language" drafting committee, Mike joins Southern California's Christine Spagnoli as the longest serving members of this important working group. During his tenure CACI has expanded far beyond the scope of its predecessor BAJI. The approved civil instructions now fill three volumes and cover unlawful detainer, lemon law, FEHA, FELA, Civil Rights, Trade Secrets and Elder Abuse. When informed of his reappointment Mike commented, "I am both flattered and honored by the Chief Justice's confidence in me. In my career there has been no greater volunteer service I have been asked to provide than to make certain jurors are accurately and coherently instructed on the law in all civil trials." We congratulate Mike on this recognition and his service to the trial bar over the last 20 years. ▲

WALKUPDATES

Mike Kelly will be speaking in July on Proving Damages in Wrongful Death Cases at the annual meeting of AAJ in Nashville, Tennessee. In May, Mike served as Master of Ceremonies at the 2024 San Francisco Trial Lawyers "Trial Lawyer of the Year" dinner held in the Rotunda of the San Francisco City Hall. In March, Mike presented on final argument at the Trial Skills Roundtable held as part of the CAOC Travel Seminar in Sonoma... **Kelly Ganci** was elected to membership in the Edward J. McFetridge American Inn of Court. The Inn is now in its 37th year of promoting professionalism, collegiality and civility between members of the bench and bar... **Clifton Smoot** continues his service as a board member and volunteer coach for The Miracle League of the SF Peninsula, which operates an adaptive baseball for youth and adults with disabilities. In June, Clifton was elected to the Alumni Association Board of Governors of UC Law SF (formerly UC Hastings College of the Law)... **Ashcon Minoiefar** spoke at a UC Law SF event "How to Find a Law Firm Job" regarding joining the plaintiff's practice as a law school student... **Spencer Pahlke** published an op-ed in the *Daily Journal* on helping clients manage a financial recovery into long-term financial stability. He joined the National Plaintiff's Law Association as a member of its inaugural Advisory Board and completed the 6th season—with 91 total

episodes—of his podcast *Unscripted Direct...* **Jeff Clause** recently lectured to students enrolled in Temple University's Trial Advocacy LLM program on depositions of fact and expert witnesses. He also presented at UC Law SF on expert witness deposition techniques... **Sara Peters** was appointed to the Plaintiff's steering committee in the Uber MDL. She recently argued before the Ninth Circuit on behalf of San Francisco police officers who sued the Navy for misinforming the City and County about the true history of radioactive contamination at the Hunters Point Naval Shipyard. Sara continues on the Trial Advocacy teaching faculty at Stanford Law School... **Joe Nicholson** has been tapped to take over as Editor of SFTLA's quarterly publication "*The Trial Lawyer*" beginning with the Winter 2025 issue. His article on Design Immunity titled "What Happens

In May, Joe fronted for Walkup's in-house rock and roll band Magnum PI in the 10th Annual Law Rocks Battle-of-the-Bands, which raised over \$188,000 for local charities. In June, Joe was recognized as a California Super Lawyer... **Conor Kelly** spoke about playground injury lawsuits at the Consumer Attorneys of California's Travel Conference, sharing experience from his recent success prosecuting school injury cases. Conor also testified before the California Senate Insurance Committee in opposition to a proposal to lower liability insurance requirements for drivers who rent vehicles on peer-to-peer car sharing platforms from companies like Getaround, Turo and Uber. His testimony was based on his experience representing clients injured by drivers who rented cars on these platforms... **Rich Schoenberger** will be inducted into the California Lawyers Association Trial Lawyers Hall of Fame in August. He has been invited by the ABOTA Foundation International Committee to make a presentation to German attorneys in Frankfurt, Germany in September, and will serve as a faculty member at the National ABOTA Trial College at Northwestern University Law School later this summer... **Doris Cheng** returned to Trinidad to teach trial advocacy as part of the Caribbean Basin Securities Initiative. In June she participated as a trainer for the ABA/ABOTA TIPS Trial Program at the National Judicial College. She was also elected to membership on the University of San Francisco Board of Trustees. ▲



Opening Day of the Miracle League of the SF Peninsula's Spring Season

When a Substantial Nonconformity Does Not Keep the Defense Off the Verdict Form?" appeared in the Summer issue of the magazine.

Matt Davis Recognized as UC Law SF Alumnus of the Year

In April, partner Matt Davis was honored as the UC Law SF Alumnus of the Year. A member of the class of '89, Matt has taken a leadership role in representing UC Law SF pro bono in a lawsuit against the City and County of San Francisco to improve conditions in the Tenderloin. At the awards ceremony, Dean David Faigman saluted Matt's philanthropic impact

over the years as transformative. A former Deputy City Attorney for the City and County of San Francisco, Matt found his way to UC Law SF via the encouragement of Mayor Willie L. Brown '58, who interceded in the admission process to help with his acceptance. Matt's accomplishments in the court-



room have led to his receipt of numerous awards and membership the American Board of Trial Lawyers (ABOTA). In the community, Matt has been active in lobbying for safer streets for bicyclists and has spearheaded the firm's efforts to distribute tens of thousands of safety lights to bike riders every year for the past eight years.

We congratulate Matt on this special and well deserved award. ▲

Meet Our Associates

In this issue of FOCUS we take the opportunity to start a new feature focusing on our associates. Here, we profile Tina Glezakos, Clifton Smoot and Martin Neira. Each has unique skills, talents and experience and all contribute to our team approach in complex personal injury and wrongful death case-handling.

Before joining us, **Tina Glezakos** practiced in state and federal courtrooms around the country at both the trial court and appellate level over a 20-year career. A magna cum laude graduate from Santa Clara University School of Law, her experience includes civil trials, civil appeals, and work in the non-profit sector

representing clients with disabilities. She came to Walkup after a successful career working at a nationally known firm that defended product liability, mass tort, and environmental exposure injury cases. Active in continuing education, Tina has presented at various conferences speaking on topics including deposition practice and responding to complex discovery, while also authoring articles addressing civil trial tactics. Her appellate experience includes arguing before the California Courts of Appeal. Moving to plaintiff's practice she occupies an Of Counsel

position, focusing on motions, appeals, writs and trial briefs. Tina lives in San Francisco with her husband and two children, and is actively involved in the PTA at her children's public schools, helping with fundraising initiatives and tutoring English-learner students.

Clifton Smoot joined us from a well-known Bay Area plaintiff personal injury firm following a stellar career at UC Law SF where



he graduated with honors. Clifton has been honored as a "Top 40 Under 40" by The National Trial Lawyers and takes pride in building close relationships with his clients, and in serving people of all backgrounds as they recover from unexpected loss and harm. Recent successes include a multimillion-dollar settlement on behalf of a child who suffered a brain injury and a seven-figure recovery for a welder who was crushed by a construction hoist. He works on the entire spectrum of case type we prosecute. In his free time, Clifton coaches the nationally

renowned UC Law Trial Team and volunteers with the Miracle Baseball League of the San Francisco Peninsula.

Martin Neira worked at a prominent plaintiff-side toxic tort firm where he proudly represented individuals diagnosed with mesothelioma, a signature terminal cancer caused by asbestos exposure. He has an advanced L.L.M. degree from UC Berkeley School of Law. Before attending Berkeley Law, he graduated magna cum laude from the University of Zurich Law School. Prior to that he earned Bachelor degrees in both law, and political science, from Saint Louis University in Brussels, Belgium. While attending law school, Martin played

in Belgium's semi-professional basketball league for four years. At Walkup he prides himself on his caring, empathetic approach to his clients and being their voice in the litigation process. His focus is on cases involving wrongful death, catastrophic injuries, product liability, toxic exposure and medical negligence. In his previous work he battled against some of the most powerful corporations in the world and represented a wide variety of clients, including longshoremen, refinery workers, construction workers, auto-mechanics, and asbestos product users. ▲

WALKUP MEDICOLEGAL EXTERNSHIP GAINS MOMENTUM

In 2020, Dr. Christian Jagusch joined the faculty of his alma mater the Creighton University School of Medicine as an Assistant Clinical Professor of Medicine. His faculty role includes lecturing to fourth year medical students and residents on medical malpractice issues. He also mentors students regarding medical negligence issues here in San Francisco where fourth year medical students have the chance to spend a month in a non-clinical medicolegal externship. During the externship students study medical jurisprudence, bioethics, and medical malpractice. Dr. Jagusch found his passion for medicolegal work during a similar

externship. The externship provides valuable understanding of practicing within the standard of care and the nuances of medical causation in the context of an actual case.

Over the four-week experience, externs complete a list of activities including attending depositions, consulting with expert witnesses, drafting and reviewing pleadings and discovery and participating in mediations. When possible they attend hearings, trial and arbitration. In the end, they can submit a paper to the *American College of Legal Medicine's Perspective* journal.

In the Spring of 2023, Walkup hosted its

first student, Victor Chalfant. Dr. Chalfant shares his experience thusly:

"This course offered a unique opportunity to explore some of the similarities between medicine and law and to understand the legal challenges doctors encounter in clinical practice. By exploring the basic elements of medical malpractice claims, I gained valuable insights into the legal meaning of the standard of care. Now, as a urologic surgery resident at Southern Illinois University, serving a catchment area of approximately 3 million people, this knowledge has been indispensable."

Walkup is excited to host two more students in this unique course later this year. We congratulate Christian on the growth and success of this fascinating program. ▲

RECENT CASES

PG&E FIRE CLAIMS



Wine Country PG&E Fire Recoveries

Our team of fire lawyers including Mike Kelly, Khaldoun Baghdadi, Andrew McDevitt, Max Schuver, and Owen Stephens, plus a host of paralegals, legal assistants and other specialists, have been toiling on behalf of fire victims for seven years since the 2017 fires. As the Fire Victim Trust winds down and the final payments are made, we look back on the journey of our clients who put their faith in our representation. Our team has acted as co-leads in the state court litigation, as counsel for the Chair of the Tort Claimants Committee in the bankruptcy, and has participated on the Settlement Oversight Committee. We have worked ceaselessly to ensure that our clients and the families and businesses who lost so much, were able to recover the maximum possible amounts under bankruptcy court rules and the specific conditions of the bankruptcy plan approved by the court. With a final payment still to come, we are proud of the amounts we have been able to recover. While no particular client's losses are more tragic than others, we reflect on some whose claims are especially memorable. We think of a celebrated artist who lost his collection and a lifetime of collected art, produced both by his own hands and his cherished friends; the owners of a unique architectural landmark home surrounded by acres of native trees, all destroyed; a multigenerational family winery, reduced to ash with years of production lost; an incinerated Atlas Peak sanctuary where our clients lost their home and lodging quarters for wine member guests; a burned out non-profit center dedicated to the care of children with special needs. In all of these cases and hundreds more, we brought our best efforts to achieve awards of millions of dollars to help our clients rebuild their lives. We are grateful to our clients for their patience, positivity, and persistence. We pray that this kind of tragedy never reoccurs.

MEDICAL NEGLIGENCE



Heirs v. Physician Specialty Group

In Heirs v. Physician Specialty Group (confidential venue) Doris Cheng and Clifton Smoot negotiated a \$4,000,000 settlement on behalf of the family of a patient who died of cardiac dysrhythmia secondary to mitral valve prolapse. The defendant primary care provider group member diagnosed decedent's valvular disease beginning in 2017 and created a plan to conduct follow-up transthoracic echocardiograms in subsequent years. The plan was never followed even when the decedent reported cardiac symptoms including dizziness, shortness of breath, sweating, and heart rhythm abnormalities. Doris and Clifton demonstrated through expert testimony that the care providers failed to provide life-saving care, diagnostics and referral to a specialist. Defendants denied liability. The case resolved following mediation.

Patient v. Anesthesiologist

In Patient v. Anesthesiologist (Bay Area Sup. Ct.) Michael Kelly and Valerie Rose negotiated a seven-figure settlement on behalf of a patient who was given the wrong medication. While the patient was undergoing a routine hip replacement procedure, his anesthesiologist confused anesthesia medicine with a blood clotting agent, and inadvertently injected the blood clotting agent into the patient's spine. As a result, the patient sustained a traumatic brain injury and a neck injury following violent seizures caused by the mistake. The defense contested the nature and extent of the brain injury, and also claimed that the neck injury was caused by prior job-related incidents. The case settled for the limits of the anesthesiologist's insurance after Mike and Valerie gathered a roster of experts to establish medical causation.

GOVERNMENT LIABILITY



Family v. Bay Area County

In Family v. Bay Area County (U.S. Dist. Ct.) Khaldoun Baghdadi and Kelly Ganci represented the surviving spouse and children of a woman who died while a prisoner at the County's jail. The decedent experienced a drug overdose while incarcerated and left unattended in her cell for over four hours. Khaldoun and Kelly demonstrated that the jail staff failed to conduct appropriate welfare checks, misrepresented the frequency of welfare checks in their written logs and failed to intervene in the decedent's overdose, all in violation of the decedent's civil rights. The team retained a toxicologist who opined that naloxone intervention at almost any point during the four hour window would have saved the decedent's life. Khaldoun and Kelly negotiated a \$2 million payment to the family after litigating the case for over one and one-half years.

Driver v. Fire Department

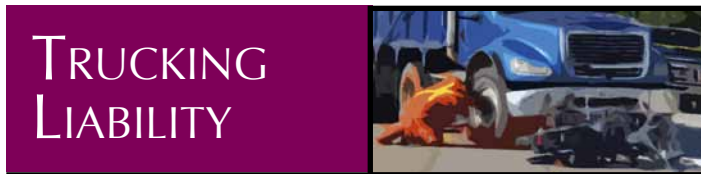
In Driver v. Fire Department (So. Cal. Sup. Ct.) Douglas Saeltzer and Spencer Pahlke negotiated a \$4,050,000 settlement arising from a collision between a fire truck and the plaintiff at a major intersection. While the plaintiff approached the intersection with a green light, she did not hear a fire truck approaching with its sirens and lights on. Witnesses testified they heard the siren impact and responded by stopping and pulling over. Not hearing anything, the plaintiff sped up, exceeding the speed limit by more than 10 miles per hour. In the crash that followed, the fire truck broadsided plaintiff in her SUV, sending her rolling more than 70 feet into one of the cars that had pulled over. As a result of the crash, plaintiff suffered pelvic fractures and associated sequelae including chronic low-back pain and upper thigh pain which required therapy lasting more than three years after the crash.

Commuter v. CCSF

In Commuter v. CCSF (S.F. Sup. Ct.) Michael Kelly and Conor Kelly obtained an \$11,000,000 settlement on behalf of a 78-year-old woman who was

RECENT CASES

struck by a cable car while walking inside a marked crosswalk on Hyde Street. Witnesses originally faulted the plaintiff for the accident, but security video from a nearby building revealed that she began crossing the street several seconds before the cable car ever entered the intersection. Video produced from inside the cable car itself showed that the operator did not sound the warning bell as required to alert pedestrians to the car's presence. During depositions Mike and Conor established that the MUNI operator violated multiple written safety rules, including the requirement for safe speed through intersections. The City argued that the plaintiff was negligent for not seeing and avoiding the cable car. The client suffered injuries including a fractured skull and traumatic brain injury. She was hospitalized for two months and required ongoing care. The settlement was reached with the assistance of a mediator during jury selection. The \$11,000,000 settlement is believed to be one of the largest single victim settlements ever paid by the City as a result of a MUNI collision.



Parents v. California Trucking Group

In Parents v. California Trucking Group (Central Cal. Sup. Ct.) Doris Cheng and Clifton Smoot obtained a policy-limits \$3,000,000 settlement, as well as changes to the defendant trucking company's safety policies. Plaintiffs were the parents of an unmarried adult child. The decedent was studying medicine at the time of the crash and planning a career helping underserved patients in a community clinic setting. The defendant's truck driver made an illegal U-turn entering the path of the decedent who was driving a motorcycle. As a result of the litigation and the settlement negotiations, the defendant trucking group agreed to make a series of safety changes to its operations including driver training, a ban on U-turns, and the expanded use of dashboard cameras in all tractors.

Commuter v. Broker

In Commuter v. Broker (Cal. Sup. Ct.) Michael A. Kelly, Andrew McDevitt and Conor M. Kelly negotiated a confidential settlement in excess of \$10,000,000 on behalf of a woman who was struck at high speed by a tractor-trailer while driving home from work. The force of the collision caused major orthopedic and internal injuries leaving her disabled from her job and in near constant pain. Multiple defendants were sued including the truck owner, transportation broker, driver's employer, and shipper. Plaintiff claimed all were responsible because of Federal Motor Vehicle Safety Standard regulations. Mike, Andrew and Conor were asked to associate into the case after experts had been disclosed and as trial approached. Working with plaintiff's liability experts and focusing on the contractual relationship between the defendants in light of the FMVSS they pursued a broker agency claim. No settlement offers had been made up to trial. After expert depositions, motions in limine and two days of voir dire, the case resolved via a global settlement.

Family v. Trucking Corp

In Family v. Trucking Corp. (confidential settlement) Michael A. Kelly, Richard H. Schoenberger and Jeffrey A. Clause negotiated an eight-figure confidential settlement on behalf of the survivors of a mother and daughter killed in a head-on crash on a rural highway. The mother and daughter were seat-belted and travelling at the speed limit when the defendant's big rig crossed the center line in a no passing zone. The broker of the load denied liability, attributing all of the fault to the employer of the driver. Mike, Rich and Jeff sought to impose liability on the broker for failing to screen its contractor. They alleged that the broker defendant outsourced this job to a new, low-cost, underinsured company employing an unqualified driver whose license had expired. Following the completion of most fact discovery the plaintiffs were successful in amending their complaint to seek punitive damages. The case resolved following mediation.



Disabled Minor v. School District

In Disabled Minor v. School District (D. Nev.) Khaldoun Baghdadi, Valerie Rose and Katherine Connolly represented a public school student who was physically abused in his Pre-K class by his special education teacher. The case was challenging because the child could not communicate the full extent of what happened to him due to the nature of his disabilities. As a result, the school district disputed the nature and extent of the abuse, and also blamed the child's post-abuse behavioral struggles on his disabilities. Despite multiple procedural motions and counter-motions designed to limit the Walkup team's ability to gather information, the case ultimately settled at private mediation for \$2,000,000.

Dependent Adult v. Care Center

In Dependent Adult v. Care Center (Ala. Sup. Ct.) Joseph Nicholson negotiated a major confidential settlement on behalf of the mother of a man who died of a drug overdose after being prematurely discharged from substance abuse treatment. The decedent developed an opioid addiction after being prescribed pain medication for a head injury. He successfully completed a substance abuse program and obtained an associate degree at a local college. After relocating away from his support network, the decedent relapsed and was placed back in a court-ordered residential substance abuse program. Just as he was set to be stepped down to outpatient therapy, the COVID pandemic struck and the substance abuse center discontinued its outpatient programs. The center then discharged the decedent, taking no steps to ensure he received medically necessary outpatient care. He died of an overdose two months later. Joe proved the decedent was a dependent adult and established the causal link between the omitted outpatient care and the fatal overdose. After defeating a motion for summary judgment the settlement was achieved prior to expert discovery.

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PRODUCT LIABILITY



Sheriff Deputies v. Ghost Gun Manufacturer

In Sheriff Deputies v. Ghost Gun Manufacturer, Sara Peters, Spencer Pahlke and Richard Schoenberger represented two law enforcement officers ambushed by a gunman. The gunman, a convicted felon, was legally barred from gun ownership and could not buy a gun through normal means, so instead obtained a “ghost gun.” Ghost guns are sold without serial numbers or background checks, relying on a loophole in gun laws that allow sales of gun kits provided they are not “complete” guns. With a kit and simple tools, anyone—a felon, a child, anyone—could turn a kit into an operational handgun. The gunman shot the deputies repeatedly. Miraculously they did not suffer fatal injuries. After extensive litigation, including motion practice relating to whether the manufacturer was immunized by federal gun laws, the matter resolved short of trial for the manufacturer’s insurance policy limits of \$1,000,000. This resolution, and other related litigation and advocacy, has helped change the practices of this firearm manufacturer and led the Biden Administration to issue regulations banning ghost guns.

PREMISES LIABILITY



Victim’s Family v. Property Owner

In Victim’s Family v. Property Owner (Bay Area Sup. Ct.) Matthew Davis and Joseph Nicholson reached a confidential multimillion-dollar mediated settlement paid by the owner and manager of an apartment complex which failed to timely repair a safety fence in a high crime area. As a result, an assailant accessed the property and gunned down the decedent in a case of mistaken identity. Left behind were a loving wife and two minor children. Matt and Joe filed suit against the property owner and management company to hold them responsible for this unsolved homicide. The defendant property owners contended that California law does not impose liability for criminal acts of third parties absent a showing of prior similar acts, of which there were none. At mediation, Matt and Joe claimed that the existence of the fence itself demonstrated the foreseeability of criminals entering the property and that the burden of maintaining the fence was miniscule compared to the likely harm that would befall residents without it. They produced a compelling video with interviews of the plaintiffs and the decedent’s friends and family to support the damage claim.

PRSRT STD
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San Francisco, CA
Permit No 925

Senior Citizen v. Big Box Retailer

In Senior Citizen v. Big Box Retailer (Ala. Co. Sup. Ct.) Matthew Davis and Clifton Smoot settled a claim against a national retailer and its door repair vendor after an electric door malfunctioned and closed on plaintiff, age 92, as she walked through the store’s entrance. Plaintiff fell to the ground and suffered a dislocated left humerus and comminuted fracture of the left shoulder. During the course of litigation, plaintiff died due to complications from her injuries, and her son continued litigation on her behalf. The defendant store denied liability and denied the arm and shoulder injury had any causal link to plaintiff’s death. During litigation the Walkup team discovered the retailer’s failure to follow the manufacturer’s prescribed inspection steps, and found that the door repair company had failed to install a simple safety device that would have prevented the malfunction. The parties settled in mediation. ▲

We are available for association and/or referral in all types of personal injury matters. Fees are shared with referring counsel in accord with Rule of Professional Conduct 2-200.



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