



SEEKING JUSTICE

Vol. III

THE LAW OFFICE OF BRUSTIN & LUNDBLAD, LTD.
SPECIALIZING IN CATASTROPHIC PERSONAL INJURY, MEDICAL MALPRACTICE, WRONGFUL DEATH, PRODUCT LIABILITY AND CONSTRUCTION SITE INJURIES FOR OVER 45 YEARS.

\$8.4 MILLION TO FAMILY OF DECEASED WITH PRECEDENT SETTING DECISION BY SUPREME COURT

As reported in our last newsletter, this is a case involving the failure of a State hospital to admit a man for mental treatment and their failure to diagnose the danger of his intention to kill himself, though he had previously tried to do so. He committed suicide shortly after his release. We claimed the doctors failed to perform an adequate evaluation. Under State law at that time, State employees in these circumstances could not be sued for their negligence.

We took this matter before the Appellate Court arguing that patients treated by State employed doctors are entitled to the same quality of care they would receive from private doctors and should have the same right to seek damages for negligence. The Appellate Court agreed with us. The State appealed that Decision to the Illinois Supreme Court. Marvin Brustin and Milo Lundblad argued this case in Springfield, Illinois. When the Supreme Court handed down its Decision in our favor a *legal precedent* was set confirming the right of patients to recover damages from State employed physicians for medical malpractice.

For the final outcome of this case we tried it in the Circuit Court with a resulting jury verdict of \$8.4 million dollars, reduced by contributory negligence of the wife to \$4.2 million dollars. The offer prior to trial was \$100,000.

Jury trial by Marvin Brustin and Milo Lundblad

MULTI-MILLION DOLLAR SETTLEMENT IN WASHINGTON D.C. FOR MEDICAL MALPRACTICE

On the eve of what would have been a very intense and prolonged trial in Washington, DC the defense finally offered a substantial amount to settle on behalf of the doctors, nurses and hospital for their improper monitoring of our client during an operative procedure that caused his death. The family was very satisfied and wished to accept this settlement amount. (At the insistence of the defense the names, details and exact amounts are confidential.) Settled by Marvin A. Brustin and Milo Lundblad.

\$4.7 MILLION JURY VERDICT TO LOCAL TRUCK DRIVER INJURED IN MICHIGAN

Our client, a Chicago based delivery driver, was seriously injured on the Interstate in Michigan when his van overturned. We claimed a tractor-trailer owned by a large trucking company that owned more than 5,000 trucks, bumped his van when attempting to pass him on the snowy wet road. The client, who was not wearing a seat belt, was thrown approximately 40 feet from his van.

The defendant denied its truck was involved. It stated the Global Positioning System from an independent tracking company that it used, which uses two satellites and is used by 95% of the trucking industry as well as the US Department of Defense, confirmed their denial. It also argued that there was no physical damage to its truck to evidence any "bump" and that our client simply skidded on the wet road.

At trial we produced an eyewitness who recalled some of the lettering on the truck and at trial remembered the full name of the trucking company displayed on the truck when we showed her a picture of a similar truck in court. Prior to trial the defense offered \$200,000. The jury awarded our client \$4.7 million dollars (reduced by 15% for his failure to wear his seat belt to \$4 Million.)

Tried by Marvin Brustin and Milo Lundblad, assisted by Mark Szafarski.

\$2.5 MILLION FOR PEDESTRIAN FATALITY

An 11 year old going home from school was run over by a semi-tractor trailer that was making a right turn. We alleged the delivery truck was too large to be used in the area and that the driver was negligent in turning because of limited visibility, rain and the presence of children in the immediate area.

The defense claimed the child was distracted while eating an ice cream cone, disregarded the "don't walk" light, and ran into the street in front of the truck because he was hurrying to "catch" a train. Mediated by Marvin A. Brustin and Milo Lundblad.

\$3.25 MILLION FOR WRONGFUL DEATH — PRODUCT LIABILITY THEORY

A 10 year old boy assisting his grandmother at a laundromat was found in the restroom hanging from a length of linen toweling from the automatic towel dispenser that had wrapped around his neck.

We claimed the towel dispenser was unreasonably dangerous since it did not have a safety guard in place to prevent a dangerous length of the towel from being dispensed. Through our investigation, we uncovered evidence that the towel dispenser rental company knew or should have known of previous severe injuries which had occurred involving children using these dispensers. The case was mediated resulting in the owner/renter of the dispenser agreeing to pay \$3 million dollars and the owner of the laundromat paying \$250,000.

Mediated by Marvin A. Brustin and Milo Lundblad

"COLLAR" COUNTIES

\$300,000 — medical malpractice jury verdict failure to prevent blood clot after surgery. **DuPage County.** In this conservative county a jury awarded an unusual and large award for doctor's failure to give necessary care after surgery to prevent a blood clot. Defense claimed our client was a "walking time bomb" for a clot to develop due to a genetic disorder and claimed it was not preventable. No offer of settlement was made prior to trial. The jury rejected the "time bomb" theory. Tried by Milo Lundblad

\$300,000 — one of the largest settlements in **Boone County** for a non-fatal auto accident. A substantial dollar amount over and above the insurance coverage was personally paid by the defendant. Settled by Marvin A. Brustin.

\$160,000 SLIP AND FALL ON ICE AND SNOW

Our client fractured his ankle when he slipped and fell on snow and ice that came from the downspout of a garage adjacent to his apartment building. The defense contended that our client was walking in an area where he should not have been and further that they had no responsibility since the ice was a "natural accumulation". We defeated these arguments and the case settled for \$160,000.

Mediated by Milo Lundblad

We are pleased to announce that for the third year in a row Marvin A. Brustin has been named an Illinois "Super Lawyer" by the **Chicago Magazine** distributed Super Lawyers Magazine. A "Super Lawyer" is one who has been identified by the legal community as well as independent research, as being among the top five percent of attorneys in his area or specialty, personal injury.

\$850,000 FOR "CLUB" SHOOTING INJURY

A 24 year old male was exiting the bathroom at a popular night club when he was shot six times by an unknown person and suffered severe injuries. We claimed an argument inside the club resulted in the shooting. We argued the club had inadequate security and training of personnel and claimed the club assumed the duty not to allow guns in the club.

The defense alleged our client was an intentional target in a gang related act. The insurance carrier for the club ultimately paid almost all of its one million dollar insurance coverage.

Settled by Marvin A. Brustin

"AN EVENING WITH THE JUDGES" YOUTH FORUM

Brustin and Lundblad, Ltd., in partnership with the **Baptist Ministers Conference of Chicago and Vicinity** and the **Cook County Judges Organization**, with the cooperation of presiding Host Pastor **Rev. Walter Turner**, presented a second forum of the popular "Evening With the Judges" at the **New Spiritual Light Church**. This forum, with special emphasis on youth and their involvement with the court system, featured a panel of speakers consisting of both Circuit Court and Appellate Court Judges who also answered a number of interesting, and sometimes penetrating questions from the audience concerning the various workings of the court system. **Among the judges participating were Chief Judge Timothy Evans, Curtis Heaston, Presiding Judge of the Juvenile Division; Illinois Appellate Judges Shelvin Hall and Ellis Reid and Circuit Court Judges Jerry Bender, Patrick McGann and Annette Hubbard.** A reception followed the event where the attending youth and judges were able to interact one on one.

Once again this "Evening" enjoyed an outstanding attendance and we hope to organize future programs.



\$450,000 FOR "WHIPLASH" ACCELERATING/AGGRAVATING TERMINAL CANCER

An auto accident that caused modest neck and back injuries, sometimes called "whiplash", we claimed accelerated or aggravated terminal metastasized breast cancer by limiting physical activity, including exercise and also affected our clients' mental attitude. We contended the accident decreased her life span and the enjoyment of her remaining time. One of our witnesses who testified and supported our theory was well known physician and author, Dr. Michael Roizen. The offer prior to trial was \$50,000. Two and one-half days into trial this offer gradually increased in increments. The offer ultimately reached \$450,000 at which time the family, and we on their behalf, accepted the offer.

Partially tried by Marvin Brustin and Milo Lundblad

ILLINOIS APPELLATE COURT DECISION WON - REINSTATES CASE

In a case concerning the drowning death of a minor child in a downtown Chicago hotel swimming pool, important issues regarding the cause of death and the liability of the "parent" company of the owner of the location where the accident occurred were heard by the Circuit Court who dismissed the case. We appealed this Decision before the Appellate Court of Illinois. Based on our appeal and oral arguments, the Appellate Court reversed the judgment and returned this matter to the Circuit Court of Cook County for an eventual jury trial.

Brustin and Lundblad, Ltd. has specialized in catastrophic personal injury, medical malpractice, wrongful death, product liability, construction site accidents, and transportation accidents for over 45 years. We have also had notably successful jury trial results in the areas of business litigation, corporate litigation, condemnation of real estate and Will contests involving substantial estates.

INTERSTATE CASES

OHIO Two truck collision resulting in death of trucker. Trial pending.

OKLAHOMA Student killed in one car accident. Trial Pending.

WASHINGTON, DC Medical Malpractice case — recently resolved by last minute defendant concession of multimillion dollar settlement

MINNESOTA Two car accident resulting in death of two students. Trial pending.

WISCONSIN Work site accident — serious injury. Trial Pending.

INDIANA Auto accident — serious injury. Trial Pending.

ARKANSAS/MISSISSIPPI Interstate bus accident/ multi defendants. Trial pending.

INTERNATIONAL



Archbishop of Chicago His Eminence Francis Cardinal George, Marvin A. Brustin, Mrs. Allison Brustin, His Excellency Archbishop Pietro Sambi, Apostolic Nuncio to the United States.

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We are honored to announce that in addition to Marvin Brustin continuing as the elected attorney for the Chicago Consular Corps., having been re-elected in July 2007, we also now represent **The Republic of South Africa's** Chicago Consulate whose authority is over 14 states.



Marvin Brustin with officers of the Non-Resident Nepalese Association, Sharda Thapa and Dr. Gaury Adhikary, at the Global Conference in Kathmandu, Nepal.

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Marvin Brustin has made two trips to **New Delhi, India, and Kathmandu, Nepal** to conduct video conferences, evidence depositions and to interview witnesses concerning trials for three wrongful death cases pending in the United States. These cases will be tried by us in Washington, D.C., Oklahoma, and Minnesota.

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Marvin Brustin continues as Honorary Consul General of Nepal in Chicago, also handling the Midwest area and issuing visas. He also serves as an elected Board member of the 6 person Executive Committee of the Chicago Consular Corps. which consists of the 79 foreign consulates in Chicago.

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Brustin and Lundblad, Ltd. has bi-lingual staff members available who are fluent in **Spanish** as well as **Polish**.



Marvin Brustin presented award by the Honorable Sahana Pradhan, Minister of Foreign Affairs of Nepal, in recognition of his outstanding commitment, vision and leadership in American Nepali relations at the America-Nepal Friendship Society Dinner in New York.

WORKER'S COMPENSATION

EMPLOYER PENALTY

In a follow up on a significant case we previously tried, the Employer/Respondent had filed two appeals of the Industrial Commission's Total Disability Award for the Employee/Petitioner. By doing so, the employer delayed making the proper and permanent payments to the Employee that the Industrial Commission had ordered. After the Employer lost his two appeals we took the case to the Circuit Court where we successfully obtained a judgment against the Employer for **delay in payment** as well as a penalty of **\$127,000**. The Employer is now in the process of appealing this result.

ADDITIONAL RECOVERY FOR WORKER OF APPROXIMATELY \$400,000

Based on the theory of "spoliation" for discarding evidence, we sought recovery from the employer as well as the manufacturer of a bus seat that had suddenly dropped 4" and caused serious aggravation of a pre-existing back injury to a bus driver necessitating two operations. We maintained that not having the seat available at trial limited the ability of the employee to recover adequate damages in a lawsuit separate from his Worker's Compensation claim. We obtained \$150,000 from the employer for discarding the seat and \$250,000 from the manufacturer in a Products Liability lawsuit against them for an unsafe product. The settlement of the injury case against a third party was over and above the other benefits (see below) resulting in the client receiving a net amount in excess of **\$1,000,000**.

UNUSUAL LIEN SETTLEMENT IN SERIOUS INJURY/WORKER'S COMPENSATION CASE

In this matter we successfully negotiated the waiver of the entire Worker's Compensation Lien of over \$300,000 while the Petitioner will continue to receive for life his weekly Total Disability benefits and all future medical expenses related to his injuries.

- \$100,000** Slip and fall on job site..... by office cleaning person— injury to leg muscle
- \$75,000** Fall from ladder — fractured foot



Marvin Brustin with human rights activist from Nepal, Mandria Sharma, recipient of the Human Rights Watch's highest honor.

CONSTRUCTION NEWS



Marvin Brustin and members of the **CONSTRUCTION AND GENERAL LABORERS DISTRICT COUNCIL OF CHICAGO AND VICINITY** participate in the Chicago Polish Constitution Day Celebration.

NEW DOOR OPEN FOR ALL CONSTRUCTION WORKERS COULD ADD MILLIONS TO RECOVERY

In the landmark and much publicized recent Decision on our now famous *Aguirre* case, that we briefed and argued before the U.S. Federal Appellate Court, **safety control liability has been expanded for construction workers**. Our Federal Court decision allows not just our client but all construction workers in similar situations the right to pursue recovery against the general contractor who was negligent in supervising safety and has a huge impact on the amount they could recover for serious injury. *Aguirre v. Turner Construction* 501 F. 3d 825 CA. 7 (Ill) 2007 Briefed and argued by Milo Lundblad.

\$600,000 FOR WRIST INJURY

A laborer working for a subcontractor performing work at Midway Airport stepped into an uncovered unsecured hole in the floor of the terminal building. His fall resulted in a fractured wrist. During mediation prior to trial the defense offered \$100,000. We argued that a safe place to work had not been provided and the defendant knew of this dangerous condition and should have corrected it. After we claimed punitive damages for their knowing and repeated disregard for safety regulations, the case settled prior to trial for \$600,000. (Settled By Marvin A. Brustin)

\$362,954 FOR "WHIPLASH" INJURY

A carpenter's vehicle was "rear-ended" while stopped at a traffic light. Prior to trial the defense offered \$75,000. At trial the defense produced two Board Certified physicians who testified no injuries appeared on either a CT scan or x-rays and they believed our client was "milking" the accident and exaggerating any injuries or pain. We called three experts, a Neurologist, Neurophysiologist and Physical Therapist who explained a "soft tissue" injury of the neck does not necessarily show up on x-rays nor does a closed head injury and the symptoms our client complained of were consistent with these injuries. The jury awarded our client \$362,954. (Tried by Marvin A. Brustin)



Marvin Brustin and Milo Lundblad, collaborating on an up-coming jury trial.