

HOBBIE, CORRIGAN & BERTUCIO, P.C.
ATTORNEYS AT LAW

COURTSIDE

Winter 2014-2015

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From The Senior Partner...

As the holiday season quickly approaches, we want to thank our clients, our colleagues, and our many friends for their support. It is your support that has allowed us to continue to grow and prosper. As our commitment to providing excellent legal representation continues, our objective remains to constantly exceed your expectations and hope that you award us the highest compliment: your recommendation of our firm to others in need.

We hope you find this issue of Courtside of interest and we wish you all a safe and healthy holiday season, and I extend our best wishes to you and your families a healthy, happy and peaceful new year.

-Norm Hobbie

Published For Clients, Friends And Referring Attorneys Of The Firm

"Our practice is limited exclusively to plaintiffs' personal injury and criminal defense litigation, Workers' Compensation and Toxic Torts. Our Certified Attorneys pay referral fees in accordance with New Jersey Law and the Rules of Professional Conduct."

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Norman M. Hobbie David P. Corrigan Edward C. Bertucio Michael R. Hobbie Jacqueline DeCarlo

Victim Injured in Workplace Fall from Trailer Receives \$2.4 Million Settlement

Norman Hobbie represented J.M., then 54, who was injured on June 24, 2011 while delivering furniture for his employer, an Arkansas-based trucking company. J.M. had just completed a furniture delivery and was in the process of trying to raise the hydraulic lift gate on the trailer (which his employer leased from the Defendant, Atlantic Trailer Leasing). While the trailer was stuck in the extended position on the ground, one of the hydraulic lines ruptured, spraying hydraulic fluid in the area where J.M. was standing. Unable to raise the gate manually, J.M. called his employer and was told to lock down the trailer and wait for assistance. When he climbed into the back of the trailer, the hydraulic fluid on the bottom of his shoes caused him to slip and fall more than 4 feet from the ground, fracturing his elbow in several places, and tearing his rotator cuff, necessitating several surgeries. Norm was able to establish that J.M. had reported problems with the hydraulic lift

on two prior occasions. Significantly, he demonstrated that 1-2 weeks before J.M.'s fall, the subject trailer had been taken in to Atlantic's facility, and was purportedly repaired, which is why J.M.'s employer released it back into service.

The liability issues in the case were hotly contested. Atlantic argued that it was J.M.'s employer who had the responsibility for maintaining the trailer (The exclusivity provisions of the Workers' Compensation Act would have barred J.M. from suing his employer directly in Superior Court), and they also argued that J.M. was comparatively negligent for his own fall. Norm successfully mediated the case, which was scheduled to proceed to trial in Monmouth County, with retired Judge James P. Courtney and obtained a \$2.4 Million settlement award for J.M., who also retained the right to also proceed with the workers' compensation claim he filed against his employer.

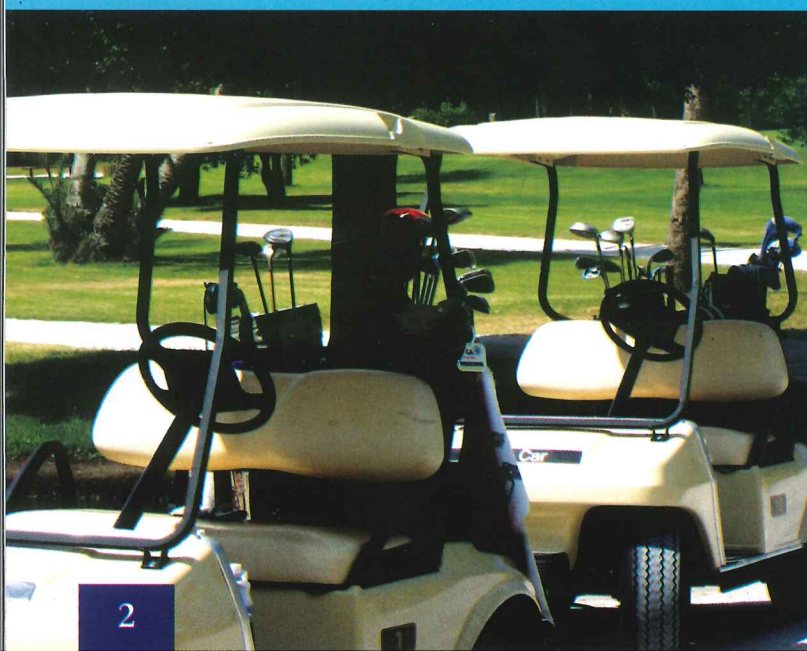
\$2 Million Plus Settlement in Liquor Liability Lawsuit

Norman Hobbie represented R.R., who successfully resolved his claims against 3 local bars for their service of alcohol to a visibly intoxicated patron. R.R., then 54, was driving home from work in Red Bank on Middletown's Navesink River Road towards Atlantic Highlands when intoxicated driver M.B. struck his vehicle head on in R.R.'s lane of travel. R.R. fractured his left femur, pelvic bones, collar bone, multiple ribs and his L1-2 vertebrae. He also lacerated his liver and sustained a closed head injury. He underwent multiple surgeries. Prior to the crash, M.B. had been drinking first at Harborside Grill, then at On The Deck and last at Copper Canyon, who served him his last

drink approximately 30 minutes prior to the crash. Blood tests performed after the crash showed M.B. had a blood alcohol level of .172%. He was convicted of assault by auto and sentenced to 3 years. Norman successfully pursued the 3 bars in a civil suit filed under the Dram Shop Act, a statute which renders a commercial establishment liable for the service of alcohol to persons who are visibly intoxicated. Norm resolved the case with the first two bars, and successfully mediated the claim he filed against Copper Canyon with Judge Codey. The total amount of R.R.'s settlement exceeded \$2 Million.

Golfer Injured When Cart Flipped Receives \$1.35 Million

Norman Hobbie represented Dr. M.B, who injured his leg when his golf cart tipped over while enroute to the 11th tee at Spring Meadow Golf Course in Farmingdale. Dr. B was a passenger in the golf cart operated by M.M., who lost control of the cart on an incline, causing it to flip to the right, landing on Dr. B's leg, resulting in a fibular fracture requiring emergency open reduction surgery and the placement of plates and screws. Due to the complex nature of the fracture, and Dr. B's size (6'3" tall, then 310 lbs), Dr. B, now 42, has had to undergo multiple surgeries to revise the hardware initially placed after the incident. The lawsuit was filed in Monmouth County against Atlantic Golf Management (related to the negligent design/maintenance of the course) and cart operator M.M. and successfully mediated with former Essex County Presiding Judge Eugene Codey, now with the Roseland defense firm of Connell Foley. Norm successfully negotiated a total settlement of \$1.35 Million.



\$4 Million Class Action Settlement Awarded to West Caldwell Residents



On July 23, 2014, Essex County Superior Court Judge Sebastian Lombardi approved a \$4 Million Class Action Settlement for 139 residents of West Caldwell and Essex Fells whose properties were identified as being part of an "investigation area" related to contaminated groundwater emanating from a manufacturing plant site. The class members were represented by Norman Hobbie and Jacqueline DeCarlo who led a team of class action counsel. Class members are receiving benefits under the class action settlement because they have each received a letter from the current owner of the now defunct manufacturing plant (pursuant to the direction of the New Jersey Department of Environmental Protection) identifying their property as being part of the area under investigation, which Norman and his team alleged caused the homeowner "stigma damages" triggering a duty to disclose the letter to any prospective buyers in the future under New Jersey law. Payments to the class members range from \$17,000 - \$75,000. All of the class members retain their rights to file claims against the Defendants if testing reveals the presence of environmental contamination in levels that require action by the agency, as well as the right to file a personal injury claim if they develop an illness in the future that can be linked to the contamination (which includes the presence of carcinogenic compounds).

\$2.1 Million Dollar Settlement Awarded to Bus Passengers

Norman Hobbie and Jacqueline DeCarlo represented 49 passengers who had to be evacuated from a bus that caught fire in Gloucester County. The passengers chartered a bus to take them to a religious retreat in Florida and were returning on May 30, 2011 when the incident occurred. A blown tire that had been replaced earlier in the trip caught fire shortly after the bus entered New Jersey. Although some people told the driver they saw the tire smoking, the driver failed to pull the bus over until he was forced over to the side of the road by a truck who saw flames emerging from the rear wheel-well. The passengers, who observed smoke on the bus, were all forced to evacuate the bus in the dark, along the side of Route 295, in a panic, causing some of them to sustain orthopedic injuries, cuts, bruises and minor smoke inhalation.

Luckily, none of the passengers were burned in the fire, which destroyed the bus, as well as approximately \$60,000 worth of the passengers' personal property. Norman filed separate lawsuits in Monmouth County against the tour company who chartered the bus, and the bus company. All of Plaintiffs shared in a \$2.105 Million settlement fund that was achieved through Norm's successful negotiations during a mediation proceeding with retired Judge James Clyne, and then allocated among the Plaintiffs by retired Judge C. Judson Hamlin. The settlement awards ranged from a low of \$7,500 on a non-passenger per quod claim to a high of \$80,000. The settlements awarded to approximately 10 minor children were also approved by Monmouth County Superior Court Judge Katie Gummer.



\$2.1 Million Awarded to three Families for Diminished Property Value Claims

Norman Hobbie and Jacqueline DeCarlo served as lead litigation counsel of a team of attorneys representing three families who filed separate lawsuits related to claims that their property values had diminished in value as a result of the installation of vapor mitigation systems that were installed in their basements at the direction of the New Jersey Department of Protection. These three homes were part of an area which was designated by the agency as having been impacted by environmental contamination emanating from a former manufacturing plant which operated in the area between 1950 and 1990. As part of the agency's efforts to delineate and remediate contamination, testing revealed the presence of volatile organic compounds which were volatilizing from the ground into the basements through the concrete slabs underlying the three

houses. Although these vapor intrusions were remediated through the installation of mitigation systems installed at the expense of the current owner of the plant site in each basement (similar to radon systems), each of the families claimed that they had suffered a reduced market value for their properties as a result of the stigma associated with the vapor litigation system, which, under New Jersey law, had to be disclosed to all prospective purchasers. Norman negotiated the total \$2.1 Million settlement through mediation. The total was then allocated among the three families by Retired Superior Court Presiding Judge of Middlesex County, C. Judson Hamlin. All of the Plaintiffs retain their rights to file claims against the Defendants if they develop an illness in the future that can be linked to the contamination (which includes the presence of carcinogenic compounds).

\$1.65 Million to Man Who Injured Neck and Back in Fair Haven Crash

Norman Hobbie represented C.F., who was awarded \$1.65 Million by way of a negotiated settlement for injuries he sustained in a 2011 auto collision. C.F. sustained injuries to his neck and back, requiring him to undergo several epidural injections and two surgical procedures. Norman prosecuted the claim against the other driver, who drove through the intersection at a high rate of speed, despite having a stop sign and a blinking red light. The Defendant claimed he suffered a syncopal episode prior to the crash, and was therefore not responsible for the crash.



IN THE WORKS...

Hobbie, Corrigan & Bertucio Appointed As Claimants' Lead Counsel In Ferry Crash By Federal Court Judge In Limitation Action

On January 9, 2013 the SeaStreak Wallstreet commuter ferry violently collided with a dock as it approached downtown Manhattan, causing severe, permanent, and life-altering injuries to dozens of passengers. Within a week of the crash, Petitioner SeaStreak, LLC, filed a maritime limitation action pursuant to an antiquated and judicially disfavored admiralty statute seeking to be exonerated from any liability for the severe injuries it caused or, in the alternative, for its liability for all claims against it (49 claims were filed) to be limited to the value of the vessel, which is \$7,600,000.00. In response, Norman Hobbie filed claims on behalf of 25 claimants. Norman Hobbie and Jacqueline DeCarlo took a lead role in the prosecution of the litigation and on June 24, 2013, The United States District Court appointed them as Claimants' Lead Counsel. A hotly contested maritime litigation has since ensued, with Norman leading the charge on behalf of the passengers who were injured. There are some recent developments in the case which we expect to report in our next issue.....

Courtside is designed to provide general information on legal issues for our clients, colleagues and friends. Our newsletter is not intended to provide legal advice on specific subjects, but rather, to provide insight into legal developments and issues. You should always consult with legal counsel before taking any action on matters covered in Courtside.