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Greenwich Doc A $6 Million Man

Sledding case hinged on town immunity

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Greenwich, the town that became nationally famous for trying to keep poor people off its beaches, may wish it kept rich people off its sledding hills.

Resident Nicholas Stroumbakis, a $500,000-a-year urologist with a specialty in oncology, won a $6.3 million verdict from a Stamford jury on April 14 for injuries he sustained in a January 2000 sledding accident that smashed his lower right leg and produced spinal damage.

Civil & Family

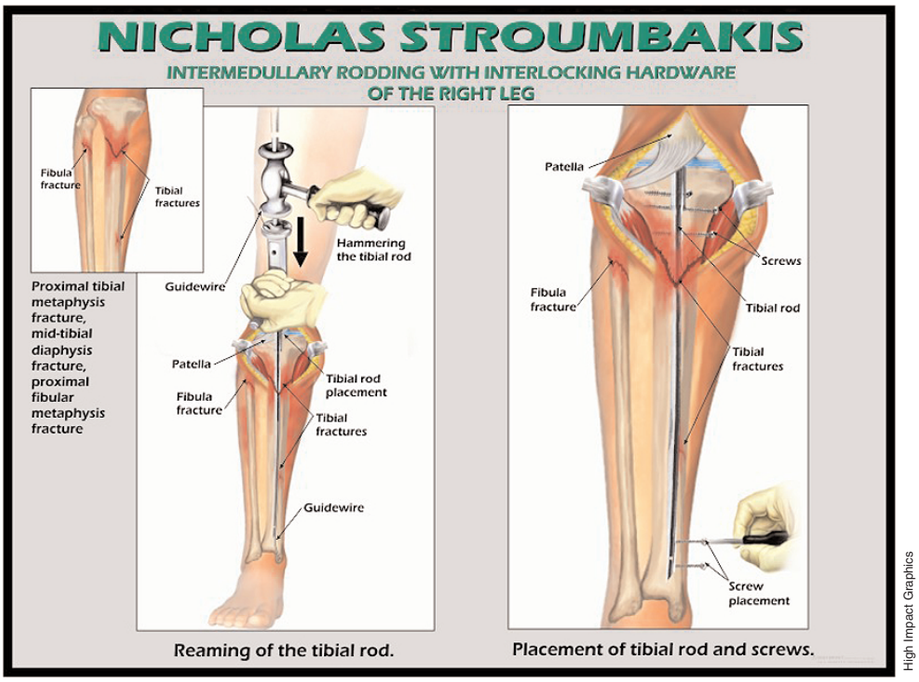
The doctor's large income was a key factor in the high award, tried by plaintiff's lawyer Stewart M. Casper, of Stamford's Casper & de Toledo against Paul E. Pollock, of Bridgeport's Bai, Pollock, Blueweiss & Mulcahey.

Casper did not use an economic expert, but employed detailed medical graphics prepared by FMR Impact Inc., of Denver. The doctor's case was helped by testimony from town employees who, at times, appeared to be engaged in a half-baked cover-up attempt, said Casper. He put on much of his seven-day case through witnesses for the town. Greenwich's defense took less than one day of trial.

The incident occurred on Jan. 22, 2000, as Stroumbakis took the last run of the day down the hill, with his four-year-old son on his lap. Near the bottom, he noticed a dangerous-looking depression and stuck out his right leg to stop the sled. Instead the 37-year-old doctor was thrown by the impact. "His sled crashed into a pit. His four-year-old son had a fractured elbow that healed up OK. We didn't make him part of the lawsuit," said Casper in an interview.

Casper is a firm believer in visual aids at trial, and in this case he had his forensic graphics company bring X-rays to life, with color illustrations of the stages of the leg repair. One shows the surgeons' rubber-gloved hands hammering a stainless steel rod through the marrow of the fractured tibia from the knee. That bone was screwed and plated together at the upper end. Because of severe swelling, Stroumbakis underwent an operation that split the skin on both sides of the shin, down to the bone. The calf was bandaged in this flayed condition for several days, until the destructive swelling subsided and he was stitched up.

The visual aids also included a "Timeline of Pain" showing how much pain medication was needed throughout the treatment, and how the pain registered on a scale of 1 to 10. The doctor missed four months of work after the first surgery, and an additional month after a subsequent bone graft operation.



Rather than have jurors visualize his client's leg and back injuries through X-rays and narrative, Stamford plaintiffs' attorney Stewart M. Casper had a Denver forensics group illustrate the procedures.

Casper alleged statutory and common law counts of negligence and nuisance. Initially, park supervisors were named as defendants as well as the town, but in 2002, the state Supreme Court ruled in *Seymour v. Garcia* that under C.G.S.52-5579(n) a plaintiff could sue the municipality directly, and need not sue through the town employees. Casper happily dropped the employees from the suit, rather than have jurors speculate how blue-collar workers would bear the cost of their verdict.

The town's initial defense was that the sledding field at the Western Greenwich Civic Center was undisturbed natural land, not a man-made feature. Secondly, it argued that any maintenance of the field that may have been done by town employees was a discretionary act, entitled to qualified immunity, and not a routine "ministerial" duty.

Two days after the incident, the town's park supervisor took two photos of the scene, and a week later a civil engineer took more, for the Greenwich lawyer Stroumbakis first retained. He switched to Casper in June, and Casper directed a New Canaan excavator, Scott Hoffman, to find out what was in the pit. Under a thin layer of dirt and a plywood cover was a cinderblock drainage basin. "Definitely man-made," said Casper.

At trial, Casper used Hoffman as his expert witness to demonstrate that the construction of a proper drainage basin follows a routine standard, and that the pit-like slope in this case was abnormal and dangerous. Casper asked Judge Trial Referee Frank H. D'Andrea Jr. to rely on a 1931 state Supreme Court case to charge that, as a matter of law, grading a catch basin is a ministerial act. Instead D'Andrea left that question to the jury. "I'm glad I didn't get it, because it would be an issue on appeal," Casper said in hindsight.

Pollock, a veteran defense lawyer, was brought into the case a week before jury selection, to protect the insurance exposure above the town's initial $500,000 self-insured portion. He was joined at trial by Assistant Town Attorney Valerie E. Maze. The town is currently seeking a judgment overturning the verdict, and contends the process of filling or grading a depression is actually a discretionary act, not a prescribed ministerial function.

"There are many ways to do this," Pollock said. "It could be covered with concrete, or steel, or with a board as was done in this case." He agreed the big verdict was largely due to the doctor's high-income history, and a projection that he would have difficulty during long surgeries, and have his career shortened by 10 years.

The jury set economic damages at $4,734,000, which include past and future medical expenses and diminished earning capacity. The noneconomic pain and suffering award was $1.5 million, and Stroumbakis's wife, Toula, a New York health care lawyer, was awarded $150,000 for loss of consortium. ■

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