

Perspectives

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Crime Victim Cases

Since last year's issue, the firm concluded a significant settlement for the surviving son of a murder victim, which will provide for the child's future upbringing and education. Distinguished attorney H.T. Smith asked us to work with his firm as cocounsel based on our experience and expertise in representing crime victims in inadequate security cases. The case involved a shooting in a public place following an annual community event despite the presence of hired security officers. Careful reconstruction of this still-unsolved crime exposed the flaws in the security company's training, planning, and handling of violent exchange of gunfire. A confidentiality agreement insisted upon by the defendant prevents us from saying more about the facts of the case or the amount of the settlement. ■

Law Firm History and Tradition



Phil Gerson

Gerson & Schwartz P.A. founded by Phil Gerson in 1970 and joined by Ed Schwartz in 1981 continues its 35-year commitment to use all legal means to obtain justice for its clients. Over the long time span that the firm has been committed to helping victims of crime, negligence, and defective products, great success has been achieved. Recognition as a top-notch plaintiffs law firm has come with hard work to make our civil justice system function as it should where injustice has harmed people. Senior partner Phil Gerson said, "We have not won every case we've tried. No lawyers have. We have the humility to admit sometimes that the system disappoints us. We are proud that every client has always gotten our best possible effort and has been treated with professionalism and respect. We will continue this tradition for all clients. This issue of PERSPECTIVES discusses some of our experiences this past year." ■



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Stairs, Stairs, Stairs



Architects and engineers all know what too many average people learn through the pain and suffering and disability of broken bones. Changes in elevation for pedestrians represent a substantial hazard, especially for older people or those not in good health.

Property owner/manager failures to conform to building standards and proper maintenance practices are the main reasons people fall. Going up and down stairs is a daily experience for most people. Despite insurance industry propaganda, people rarely slip or trip unless there is something about the stair conditions that contributes substantially.

This past year, we concluded three significant cases involving defective stairs. In one, a condominium association failed to replace a missing

nosing strip; in another, a prominent real estate developer neglected repair of torn and frayed stair carpeting; in the third, a well-known public venue was maintained with stairs protruding into walkways and corridors.

Each case was vigorously defended by attacking our clients' health history and trying to place the blame everywhere but where it rightfully belonged squarely on the shoulders of the property operators. Extensive pretrial discovery coupled with highly qualified expert witnesses produced significant six-figure settlements for broken bones in all three cases. Confidentiality agreements prevent us once more from identifying the defendants or disclosing the amounts recovered. We continue work on other stairway accidents, which are still being prosecuted. ■

In Memoriam

This year, our lifetime close friend, and longtime professional colleague, Myles J. Tralins was tragically killed in an automobile accident in England. For decades we co-counseled important cases with Myles. Phil Gerson counted Myles among his closest friends and said, "Myles taught me a lot about how to practice law and how to enjoy life to the fullest. I will miss him dearly.

His reputation for integrity, professionalism, and service to the profession will live on in everyone's memory. The legal profession lost one of its champions. We are honored to have been appointed by the chief judge to serve as inventory attorney under Florida Bar rules to help wind up Myles' law practice."

Seminars and Presentations



This year, Phil Gerson made two presentations at a medical negligence program sponsored by National Business Institute. “Case Selection for Plaintiffs” focused on how recent legislative changes to medical malpractice laws have reshaped the selection process for identifying meritorious cases and advising clients. The

second program, “The Right to Die in Florida,” was a timely topic as the Terry Schiavo executive, legislative and judicial conflict was coming to an end.

This summer Phil presented “How to Try the Negligent Security Case and Win” at the National Crime Victim Bar Association annual meeting in Washington, D.C. Outstanding lawyers from all over America attended, and we were proud to have ours included among the outstanding presentations many of which were cutting edge for civil damage claimants. Our firm continued its consistent support of the NCVBA and its parent organization, the National Center for Victims of Crime, by joining other leading law firms as convention cosponsors. ■

Small Shopping Center Stabbing Case Settled at Trial



Based on our reputation for handling premises liability cases, we were asked to join the highly regarded lawyers at Brumer and Brumer P.A. as cocounsel. We collaborated to show that a deceased shopping center owner paid no attention to what was happening on his neighborhood strip stores and negligently failed to monitor crime and code violations. With expert testimony from County Commissioner Sally Heyman, we were prepared to show the property owner should have evicted a particularly dangerous tenant. Based on evidentiary rulings obtained just before jury selection, the case was settled for policy limits plus a contribution from the estate of the owner. ■

Gasoline Fire



Our client received severe burn injuries in the one-tenth of a second it takes for gasoline vapor to ignite if an ignition source is nearby. Defective equipment used to offload fuel allowed vapor escape, which led to the fire. Extensive deposition interviews of current and past company officials from high positions down to mechanics and drivers ultimately led to finding the evidence needed to prove the liability. Facing the facts, the defendants entered into confidential settlement after almost five years of litigation. ■

Jury Service

Every trial lawyer’s wish finally came true for senior partner Phil Gerson when he was selected to sit as a juror. The old adage “*Many are called, few are chosen*” had always been his comment after being excused by one lawyer or another after explaining his own trial experience during voir dire. “This time I was in the back row and neither of the two relatively inexperienced lawyers asked any questions about my background. The criminal case involved security issues on a cruise ship, so the subject matter was right on point with many of our open files involving both security and cruise ship passengers. My input during deliberations was minimal. My fellow jurors performed their duties, which they accepted when they took the oath, in the same way that we have seen so many times as lawyers. It was a privilege to sit inside the jury box during a trial,” said Phil. ■

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