

VERDICTS & SETTLEMENTS

LEGAL MALPRACTICE

Negligence
Statute of Limitations

VERDICT: Defense Verdict.

CASE/NUMBER: Ralph and Lorraine Padilla v. Koszdin and Siegel, Harvey L. Lerer, Harvey L. Lerer, Inc., and Sheri Manuwal/7 LC023986.

COURT/DATE: L.A. Superior, Van Nuys, /, November 15, 1996.

JUDGE: Hon. Howard J. Schwab; Dept. M

ATTORNEYS: Plaintiffs - John Paladino, Joe Paladino, Steven George Fepper (Sherman Oaks).

Defendants: Lawrence Borys, Nancy Wenger (Wilson, Kenna & Borys, L.A.) for Koszdin and Siegel; Jack Koszdin; Martin Siegel and Carlos Vellanoweth; Frank Nemecek (Nemecek & Cole, Sherman Oaks) for Harvey L. Lerer; Harvey L. Lerer, Inc. and Sheri Manuwal.

TECHNICAL EXPERTS: Plaintiffs - Martin J. Siegel, mechanical engineer, L.A.; Richard D. Grossman, mechanical engineer, L.A.; Richard Hoffman, mechanical engineer, Bernsville, Minn.; Jonathan Sharp, mechanical engineer, Littleton, Colo.; Tom Robison, telephone pole climber, Lancaster; John Hotchkiss, vocational rehabilitation, Glendale; Ralph Clements, economist, Studio City; Phillip Feldman, Esq., standard of care, Sherman Oaks.

Defendants: Rick Benson, telephone pole climber, Van Nuys; Michael E. Fourney, mechanical engineer, Malibu; Linda Duarte, vocational rehabilitation, Fullerton; William Rehwald, Esq., standard of care, Woodland Hills.

MEDICAL EXPERTS: Plaintiffs - Shalk Saheb, M.D., orthopedic surgeon, Van Nuys.

FACTS: On Dec. 5, 1986, plaintiff Ralph Padilla, a 24-year-old cable TV installer, climbed a telephone pole to repair a dropped line. While working on the pole, he fell approximately 20 feet to the pavement. The plaintiff retained defendant Koszdin and Siegel to pursue a workers' compensation and third-party case against the manufacturer of the pole safety strap which allegedly failed, causing the fall. Defendant Koszdin and Siegel associated personal injury specialist defendant Harvey L. Lerer, and his firm who filed a Superior Court complaint which allegedly did not name the correct manufacturer of the pole safety strap. The manufacturer was eventually named by defendant Lerer as a Doe defendant after the one-year statute of limitations ran. Defendant Lerer later substituted out of the case and the manufacturer was dismissed at trial, which was handled by the plaintiffs' present attorneys. The plaintiffs, Ralph Padilla and his wife Lorraine, brought this action against the defendants based on legal malpractice, claiming that the defendants did not properly inventory the allegedly defective equipment and did not name the correct party within the statute of limitations.

CONTENTIONS: The plaintiffs contended that the underlying product liability case was worth \$2.2 million, based upon design defect. The plaintiffs claimed that the single locking snap hooks on the safety straps were defective; and that double locking snap hooks were available and safer.

The defendants contended that the product was not defective; and that the manufacturer would have prevailed had the underlying case proceeded to trial. The defendants also contended that the plaintiffs created confusion about which product was actually involved in the fall.

INJURIES: The plaintiff husband allegedly fractured his elbow and ulna, suffered broken ribs, and two bulging lumbar discs requiring five surgeries with three more surgeries contemplated. The plaintiff husband claimed his wrists bones will not heal, that he has pain in his wrists and back, and that his elbow and arm have limited range of motion.

DAMAGES: The plaintiff wife claimed loss of consortium. The plaintiffs also sought the cost of trying the underlying case against the manufacturer.

SPECIALS IN EVIDENCE: MEDS \$125,000; Future MEDS \$60,000; LOE \$180,000; Future LOE \$270,000.

JURY TRIAL: Length 3 1/2 weeks; Poll 9-3; Deliberation 1 hour and 40 minutes.

SETTLEMENT DISCUSSIONS: The plaintiffs made a C.C.P. §998 settlement demand for \$1 million. The defendants made a joint offer during trial of \$150,000.