

VIRGINIA LAWYERS WEEKLY

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VERDICTS & SETTLEMENTS

Railing collapsed, man fell from third floor landing

\$1,850,000 Settlement

The plaintiff was visiting a friend at a Richmond apartment complex when he was injured after falling from the 3rd floor common area. The plaintiff was leaning against the wooden guardrail smoking a cigarette when the railing collapsed, causing him to fall 19 feet, striking the concrete landing on the

ground. The plaintiff sustained a traumatic brain injury, humeral fracture, olecranon fracture and a coccyx fracture. The plaintiff was initially hospitalized for three days and later underwent surgery for the humeral fracture and olecranon fracture.

The plaintiff alleged ongoing medical problems associated with the orthopedic injuries and numerous cognitive limitations as a result of the traumatic brain injury. The plaintiff was prepared to present evidence from several experts, including a psychiatrist and a vocational rehabilitation counselor regarding the plaintiff's mild traumatic brain injury and projected loss of earnings over his expected work life due to his physical and cognitive limitations.

While the defendants were not challenging the plaintiff's theory of liability, they were vigorously disputing the plaintiff's claim of a traumatic brain injury based on a review of the plaintiff's prior cognitive test-



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ing, school records and pre-accident medical problems. The defendants were further disputing the plaintiff's claim for loss of future earnings and the cost of projected future medical care.

Plaintiff's counsel was hired after the case was declined by another local personal injury law firm.

Immediately upon being retained, plaintiff's counsel hired a structural engineer who inspected the premises and found a number of building code violations regarding the wooden guardrail. The plaintiff's law firm, through its investigation, was able to locate a number of witnesses who were prepared to testify they had reported problems concerning the guardrail to the property management company prior to the plaintiff's fall.

The case settled the night before the second round of mediation due to the effort of the mediator, Frank C. Cowan.

[12-T-163]

Type of action: Personal injury – premises liability

Injuries alleged: Traumatic brain injury, humeral fracture, olecranon fracture, coccyx fracture

Court: Richmond Circuit Court

Special damages: \$173,215 for past medical bills and lost wages

Resolved before: Mediation

Mediator: Frank C. Cowan

Verdict or settlement: Settlement

Amount: \$1,850,000

Attorney for plaintiff: David E. Durrett, Richmond