

VERDICTS & SETTLEMENTS

Tenant seriously injured in Petersburg deck collapse

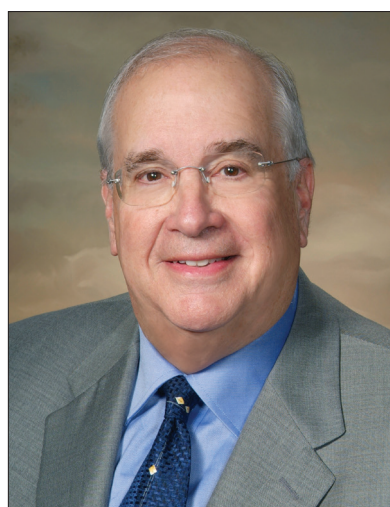
\$950,000 Settlement

Plaintiff, a lessee in a five-unit rental property in Petersburg, went onto a second story deck through a common hallway. When he stepped through the doorway onto the deck, it immediately collapsed, causing him to fall one story and break three bones in his right ankle, which required emergency fixation surgery. This was the first time that the plaintiff had ever attempted to go on the deck. A witness who did repairs on the building had advised the owner's agent that the deck was in need of repairs and unsafe.

After the fixation surgery and a subsequent surgery to remove some of the hardware, the two treating expert orthopedic surgeons agreed

that the plaintiff has a disability of the leg of 20 percent and would probably require, in the next 20-30 years, fusion or a total ankle replacement. The X-rays taken of the plaintiff's ankle approximately nine months post-accident showed arthritis. Future medical specials for the ankle were approximately \$15,000-\$26,000. Loss of earning capacity was approximately \$333,000. There were also future medicals and prescriptions for the concussive injury.

Approximately 90 days before trial, and after expert designations for the plaintiff, a second deposition of the owner's agent was taken by court order. The owner's agent in her second deposition was asked by counsel, "Who did the repairs to



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the property?" She responded, "It was really just guys that was down there, around there. If somebody told me this guy did this or that that guy did that, I let them do the job, because to me, those places were like trash. So I just had anybody do it."

Approximately two days after that deposition, a first offer of \$900,000 was communicated by defense coun-

sel. The case was settled for \$950,000 one day later, with \$1,000,000 being the total coverage available. Asset search did not show sufficient assets to justify taking a verdict.

[A story on this case, entitled "Two deck collapse cases each settle for nearly \$1M," was published in the Sept. 28, 2015, edition of Virginia Lawyers Weekly] [15-T-129]

Type of action: Premises liability - deck collapse

Injuries alleged: Right ankle trimalleolar ankle fracture; ankle dislocation (right); muscle spasms in back; tinnitus; hearing loss; headaches; status-post concussion with insomnia and irritability; cervical myofascial strain; lumbar myofascial strain; major depressive disorder, single episode, moderate; Posttraumatic stress disorder; mild traumatic brain injury

Court: Petersburg Circuit Court

Special damages: Present medicals - \$154,220.81; present lost wages - \$27,765.60

Verdict or settlement: Settlement

Amount: \$950,000

Plaintiff's attorneys: Jay Tronfeld and Wiley J. Latham IV, Richmond