

## PENNSYLVANIA

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### FEATURED VERDICT

#### Motor Vehicle

Pedestrian, hit by bus, sought damages for leg amputation

**Verdict \$4,581,504**

*Huang v. Transportation Management Services Inc.*

Allegheny County Court of Common Pleas

**Plaintiff Counsel** Shanin Specter (lead) and Regan S. Safier; Kline & Specter, P.C.; Philadelphia, Pa.

**Defense Counsel** James M. Girman and John T. Pion; Pion, Nerone, Girman, Winslow & Smith, PC; Pittsburgh, Pa.


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**RESULT** The jury found Lesko and Kratz were not negligent.

**TRIAL DETAILS** Trial Length: 6 days  
Trial Deliberations: 6.5 hours

**PLAINTIFF  
EXPERT(S)** Royal A. Bunin, M.B.A., economics,  
Wynnewood, PA  
Richard P. Friedlander, M.D., cardiology,  
Ozone Park, NY  
Kathleen A. Wittels, M.D., emergency  
medicine, Boston, MA

**DEFENSE  
EXPERT(S)** Steven J. Nierenberg, M.D., cardiology,  
Philadelphia, PA  
R. Scott Rankin, D.O., emergency medicine,  
Harrisburg, PA

**EDITOR'S NOTE** This report is based on information by counsel for Lesko and Cardiac Consultants P.C. Counsel for plaintiffs and other defendants did not respond to phone calls.

—Aaron Jenkins

## PREMISES LIABILITY

Dangerous Condition — Negligent Repair and/or Maintenance

### Fall down fire-escape led to ankle injury, visitor claimed

**VERDICT** \$125,000  
**ACTUAL** \$72,500

**CASE** William Dickson and Joanie Dickson  
v. Trinity Management Associates Ltd.,  
Kenneth Kochel, and Janet Kochel  
No. CI-13-06984

**COURT** Lancaster County Court of Common Pleas  
**JUDGE** Leonard G. Brown III  
**DATE** 4/13/2016

**PLAINTIFF  
ATTORNEY(S)** Michael P. McDonald, McDonald at Law,  
Lancaster, PA

**DEFENSE  
ATTORNEY(S)** Lisa M. DiBernardo, Flanagan &  
DiBernardo, LLP, Lancaster, PA (Trinity  
Management Associates Ltd.)  
Gregory S. Hirtzel, Fowler Hirtzel McNulty  
& Spaulding, LLP, Lancaster, PA (Janet  
Kochel, Kenneth Kochel)

**FACTS & ALLEGATIONS** On April 23, 2013, at about 10 p.m., plaintiff William Dickson, 32, tripped and fell down

the stairs of an apartment building's outside fire escape, in Lancaster.

Dickson, with his wife and children, was visiting his mother-in-law, who lived on the second floor. There were two other ways to enter her apartment, but the most typical way was through the fire escape. According to Dickson, there were two lightbulbs with a motion sensor placed up on the back porch of the first floor apartment, intended for lighting generally, and although this light was not placed to light the fire escape specifically, it did so, to some degree. As the family exited the building, Dickson's wife descended the stairs first, walking with their one child.

The sensor light allegedly did not come on as she went down the stairs. Minutes later, Dickson, carrying their other child, walked down the darkened stairs, and the light did not activate. As a result, Dickson misjudged a step and fell backward, causing him to slide down the steps. His right foot caught between vertical iron bars, and twisted, resulting in an ankle fracture. (Dickson's child was uninjured.)

Dickson sued property-owners Kenneth and Janet Kochel and property-manager Trinity Management Associates Ltd. He alleged negligence in maintaining the lights on the premises, creating a dangerous condition.

Dickson's counsel argued his mother-in-law, over the years, had complained about how the sensor-light malfunctioned.

The Dicksons admitted that they knew, when they descended the stairs that evening, that the light would not activate half of the time. Previously, Dickson's mother-in-law usually held a light taken from her apartment and shone it over the steps at night to help them see.

Dickson's counsel faulted Trinity and the Kochels for not replacing the 32-year-old sensor, which was found to be faulty after the accident, and for not installing more lighting outside for the fire escape.

According to Dickson's expert in architecture, to add more lighting or to fix the motion sensor, in each case would cost \$85. The expert cited multiple property-maintenance standards that required lighting in the area where Dickson fell. (The court precluded the expert from testifying about whether building codes applied or were violated.)

Counsel for the defense argued that Dickson was comparatively negligent for descending the stairs knowing that the light did not work properly and without his mother-in-law providing light as she usually did. Moreover, counsel argued, Dickson could have used two other exits available to him from his mother-in-law's apartment, but chose not to. (Dickson asserted that his mother-in-law had those exits blocked with furniture and did not permit him to use them.)

Counsel for the Kochels cited the management agreement to argue that the property owners were absolved of any liability, since it was Trinity's responsibility to address maintenance and inspection issues.

**INJURIES/DAMAGES** *fracture, ankle; fusion, ankle; internal fixation; open reduction; physical therapy; pins/rods/screws; plate; swelling; trimalleolar fracture*

Dickson was driven to an emergency room, where he was diagnosed with a trimalleolar fracture at his right ankle. He was fitted with a brace and released.

Within a week, after significant swelling had developed, Dickson underwent surgery to have an external fixator installed. He was discharged two days later. About three weeks later, he underwent open reduction and internal fixation surgery, in which plates and screws were implanted.

Dickson remained non-weight-bearing in the ensuing weeks and was monitored by his orthopedic surgeon. In July, he started physical therapy, which he treated through September. Throughout 2014, Dickson received intermittent treatment due to a lapse in his health insurance. In September 2015, Dickson, after presenting to another surgeon, underwent a partial ankle fusion and the hardware from his previous surgery was removed. He sought to recover a medical lien of about \$12,600.

Dickson's orthopedic surgeons causally related his injuries and treatment to the accident. Dickson's first surgeon (David Hughes) noted that he would have ongoing problems.

Dickson testified that his ongoing ankle pain prevents him from walking long distances, stooping, bending, and performing certain physical activities. He sought damages for past and future pain and suffering. (Dickson's wife had withdrawn her claim for loss of consortium, prior to trial.)

Defense counsel cited Dickson's intermittent treatment through 2014 and part of 2015. Counsel played a video of Dickson in a dance club and cited Dickson's medical records to note he suffered from a congenital back condition that had already impaired his ability to walk and bend.

**RESULT** The jury found that Dickson was 42 percent liable, Trinity Management was 49 percent liable, and the Kochels were 9 percent liable.

Dickson was determined to receive \$125,000, which was accordingly reduced to \$72,500.

<b>DEMAND</b>	\$325,000
<b>OFFER</b>	None reported
<b>INSURER(S)</b>	Erie Indemnity Co. for Trinity Management Associates Ltd.  Westfield Insurance Co. for Kenneth Kochel and Janet Kochel
<b>TRIAL DETAILS</b>	Trial Length: 3 days Trial Deliberations: 3 hours
<b>PLAINTIFF EXPERT(S)</b>	Umur Aydogan, M.D., orthopedic surgery, Hershey, PA (treating) David P. Hughes, M.D., orthopedic surgery, Lancaster, PA (treating) Julius Pereira III, A.I.A., I.F.M.A., architecture, Chadds Ford, PA
<b>DEFENSE EXPERT(S)</b>	None reported

**POST-TRIAL** Dicksons' counsel motioned for delay damages.

**EDITOR'S NOTE** This report is based on information that was provided by counsel for plaintiffs and Trinity Management Associates Ltd. Counsel for Kenneth Kochel and Janet Kochel did not respond to the reporter's phone calls.

—Aaron Jenkins

## MONTGOMERY COUNTY

### MEDICAL MALPRACTICE

Negligent Treatment — Orthopedic Surgeon — Orthopedic Surgery

## Defense insisted surgeon properly treated broken wrist

<b>VERDICT</b>	<b>Defense</b>
<b>CASE</b>	Elliott D. Engel v. Abington Emergency Physician Associates, Abington Memorial Hospital, Robert Cho, Kristin L. Crisci, Thomas F. Harkins, Moody Kwok, M.D., Orthopaedic Specialty Center, Radiology Group of Abington PC, and Amy Reif No. 2009-05451
<b>COURT JUDGE</b>	Montgomery County Court of Common Pleas Richard P. Haaz
<b>DATE</b>	4/21/2016
<b>PLAINTIFF ATTORNEY(S)</b>	Derek R. Layser, Friedman, Schuman, Applebaum and Nemeroff, P.C., Jenkintown, PA Michael Yanoff, Friedman, Schuman, Applebaum and Nemeroff, P.C., Jenkintown, PA
<b>DEFENSE ATTORNEY(S)</b>	James P. Kilcoyne, Kilcoyne & Nesbitt, LLC, Blue Bell, PA (Moody Kwok, M.D., Orthopaedic Specialty Center) None reported (Abington Emergency Physician Associates, Abington Memorial Hospital, Amy Reif, Kristin L. Crisci, Radiology Group of Abington PC, Robert Cho, Thomas F. Harkins)
<b>FACTS &amp; ALLEGATIONS</b>	In March 2007, plaintiff Elliott Engel, 52, a podiatrist, of Dresher, was diagnosed with complex regional pain syndrome. He claimed the pain was caused by improper treatment by hand-surgeon Moody Kwok, of Willow Grove. The previous month, on Feb. 27, Engel had fallen on black ice and suffered a distal radius fracture at his right (dominant) wrist. He presented to Kwok, who,