

SETTLEMENTS, JUDGMENTS, AND VERDICTS

Below are some of the actual settlements, judgments, and verdicts won by Mark W. Smith & Associates PLC for its' clients.

Slip and Fall **\$2.6 million dollars** **Jury Verdict**
Ruptured Disc/Arachnoiditis

Client was walking at one of New Orleans' premier downtown shopping centers when she slipped and fell in a liquid, sustaining a significant lower back injury She subsequently developed Arachnoiditis Syndrome, an inflammation of the lower spinal cord. During the course of discovery it was determined that mall personnel were aware of the liquid on the floor and had walked away without taking the appropriate steps to either mark it, clean it up, or to place shoppers on notice of its existence.

Attempts to settle the case during the course of Mediation failed when the shopping center made a top offer of \$90,000.00. After a four day trial, a jury entered a verdict with a value worth \$2.6 million dollars.

Medical Malpractice **\$710,000.00** **Judge Verdict**
Failure to diagnose Bladder Cancer

Client presented to her Urologist complaining of difficulty urinating. Radiological testing showed a blockage to the mouth of the bladder which later turned out to be bladder cancer. The clients Urologist ignored or misinterpreted the radiological study and continued non specific treatment. Client's bladder cancer metastasized resulting in her death. After a judge trial the doctor and the Louisiana Patients Compensation Fund paid the \$500,000.00 statutory maximum for pain and suffering and lost income plus medical expenses of \$210,000.00.

Automobile Accident **\$900,000.00** **Judge Verdict**
Wrongful Death

Clients estranged husband was involved in a head on collision in a rural Louisiana parish after a night of drinking with another woman. An autopsy revealed that the client's deceased husband had a blood alcohol content of .021, more than twice the legal limit. However, the driver of the other vehicle indicated that he may have "dozed off" right before the accident.

Extensive computer assisted accident reconstruction was undertaken and it was determined that the accident actually occurred in the client's deceased husband's lane of travel. Although the decedent was drunk, the judge found that the cause of the accident was the driver of the other vehicle crossing the center line and into the intoxicated decedent's path.

In addition to a difficult liability case the driver of the other vehicle was an oil rig roustabout with no insurance coverage. However, discovery undertaken during the course of litigation showed that the driver of the other vehicle had just gotten off of a 14 day hitch on an offshore oil rig and had been driving home that night when he received a phone call from his employer asking him to turn around and return to the rig to take over the shift of another worker who had become ill. The driver turned around and was en route back to the dock site to catch a boat back out to the rig when the accident occurred. It was argued by plaintiff's counsel that the oil rig worker was acting in the

It was subsequently determined that the gantry collapse was due to improper assembly. Client suffered a ruptured spleen, a damaged kidney and closed head injury.

Medical Malpractice \$1.2 million dollars Settlement
Failure to Diagnose Spinal Lesion/bladder impairment/hemi-paresis

Client sought treatment at a local hospital emergency room complaining of a sudden onset of severe back pain with no precipitating trauma. He was given mild pain killers and muscle relaxers and sent home. He returned the next day this time complaining of pain in his legs as well as severe back pain. Once again he was sent home.

The next day the client sought treatment at a different facility. He was diagnosed with a spinal cord tumor which was compressing his spinal cord and underwent emergency surgery. The delay in treatment caused client to suffer partial paralysis of his lower extremities. The hospital and Louisiana Patients Compensation Fund paid the statutory maximum of \$500,000.00 plus an additional \$700,000.00 for future medical care.

Medical Malpractice \$600,000.00 Settlement
Failure to Diagnose Cauda Equina Syndrome/drop foot

Client sustained a low back injury while working in his yard. He sought treatment at the local hospital where he was diagnosed with a herniated disc. While in the hospital client began experiencing significant pain and numbness in his lower extremities and began having difficulty urinating. These are symptoms of Cauda Equina Syndrome and constitute a surgical emergency. Despite these clear symptoms of a significant injury the treating physician failed to operate in a timely manner and client was left with a drop foot.

Medical Malpractice \$50,000.00 Settlement
Foreign Object left in patient

Client underwent open heart surgery during the course of which a suture needle broke in half. A piece of the needle remained imbedded in the clients sternum. Three weeks later client had to undergo a minor surgery to remove the imbedded piece of metal. There were no complications.

Nursing Home Negligence \$250,000.00 Settlement
Fractured Hip

80 year old client suffering from Alzheimer's and Dementia fell out of his wheelchair, fracturing his hip. The nursing home and its personnel were negligent in that they failed to have the client strapped into his wheelchair.

Insurance Bad Faith **\$175,000.00** **Settlement**
Failure to Pay for Medical Treatment

Shortly after purchasing a new health insurance policy client suffered a cardiac arrhythmia. The doctor recommended additional testing but, alleging that the cardiac condition was a pre-existing condition and not covered under the policy, the insurance company refused to pay for the additional testing. Client suffered additional cardiac problems. In addition to the insurance company being forced to pay all of his medical bills it was forced to pay \$175,000.00 in bad faith damages.

Automobile Accident **\$185,000.00** **Settlement**
Neck Injury/Minimal impact accident

Client, an Ear, Nose, and Throat physician, was rear-ended in a very low speed collision. Damage to client's vehicle was less than \$100.00, however, he began suffering from neck and arm pain. Radiological studies indicated bulging discs. Client argued that he was no longer able to undertake surgical procedures requiring great endurance. The defendants retained an expert who alleged that the force of the impact was insufficient to cause the injuries alleged by client. On pre-trial motions the insurance company's expert was discredited and the insurance company settled shortly thereafter for \$185,000.00.

Products Liability **\$125,000.00** **Settlement**
Eye Injury

Client rented a bed to place in his apartment. The bed was delivered and assembled by rental company's employee. Shortly after they left the client went to sit on the edge of the bed and it collapsed causing him to strike his eye against a bedpost. He suffered a blunt injury trauma which resulted in corneal damage. Client underwent one surgery but shortly thereafter Hurricane Katrina intervened and he was unable to secure appropriate follow up treatment. As a result client suffered a permanent partial loss of 10% of vision in that eye. Settlement of \$125,000.00.

Medical Malpractice **\$50,000.00** **Settlement**
Faulty Equipment/Sprained Hip

Client was scheduled to undergo a routine D & C for removal of a cyst on her cervix. While on the operating table, before the procedure started, the stirrups in which her legs were placed collapsed causing her to fall off of the table and injure her hip. Client suffered extreme embarrassment as a result of the fall as well as the injury to her hip.

Medical Malpractice **\$50,000.00** **Settlement**
Second Degree Burn

Client was hospitalized for a pancreatic biopsy. Prior to the procedure he suffered a minor injection injury to his arm causing swelling at the site. To treat the swelling the nursing staff applied a heating pad. The heating pad was placed under the clients arm prior to and during the course of the biopsy and was left there approximately an hour while the client was under anesthesia. When the client woke he discovered he had

developed severe blistering, constituting a second degree burn, where the heating pad had been.

Trip and Fall **\$215,000.00** **Settlement**
Arthroscopic knee surgery

Client, while carrying office supplies, took the stairs to exit from the parking garage of the office building where she worked. As she exited the door from the garage to the outside there was step down immediately on the threshold of the door. She tripped, fell and sustained injury to her knee requiring surgery.

Investigation revealed that the threshold did not meet appropriate codes at the time that the building was constructed and that there should have been an eight inch "run-out" at same height as the door's bottom.

Medical Malpractice **\$500,000.00 (plus all future medicals)** **Settlement**
Renal Failure/Kidney Disease/End Stage Renal Disease

Shortly after clients birth it was noticed that he was considered small for his age and fell into the bottom 20% of benchmarks for children similar age. His short stature and light weight continued throughout his childhood and was attributed by his pediatrician to the fact that his parents were also relatively small in stature.

At approximately aged 14 client began experiencing significant knee trouble. At that time it was determined that he had uric acid crystals forming in his joints. A consult with an Endocrinologist revealed that the client suffered from chronic renal insufficiency and was now in end stage renal disease. This chronic renal insufficiency is what directly led to his small stature and the formation of uric acid crystals in his knee joints.

Defendant pediatrician paid the statutory maximum of \$500,000.00 for general damages and the Patient's Compensation Fund agreed to pay all of the clients medical bills, including those for a kidney transplant and those associated with human growth hormone treatment. Future medical costs paid by the Patient's Compensation Fund approached one million dollars.

Medical Malpractice **\$500,000.00** **Settlement**
Failure to Diagnose Hyperlipidemia/Elevated Cholesterol Levels

44 year old decedent (husband and father of two) suffered a massive and fatal heart attack while attempting to start a stubborn lawn mower at his home. The decedent had no prior history of cardiac problems. A review of his medical records from his family physician indicated that two years previously a routine blood test showed that the decedent suffered from Hyperlipidemia (extremely high cholesterol levels). Expert testimony indicated that had the decedent's treating physician started him on anti-cholesterol statins at that point in time that the clogged artery which led to his massive heart attack may have been avoided.

The settlement was for the statutory maximum of \$500,000.00.

However, not only was there no follow up, but Client was not even told of the finding of a mass on his liver. Apparently his physician had not bothered to read the CT scan report or, if he read it, he ignored it.

Several months later Client begins experiencing severe stomach pains and weight loss. He was hospitalized the day after Christmas and while undergoing testing for suspected mesentery ischemia, the June CT scan was discovered by the gastroenterologist. Testing revealed that the liver mass has metastasized and Client was now terminal. Client died six days later.

Post mortem testing showed that the cancer was pancreatic in nature. A cancer with a very low survival rate. Even had it been caught and treated six months earlier expert testimony showed that the delay in diagnosis caused Client to lose only three to six months of his life span.