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Girl Hurt In Crash Settles With Dad For \$1.65M Brochure Detailing Surgeries Was Key

Can the mother of a 12-year-old girl successfully sue the father for injuries the girl suffered when his car struck a pole and she was thrown into the dashboard?

A recent \$1.65 million settlement indicates the answer is "yes."

Cleveland attorney Rubin Guttman, who represents the plaintiff, told **Lawyers Weekly** the key to obtaining the settlement was the presentation of a detailed,

20-page color brochure depicting each step of the girl's multiple surgeries.

"We did what needed to be done to prove those damages, including, of course, the appropriate evaluations from the surgeons, the economic loss evaluation, the vocational assessment, and the neuropsychological evaluation," he said.

However, Guttman said he had some difficulties dealing with the emotional component of the case.

"You've got a lot of difficult family dynamics in a case like this and, if you're at all a human being, you want to be sensitive to leaving this family better than what they were when they met you," he said.

He acknowledged, though, that there are limits to what attorneys can do.

"You can't heal everything, but this is the kind of case that, if you're not careful, could destroy family relationships," Guttman explained, referring to the tension-filled relationship between the plaintiff's divorced parents.

According to Guttman, a case like this is winnable if attorneys:

- establish a civil working relationship with the insurance claims adjuster, and his or her superiors;
- hire appropriate experts to conduct relevant evaluations of the client;
- assume the expense of creating medical illustrations and graphics; and
- take the time to understand their clients' lives and the impact the injuries have had on them.

Car Accident

The plaintiff, a 12-year-old girl, was a passenger in a car driven by the defendant, her father. The plaintiff's parents are divorced.

The defendant lost control of the vehicle and the car struck a pole. Upon impact, the plaintiff was hurled out of her seat into the vehicle's dashboard.

The plaintiff suffered severe trauma to her head, right eye and brain. As a result, she needed numerous facial and cranial reconstructive surgeries.

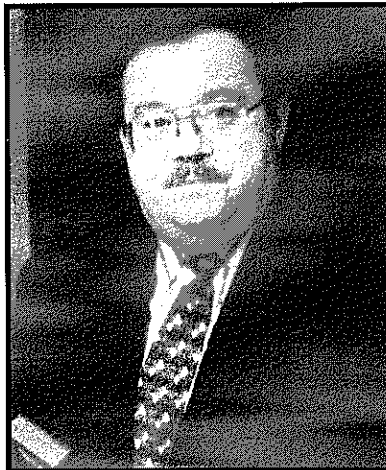
Despite treatment, the plaintiff was left with some permanent scarring and mild cognitive dysfunction.

The plaintiff's mother filed suit against the father for personal injuries.

A \$1.65 million settlement was reached with the defendant's primary insurance carrier, CNA. The lifetime pay-out is expected to be \$11.2 million.

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— Cleveland attorney Rubin Guttman



RUBIN GUTTMAN
Make the adjuster your advocate

Gain Advocates

Guttman suggested that, because the ultimate consideration in any case is the client's welfare, attorneys should take the time to get to know their clients — and their clients' families. What attorneys are ultimately trying to produce for the family, Guttman maintained, is a better life.

"Get into their lives, understand what their lives are about and what perspective they are bringing to the process," he said. "You have to have a holistic view of the entire family."

From a strategic standpoint, however, Guttman recommended taking a closer look at how a client's case is evaluated. To that end, he noted that attorneys must put themselves in the shoes of the insurance adjusters.

Attorneys should recognize the insurance adjuster's need "to be able to evaluate your case in a way that he or she can talk to superiors up the chain," he explained. "When you're dealing with a serious case, adjusters have the ability to effectively negotiate to get the funds needed on the case in order to resolve it. You're helping the adjuster, the claims manager and the claims vice-president effectively become advocates for your case."

Finally, do not spare expenses if you plan on handling a serious case, suggested Guttman, who spent more than \$20,000 to prepare the graphics in this case.

"Most people wait to spend that kind of money until they get close to trial," he said. "We believe you spend it up front and you produce an impetus towards appropriate, serious settlement."

Do The Work

Guttman presented a wide array of evidence, including medical illustrations, photographs, and a video of the client. He noted that attorneys absolutely should make use of graphics and medical illustrations to "show them what the injuries and damages are. When you put it all together, you get a really comprehensive picture — no pun intended — of what we're talking about."

Moreover, Guttman credited conducting full vocational assessment and testing, neuropsychological and economic work ups to achieve the settlement, saying that these "are the kinds of things you have to do in any serious case in order to prove your case."

Furthermore, Guttman said that in order for attorneys to bolster their cases they need to have experts who will help prove medical damages.

"When you're dealing with head injuries, you need to go to a specialist, if not a neuropsychologist — somebody who focuses on the interrelationship between psychology and neurology," he said. "You're dealing with physiological implications as well as psychological implications when you have nerve injuries."

Guttman, who belongs to the National Head Injury Foundation, cautions that attorneys must have a good grounding in medicine or psychology if they plan on doing head injury cases.

"Traumatic brain injury requires a great deal of focus on things that aren't readily apparent," he cautioned.

Protection

Despite the significant settlement, Guttman was reluctant to say it sends a message.

Instead, he used an example of a nursing home not watching someone's medication and, as a result, literally poisoning that person.

"We then go ahead and try that case and get a \$5 million verdict," he said. "You can say that sends a message — and the message is you better take care or you're going to pay through the nose."

Guttman explained that he would rather share a small piece of wisdom he's learned in his years of practice.

"You have to make sure you make the client feel both a part of the process and protected from the process where appropriate," he stated.

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