



\$1.75M settlement ends workers' comp claim

By: Phillip Bantz ◉ March 7, 2018

An Asheville resort hotel employee who fell from a loading dock has received a \$1.75 million settlement — after rejecting an initial offer of \$165,000, according to his attorney.

"Luckily, they didn't go back and counter," the plaintiff's attorney, Jay Kerr of Asheville, said of his client's family's decision to walk away from the first offer and find a lawyer. "They were smart enough to know they needed to get some advice."

Kerr, who withheld the names of his client and the defendant, said the plaintiff slipped and dropped nearly 20 feet from the resort's loading dock, landing on a concrete embankment. The fall left the man, who was 52 at the time of the 2012 incident, with a traumatic brain injury, according to Kerr.

"If you sat down and talked with him, he's a very affable guy," Kerr said. "But with the short-term memory loss and having poor judgment and losing some executive functioning skills, he requires safety supervision."

After the fall, the man's wife, a school bus driver, and their adult sons, initially shouldered the responsibility of supervising the plaintiff, according to Kerr.

"The carrier [the resort's insurer] just allowed the family to provide the care, just put it off on the family, and the family, not aware of the law, didn't realize what their rights would be individually as well as with the plaintiff," he added.

He said the initial offer of \$165,000 excluded compensation for prior or future safety supervision services. To build the plaintiff's case, Kerr said he retained an aging life care expert, Lisa Laney of Mountain Area Premier Care Navigation in Asheville, to perform a home health assessment.

"Those [experts] who do the best job are those who deal with Alzheimer's and dementia patients, because safety is at the forefront" of what they do, he added.

Kerr shared the home health assessment with the doctor treating the client's brain injuries. Based on that assessment and other factors, including the patient's medical records and interviews with his family, the doctor drew up an order calling for a certain level of safety supervision or attendant care.

The doctor and Laney concurred that the plaintiff reasonably required safety supervision 20 hours a day, seven days a week, according to Kerr.

"You don't have to have that home health assessment. You can just have the doctor rely on what the family says and his medical judgment," he said. "But if you want to be loaded for bear ... I think it's best to have the in-home assessment."

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Kerr

SETTLEMENT REPORT – WORKERS' COMPENSATION

Amount: \$1.75 million

Injuries alleged: Traumatic brain injury

Case name: Withheld

Mediator: Steve Sizemore of Asheville

Date of settlement: Aug. 11, 2017

Most helpful expert: Lisa Laney, aging life care professional, and Brenda Walker, care manager associate, both of Mountain Area Premier Care Navigation in Asheville

Attorneys for plaintiff: Jay Kerr of Asheville

Attorney for defendant: Withheld

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