

Stonberg Settles Complex Labor Law Case for a Third of the Original Settlement Demand

In a case handles by our New York City office, the plaintiff, a construction worker, fell from a ladder while performing renovation work in a Church. Plaintiff sued the Church under New York's Labor Laws, but the Church's insurer disclaimed coverage because the policy included an independent contractor's endorsement. The carrier closed its file.

To avoid a default, the Church served an answer but did not conduct any discovery. Two years later, on the eve of trial, the insurer recognized that the disclaimer was not copied to plaintiff's attorney, thus rendering it ineffective. The carrier re-opened its file and, in order to avoid a runaway Kings County (Brooklyn) verdict, retained KSLN to try it. Unfortunately, in the two years that the case was ignored, plaintiff obtained summary judgment on liability. By the time we appeared, discovery was closed even though none was conducted -- no depositions, no medical records obtained, no IME(s), no discovery demands or responses. We moved by order to show cause to stay the trial, begging for as much discovery as the Court would permit. We also initiated an aggressive investigation, including surveillance. The Court gave us 30 days and directed plaintiff to provide us with copies of the medical records and appear for an IME. We learned that plaintiff had 5 surgeries, including a bowel resection and ACL surgery on both knees! He had not returned to work.

At the start of the damages only trial, the settlement demand was \$1.5M. Working with an orthopedist and radiologist, Mike Stonberg was able to weave an effective argument that the knee injuries were not causally related to the subject accident and that the plaintiff could return to work. The case ultimately settled for \$475,000, and a file that could have caused major fallout was successfully closed. The insurance company's general counsel actually congratulated Mike personally on a job well done.