

will accept much lower settlement offers and in the unlikely event that they attempt to go to trial they will not have the experience or have prepared well enough to win. Don't be afraid to ask your prospective attorneys how many cases they try to a jury verdict each year.

You are also looking for an injury law firm that prides itself on personal attention and time spent with each client. Your story should matter to your attorney. Understanding how your injuries affect you and your family is an important piece of presenting a meaningful case to a jury. If you are rushed to sign a contract and go home, be very cautious. A personal injury law firm that will maximize the value of your claim also chooses its cases very carefully and will want to get all the facts and investigate before committing to your case.

<http://www.personalinjury.com/blog/beware-settlement-mills-choose-your-personal-injury-attorney-carefully>

## ABOUT US

### MOORE O'BRIEN & FOTI GIVES BACK COOKIN' FOR A CAUSE

This spring Moore, O'Brien & Foti entered a team into the Connecticut Trial Lawyers Association Cookin' for a Cause event. The event raised money for House of Heroes in Connecticut, an organization that helps veterans stay in their homes, making them safe and accessible. Attorney Joseph Foti's food even won an award for Most Delectable Dish!



(Depicted above from left to right; Joseph R. Rossetti, Erica L. Pilicy-Ryan, Garrett M. Moore, Jr., Donald C. McPartland and Joseph D. Foti, Jr.)

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## ... And Justice For All

A LEGAL NEWSLETTER FROM THE LAW OFFICES OF

## Moore, O'Brien & Foti

SUMMER 2016

### A DAY OF BOATING RECREATION TURNS TRAGIC

In August of 2014, a group of young girls went boating on a sunny summer afternoon. The girls enjoyed tubing on one of the girl's father's boat. Two of the four girls were gliding across the water behind the boat on a tethered tube. As the speedboat increases speed the girls are thrown off of the tube. The operator of the boat turned around to pick up her friends and the boat collided with the two girls. The propeller of the speedboat struck our client. The two girls in the boat hoisted their friends back into the boat and sped towards the dock. Sadly, our client suffered a severe laceration to her torso.

Police and emergency services were called to the scene. From the moment they received the 911 call, emergency services knew something was terribly wrong. Upon arrival, the emergency personnel attended to both girls struck by the boat. Unfortunately, there was nothing emergency services could do to save our client.

The victim's family contacted Moore, O'Brien & Foti. In the fall of 2014, a claim was made on behalf of the estate of our client against the owner of the boat operated on that tragic day. Moore, O'Brien & Foti partner Garrett M. Moore, Sr. represented our client. Settlement discussions between attorney Moore and the defendants began early on in the case. Through numerous settlement negotiations Attorney Moore achieved a settlement amount totaling \$1.3 million dollars. While tragic, our client's parents have used their loss to help others. They formed a foundation that not only spreads the word about boating safety, but also sponsored legislation that improves boating safety throughout our state.



## CASEFRONT

Moore, O'Brien & Foti has recently resolved by settlement or verdict the following cases which may be of interest to our clients. Of course, the results here should not be applied to other cases.

### DISPUTED LIABILITY PEDESTRIAN V. MOTOR VEHICLE CASE

In December of 2015 Attorney Chrysten Dufour successfully represented our client at trial at Bridgeport Superior Court. This was a hotly contested liability case. One evening in February of 2015 our client was walking along Main Street in Bridgeport when he was struck by a vehicle, owned by a local pharmacy that was backing out of the pharmacy driveway. The defendant was the local pharmacy. The defendant argued that our client was never struck and there was video to prove it. The defendant produced to the police department a video from the night of the accident which showed our client crossing the street and then walking back across the street, sitting down, and then waiting for emergency personnel. Attorney Dufour argued that the video was not the complete video and the video produced was over twenty-five minutes after the accident had occurred. Additionally, the defendant further argued that if this accident occurred it would have been our client's fault.

As a result of the impact our client testified that he was spun around and knocked to the ground and had bruises on various parts of his body as a result. Further, he injured his neck and back and sought chiropractic and orthopedic treatment. The chiropractic doctor assigned him a permanent injury to his back and neck.

Attorney Chrysten Dufour tried the case and the jury returned a verdict in favor of the plaintiff. The defense offered \$5,000 after the case was tried but before the jury started their deliberations. Attorney Dufour and her client rejected the defendant's offer. The jury found the defendant was 85% at fault for the accident and the plaintiff was 15% at fault for a total award to the plaintiff of \$32, 859.30.

### ATHLETE INJURED IN HEAD ON COLLISION

In 2011 our client was on his way back to his college campus for track and field practice. During his drive back to campus, a driver traveling in the opposite direction crossed over the double yellow lines and struck his vehicle head on. The impact was significant and our client was knocked unconscious. He woke up in the emergency room with a concussion, neck and back pain. At the time of the collision, our client was in his final track and field season as a division one athlete. He was kept from participating on the team for a few weeks then decided he wanted to participate in his final meets. Once our client graduated school he continued treating with an orthopedic doctor, chiropractor and with physical therapy. The case settled with the driver who hit our client but the driver was underinsured so we brought a claim against our client's insurance company for underinsured motorist benefits.

The defense argued that our client could not have been injured as badly as he said he was because he participated in his final track and field meets. Our client also worked as an athletic trainer after graduating from college. He posted videos and pictures of the training moves he was able to do. The videos were posted on social media. The defense found the videos and used them against our client as an argument to support their position that he was not injured. The defense never made a real offer in the case. Attorney Erica Pilicy-Ryan tried the case in New Haven Superior Court. At trial, our client testified about his ongoing back and neck pain. He also testified about the difference in his athletic abilities before and after the collision. After a few hours of deliberation, the jury returned a verdict in favor of our client awarding just over \$113,000.00.

### REAR END COLLISION AFTER BRAIN SURGERY

Attorney Joseph Rossetti secured a successful verdict in a case involving complex medical causation. After experiencing issues with hearing, balance, and dizziness, our client was diagnosed with a vestibular schwannoma, also known as an acoustic neuroma. This benign, slow growing tumor was located between her brain and inner ear. Based on the recommendation of her doctors, she underwent brain surgery to remove the growth in October of 2009. Twelve days after her brain surgery, our client and her husband were driving to the doctor's office to have the surgical staples removed from her head. While the couple

was stopped at a red light, they were suddenly rear-ended by a negligent driver. The force of the impact caused our client's head to fly back and hit the headrest, directly over the site where she had her brain surgery. In the days following the collision, she began to experience debilitating headaches and increased cranial discomfort. A litany of testing finally revealed that our client had developed a pseudomeningocele, or cerebrospinal fluid leak, in her brain near the surgical site. As a result of this leak, our client had to undergo a second brain surgery to repair this. Just as the relief of having survived her initial brain surgery was beginning to set in, she was faced with having another unexpected life threatening surgical procedure.

While the development of a cerebrospinal fluid leak is recognized as a complication of our client's initial brain surgery, the timeline with respect to the motor vehicle collision raised significant questions regarding its true cause. Additionally, our client's neurosurgeon is a nationally recognized preeminent leader in the field. He had developed very specialized techniques to minimize the likelihood that leaks, such as this, would occur post-operatively. Therefore, the motor vehicle collision was believed to be the true culprit. Attorney Rossetti reached out to her treating neurosurgeon to discuss the probability that the collision caused the leak to form, rather than his own successful surgery. Her doctor was reluctant to get involved in court matters, and declined to comment on medico-legal matters such as this. As medical causation must be established by a medical professional, Attorney Rossetti was forced to think outside the box to get answers for his client. He reached out to other neurosurgical experts who, upon review of our client's complete medical chart, were able to link the motor vehicle collision and the cerebrospinal fluid leak.

The defendant's attorneys vehemently denied that the leak had anything to do with the collision their client caused. The defendant hired his own neurosurgeon to counter the opinions established by our expert witness. Through cross examination of the defense expert, Attorney Rossetti was able to discredit his opinions and strengthen our client's case. It was revealed that our client's treating neurosurgeon, and our medical expert, both taught courses the defendant's expert attended in medical school. It became a case of student versus teacher.

After receiving many low ball offers from the defendant, the decision was made to proceed with trial. The case was tried before a jury in Waterbury Superior Court, lasting several days. Ultimately, the

jury returned a winning verdict for the plaintiff in the amount of \$190,000.00, including costs. This award was several times that of any offer to settle pre-trial.

### Beware of Settlement Mills: Choose Your Personal Injury Attorney Carefully

By Sandra Dalton

When you have been seriously injured, you need the help of a personal injury lawyer who is dedicated to winning maximum compensation for you. A firm that is always ready and willing to take your case all the way through jury trial, if that's what it takes. Settlement mills are high-volume law firms that rarely if ever go to trial and pressure their clients into accepting low-ball settlement offers in order to settle as many cases as possible quickly and cheaply. It is a scheme that the insurance companies love because, even though they wind up paying out on low-value claims, they know they will pay far less than they should to victims who are seriously injured.

#### Recognizing a Settlement Mill:

- Settlement mills advertise heavily and few or none of their clients come from referrals
- They rarely or never take cases to trial
- Settlement mills have very little interaction with their clients
- Negotiations are often handled by paralegals and legal assistants, rather than attorneys
- They are high-volume firms with substantially more open cases at any given time than law firms that fully litigate cases
- Settlement mills put little or no effort into accident investigation
- They settle quickly, typically within two to eight months

#### Choosing Carefully

When you are dealing with serious injuries, you face long-term expenses and losses that are probably far greater than you currently anticipate. It is crucial that you receive fair value for your claim. To do that, you need to do your research, ask the right questions, and choose a personal injury lawyer who will perform a thorough investigation and prepare your case to go to trial, even though a settlement is more likely. You are looking for a trial attorney. Settlements are not bad. Most personal injury cases are resolved with a settlement. But, the insurance companies know that lawyers who are afraid or unwilling to go to trial