

# Podhurst Orseck Secures \$10.6M Settlement in Cycling Accident

Celia Ampel, Daily Business Review

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It was a tall order. Because [REDACTED] was incapacitated, the attorneys could not access his medical records until a probate judge appointed his wife as his guardian. And with his recovery in the very early stages, it was hard to establish the amount of his future medical costs and lost earnings.

But Podhurst Orseck partner Ricardo Martinez-Cid and associate Lea Valdivia pulled it off, obtaining a nearly \$10.6 million presuit settlement on Dec. 22 from insurance companies for the driver and [REDACTED]

The Miami attorneys were inspired in their work by the life stories of [REDACTED] and his wife, [REDACTED] who met their first week of college in the 1970s.

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[REDACTED] had been working in [REDACTED] as a physicist, but as the political situation worsened, he decided he did not want to work with the government and started writing about financial issues. The couple moved to South Florida in 2010.

At the time of his injuries, he was preparing to join a [REDACTED] investment firm he had worked for as a consultant, Martinez-Cid said. The [REDACTED] were on a bike ride together in Boca Raton when a newly licensed 16-year-old driver crossed into the bike lane and hit [REDACTED], causing severe head injuries.

"We had a lot of issues with the different health care providers because he was not in a position to request any medical records," Martinez-Cid said. "They would not provide those, even though his wife was making all the medical decisions necessary for him."

The attorneys went to probate court and won a guardianship appointment for [REDACTED] on an emergency basis. Next, they had to pull together medical information. There was more than one health insurance company involved, and Podhurst Orseck had to find out what they were claiming as liens for the injured cyclist's hefty medical bills.

Martinez-Cid and Valdivia also spoke to the business partner who was working on bringing [REDACTED] to his firm full time. They also investigated the 16-year-old's family's financial situation, learning the boy was not exactly an average driver. His father,

## VERDICTS & SETTLEMENTS



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### PRODUCTS LIABILITY

#### ALACHUA CIRCUIT COURT Smoker's Family Awarded \$19M in Tobacco Suit

A jury slapped R.J. Reynolds Tobacco Co. and Philip Morris USA, Inc. with a \$19.4-million verdict, holding the companies liable in the death of a smoker who died at 67.

John H. Fatico, a marketing professor at the University of Florida, smoked heavily since age 13 and died of chronic obstructive pulmonary disease in 1998. The jury found the companies obscured information on the dangers of cigarettes. R.J. Reynolds was found 50 percent negligent, Philip Morris 25 percent and Fatico 25 percent. Fatico's estate received compensatory damages of \$5.89 million. Each company was also hit with punitive damages of \$6.75 million. The award was not reduced for Fatico's comparative negligence.

Case: Estate of Fatico v. R.J. Reynolds Tobacco Co. No. 14-12-010  
Plaintiff attorneys: John S. Kall, Law Offices of John S. Kall, Jacksonville; Robert E. Shields, Dufferman, Shields, Canfield, Krawiec & Devine, Miami; Rodney W. Smith, Anna S. Smith, Gainesville

### MARITIME

#### U.S. DISTRICT COURT, WEST PALM BEACH

#### Jury Sides With Cruise Operator in Cabin Fall

A Grand Celebration cruise ship wasn't liable for a passenger's fall in his cabin bathroom, a jury found.

Edward Gehres, who partially disabled with right-side brachial plexus, claimed West Palm Beach-based Cruise Operator Inc. failed to provide him with a handicap-accessible cabin.

Defense counsel argued Gehres didn't reserve a handicap-accessible cabin in advance. When there was not one available upon his request, the defense maintained Gehres had mobility throughout the ship before the fall and walked with either a cane or a walker depending on the situation.

Case: Gehres v. Cruise Operator  
Case no. 15-15-cv-0136-RB  
Plaintiff attorneys: Jason R. Margulies and Michael A. Werlikman, Lipson, Margulies & Akins, P.A., Miami  
Defense attorneys: Halina S. Gaothier and Alan Richard Kelly, Foster White-Burnett, Miami

#### Case in re: Guardianship of Miguel Octavio

Case no. 16-1814-GA-1553008  
Description: Personal Injury  
Filing date: Sept. 17, 2016  
Settlement date: Dec. 22, 2016  
Judge: Palm Beach Circuit Judge James Goodman  
Plaintiff attorneys: Ricardo Martinez-Cid and Lea Valdivia, Podhurst Orseck, Miami  
Defense attorney: Adam Ilyse, Wickie Smith O'Hara McCoy & Ford, West Palm Beach  
Settlement amount: \$10.6 million

## Podhurst Orseck Secures \$10.6M Settlement in Cycling Accident



Lea Valdivia and Ricardo M. Martinez-Cid with Podhurst Orseck settled a lawsuit on behalf of an incapacitated financial analyst after obtaining an emergency guardianship appointment for his wife.

by Celia Ampel

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At the time of his injuries, he was preparing to join a [REDACTED] investment firm he had worked for as a consultant, Martinez-Cid said. The [REDACTED] were on a bike ride together in Boca Raton when a newly licensed 16-year-old driver crossed into the bike lane and hit [REDACTED], causing severe head injuries.

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The attorneys went to probate court and won a guardianship appointment for [REDACTED] on an emergency basis. Next, they had to pull together medical information. There was more than one health insurance company involved, and Podhurst Orseck had to find out what they were claiming as liens for the injured cyclist's hefty medical bills.

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The family had \$10.3 million in auto insurance coverage. With such a potentially large claim, Martinez-Cid said, he would normally want to spend a few months studying his case before providing information to the defense. But because the attorneys were committed to wrapping up the case quickly, they made the unusual move of doing everything they could to help the driver's family lawyer and insurance companies with their due diligence.

"We set up a phone conference with his primary treating neurologist," Martinez-Cid said. "We set up phone conferences with his business partner. We provided boxes of documents as to his medical treatment and on top of that, the court records, depositions..."

"There was definitely enough documentation and discovery that could have taken up a couple years of litigation."

Although it was hard to be sure how Octavio's recovery would proceed, the settlement talks were successful and the driver's insurance policy liens were tendered. The drivers' lawyer, Adam Ilyse of Wickie Smith O'Hara McCoy & Ford in West Palm Beach, did not respond to a request for comment by *Daily Business Review*.

The attorneys also persuaded the Octavio insurer to allow them to accept the balance of the \$10.2 million without waiving their right to claim \$27,000 in underinsured motorist coverage on their own policy. The settlement then totaled \$10.55 million.

There is more work, but he struggles with memory and motor skills, Martinez-Cid said. The settlement is allowing him to do physical therapy and home care without the stress of a lawsuit weighing on him and his wife.

"In this case, you were really interested in getting all the facts out there quickly," Martinez-Cid said.

Contact Celia Ampel at [campel@dbreview.com](mailto:campel@dbreview.com).  
On Twitter: @CeliaAmpel

Sean Downes, is the chairman and CEO of Universal Insurance Holdings Inc.

The driver "was in a Mercedes SUV owned by his father," Martinez-Cid said. "So the insurance policy, being the household's, covered 10 vehicles. They're obviously a family of significant means."

The family had \$10.3 million in auto insurance coverage. With such a potentially large claim, Martinez-Cid said, he would normally want to spend a few months studying his case before providing information to the defense. But because the attorneys were committed to wrapping up the case quickly, they made the unusual move of doing everything they could to help the driver's family's lawyer and insurance companies with their due diligence.

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Although it was hard to be sure how [REDACTED] recovery would proceed, the settlement talks were successful and the driver's insurance policy limits were tendered. The Downes' lawyer, Adam Rhys of Wicker Smith O'Hara McCoy & Ford in West Palm Beach, did not respond to a request for comment by deadline.

The attorneys also persuaded the [REDACTED] insurer to allow them to accept the tender of the \$10.3 million without waiving their right to claim \$275,000 in underinsured motorist coverage on their own policy. The settlement then totaled \$10,575,000.

[REDACTED] is now awake, but he struggles with memory and motor skills, Martinez-Cid said. The settlement is allowing him to do physical therapy and home care without the stress of a lawsuit weighing on him and his wife.

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