

Podhurst Orseck Secures \$10.6M Settlement in Cycling Accident

Celia Ampel, Daily Business Review

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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 the Octavios.

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

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At the time of his injuries, he was preparing to join a Venezuelan 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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VERDICTS & SETTLEMENTS

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PRODUCTS LIABILITY

ALABAMA CIRCUIT COURT

Smoker's Family Awarded \$10M in Tobacco Suit

A jury stopped R.J. Reynolds, Tobacco Co. and Philip Morris Inc. with a \$10.6 million verdict, holding the companies liable for the death of a smoker who died at 42.

In the 11th Cir., a marketing professor at the University of Florida, died of chronic obstructive pulmonary disease in 1986. The jury found the companies liable for information on the danger of cigarettes. R.J. Reynolds was found 50 percent negligent, Philip Morris 25 percent and F&T 25 percent. F&T's estate sought compensatory damages of \$5.75 million. The award was not subject to F&T's comparative negligence. Case: Estate of F&T v. R.J. Reynolds Tobacco Co. No. 1301-CV-2016. Plaintiff attorneys: John S. Kull, Law Office of John S. Kull, Jacksonville; Robert J. Shanks, DuPont, Shanks, Canfield, Kessler & Young, Miami; Anthony W. Smith, Anna & Smith, Gulfshore.

Defendant attorneys: Carl L. Arnold, Arnold & Payne, New York; Kathryn L. Hoffman, Venable LLP and W. Kay Parsons, King & Spalding, Atlanta.

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

By Celia Ampel

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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.

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At the time of his injuries, he was preparing to join a Venezuelan 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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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,

the family had \$10.3 million in net worth, but [REDACTED] was not a wealthy man. They're both not wealthy folks.

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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.

"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, obviously. ... 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 [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.

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