

## MULTI-MILLION DOLLAR SLIP & FALL CASE ENDS IN JUDGMENT FOR DEFENDANT AFTER 6 DAYS IN TRIAL

*Missouri - Watters Wolf Bub Hansmann*

**W**WBH Principals Joe Roper and John Brigg successfully defended their client C & M Restoration, a masonry contractor that allegedly failed to properly seal cracks in the floor of a parking garage causing plaintiff's fall and severe injuries. Plaintiff parked his car in the parking lot of KU Medical Center in the middle level of a three-level garage to go to a doctor's appointment. It had snowed two days prior, and it was 23 degrees at the time of his appointment. He alleges that he slipped and fell on ice in the parking lot. There were also photos of a large area of either water or ice, or both.

C & M was the "on call" masonry contractor for KU and five years before the fall, C & M had repaired some cracks in the concrete of the top deck of the garage by putting in new concrete and sealing those repairs. Plaintiff alleged that the sealant utilized by C & M in the crack repairs should have had a useful life of 6-8 years, and therefore failed before it should have, which contributed to and resulted in water from melting snow leaking down through the top deck and collecting on the garage floor below due to failure of the sealing of joint repairs. There was evidence of two engineering reports on the garages, commissioned by KU in 2019 and 2020, which documented long standing water issues in this garage, which were attributed chiefly to the deterioration of joint seals. There was also evidence that the water issues in the garage had existed for an extended period of time. No repairs were initiated by KU between the time of the engineering reports they received, and plaintiffs alleged fall. KU also never complained to C & M

about their work and did not do so at trial.

During cross examination, the plaintiff's expert admitted that the work done by C & M with regard to the cracks did not directly lead to the joint leakage or water on the floor, but since some of the water on the middle floor was near a crack repair he was surmising the crack repair may have contributed to the water on the floor that froze and caused the fall.

Four days after the fall, Plaintiff was hospitalized for three days, after complaining of, among other things, symptoms consistent with a traumatic brain injury. He was subsequently diagnosed by two neurologists with a mild traumatic brain injury. He worked for another three months at his job on the production line at Ford Motor Company, but alleged he was unable to continue and took a disability retirement. Plaintiffs also presented numerous health witnesses that testified to drastic changes in his personality and function. Plaintiff claimed past lost earnings of \$247,219, future lost earnings of \$515,234, and non-economic damages of \$1,390,964.47, for a total of \$2,163,417.47.

After six days of trial, plaintiff rested and Joe and John moved for judgment as a matter of law contending that the plaintiff had failed to prove by competent evidence that the crack sealants failed, and that any such failure actually resulted in water finding its way to the floor below. The judge granted the motion, dismissing C & M with prejudice.

### FEATURED ATTORNEY(S):



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