

VODZAK + NOVAK OBTAIN REVERSAL OF TRIAL COURT DECISION

Pennsylvania - Fowler Hirtzel McNulty & Spaulding, LLC

Matthew Vodzak and Benjamin Novak obtained a reversal of a trial court's decision to award a plaintiff a new trial on damages. The plaintiff slipped and fell in our client's business, a restaurant, and sustained a non-displaced radial head fracture that required almost no medical treatment. During deliberations, the jury initially attempted to award the plaintiff no damages, but the trial judge ordered the jury to resume deliberations, without objection by the plaintiff. The jury then awarded \$1,000 and found the plaintiff was 30%

at fault. The plaintiff sought a new trial on the grounds that the damages award was insufficient. The trial court awarded a new trial by finding that it should not have instructed the jury to resume deliberations, even though the plaintiff never objected. On appeal, the Pennsylvania Superior Court issued a precedential, published decision reversing and remanding. The court held that the plaintiff waived any objection to the trial judge's instruction that the jury resume deliberations.

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