

THE SIDE BAR

A Publication of Martinez, Manglardi, Diez-Arguelles & Tejedor



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Apartment complex settles negligent security case for \$755,000

Philip and his family left New York in hopes of finding a quieter and safer place to live. Unfortunately the family moved into a low-income apartment complex located in a Central Florida crime ridden neighborhood.



Philip and his daughter after the shooting.

On March 27, 1997, Philip was shot by gang members at the apartment complex while standing outside on his balcony. The sound of the gunshot echoed across the complex. Tires could be heard screeching as a car drove away.

For a moment there was complete silence. Philip lay motionless on the ground. The back of his head was covered in blood. Nothing could be done but to wait for help. Paramedics arrived and Philip was taken to the hospital.

A few days later police arrested the men responsible for the shooting. They were convicted and are currently serving prison sentences. Philip suffered a gunshot wound to the neck and as a result, sustained neurological injuries. He was hospitalized for nearly two months.

MMDT conducted an investigation which revealed that the complex was aware of the crime problem on their property, and did very little to ensure the safety of their tenants. Documents obtained from the complex revealed that income generated from its residents amounted to more than one million dollars per year, and not a penny was allocated in its annual budget for security measures to address crime. In 1996, over

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Nursing home responsible for \$500,000 to family of abused resident

On June 3, 1991, a 69-year-old retired handyman admitted himself into a Nursing Home. Prior to that time he had been living at home with his wife. He was in relatively good health and was in complete possession of his faculties. However, due to a diabetic condition he had a leg amputated and was in need of a level of care his wife could no longer provide.

Tragically, he was abused and neglected while at the home. Nursing home employees called him derogatory names and referred to him as the "old bastard". They told him he was at the home because his wife did not want him around anymore. He was intentionally isolated and his cries for help were ignored. On two separate occasions he had to be admitted to the hospital because of severe dehydration. He also developed deep bedsores on his buttocks and foot so severe that tissue had rotted to the point that tendons were exposed.

Due to the poor care at the nursing home he also developed frequent urinary tract infections.

A routine urine test revealed that he was suffering from a severe infection. The nurses at the home ignored the findings of the test and failed to follow-up or advocate in his best interest. No medication was given or treatment initiated. In the days ahead the infection grew worse and the man's physical condition deteriorated.

On March 27, 1996, he was found by a nurse in bed, unresponsive and jerking. He was extremely dehydrated, in diabetic shock and suffering from urosepsis, a severe urinary tract infection. The nurse failed to take appropriate action. She waited nearly four hours before finally calling for an ambulance. Unfortunately, it was too late. The man died a few hours after arriving at the hospital as a result of an untreated urinary tract infection.

Martinez, Manglardi, Diez-Arguelles & Tejedor conducted an investigation which revealed egregious conduct of the nursing home employees. The investigation also uncovered fraudulent nursing home records which actually



Before and after photos of nursing home resident show his deterioration while in the home.

indicated that nursing care and attention was continuously provided to the man several days after he died.

The lawsuit filed on behalf of the man's widow, alleged the nursing home had violated Florida Statutes Section 400.022 which prohibits the abuse and neglect of elderly nursing home resi-

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three hundred emergency 911 calls were made for assistance from the complex for crime related activity. MMDT's investigation further revealed that management had been aware of three other shootings which had occurred at the complex. Management repeatedly ignored resident complaints of the crime issue and stated it was not a complex problem. Residents were told to call police to

respond to their complaints. The complex had a duty to provide reasonably safe living conditions for its residents. Additionally, MMDT maintained that the crime problem that existed at the complex, as well as the lack of preventive security measures taken, made the apartment complex unreasonably dangerous. Further evidence indicated that the

shooting which injured Philip was foreseeable and preventable. The complex should have hired routine patrol for the premises during hours of peak crime activity, as was routinely done by other apartment complexes in the area. After extensive and lengthy litigation, the complex paid Philip \$755,000. Moreover, since this incident, the complex has employed

several deputy sheriffs to provide security for its tenants. Philip's injuries continue to improve on a daily basis. He looks forward to pursuing a career in the accounting field and moving his family into their own home. ■

THE BRIEF CASE

Sports bar accountable for serving alcohol to a minor

In a small town in Central Florida, two 19-year-old friends were driving home on a quiet road when the driver lost control of the car on a curve and crashed. The accident caused the death of both the driver and passenger. MMDT was retained by the passenger's family to investigate the matter.

Before the accident, the teens had spent several hours with friends at a local sports bar. MMDT's investigation located witnesses who testified that the minor driver had been served alcohol by bar employees in violation of Florida law. The bar denied serving alcohol to the minor, but eventually agreed to pay the limits of its insurance coverage.

Jury awards \$325,000 for injuries sustained on Disney's Go-Cart Ride.

In 1992, Kathy was on vacation at Disney World with her husband and their two children. The family looked forward to riding the go-carts at the Grand Prix attraction.

While Kathy was boarding her go-cart, the go-cart behind her collided into the rear of her vehicle. MMDT successfully proved that Disney employees had failed to prevent the collision by exercising appropriate control and stopping the go-cart. Prior to Kathy's accident, Disney had received 45 complaints of injuries sustained by guests involved in accidents at the Grand Prix ride.

Kathy's injuries required immediate medical attention. She was diagnosed with myofascial pain syndrome and was unable to work for several months.

Prior to trial, Disney's maximum offer to settle the case was \$8,000. After a vigorously defended one week trial, the jury returned a verdict for the plaintiff in the amount of \$325,000.



Neck injury caused by tire blowout leads to \$300,000 recovery

A negligently manufactured tire caused a sport utility vehicle to drive off the road, strike a tree and rollover. The accident threw a 35-year-old female passenger out of the front side window into the median. The woman required neck surgery to treat the injuries sustained in the accident.

Tire experts retained by MMDT in investigating the accident concluded the tire was defective and that rubber separation was the most likely cause of the accident. The tire manufacturer contended that the tire was not defective, and that the blowout was caused by an improperly plugged flat tire at a service station. Additionally, the defense asserted the plaintiff's injuries could have been avoided had she been wearing her seat belt. Ultimately, the manufacturer of the tire and the service station agreed to pay damages.

Failure to diagnose a brain aneurysm leads to \$750,000 settlement

When a 29-year-old mechanic and father of two complained of severe headaches, his doctor sent him to a diagnostic center for an MRI. The man was suffering from an aneurysm at the base of his brain. Medical experts determined it should have been discovered by the radiologist. The physician who read the MRI film was employed by the diagnostic center. MMDT's experts determined that the doctor failed to properly diagnose the condition. The aneurysm ruptured two weeks later. Near death, the man was airlifted to Shand's

Hospital in Gainesville, Florida for emergency brain surgery.

Through extensive rehabilitation and the support of his family, the man has regained most of his cognitive abilities.



Rental company pays \$407,500 in cherry picker death claim

A construction worker fell to his death when a cherry picker he was working in



topped over onto the ground. Initially, the facts seemed to indicate that the accident occurred because of the worker's own negligence. When MMDT first undertook representation, it was reported that the worker had failed

to wear a hard hat and safety harness, and to set the outriggers on the cherry picker. A successful recovery seemed doubtful.

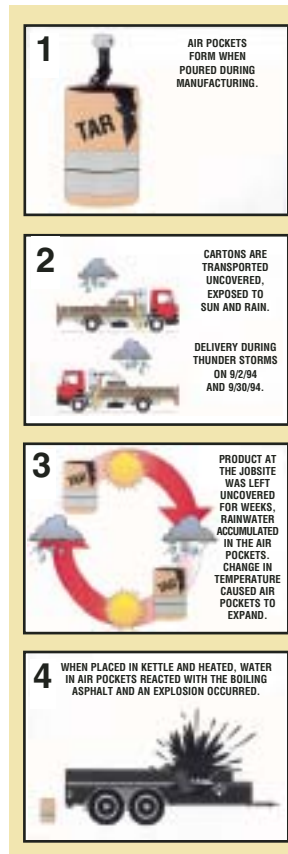
Despite the disturbing facts of the accident, additional information obtained regarding the accident did not make sense. Consequently, MMDT forged ahead with its investigation. It was discovered that the cherry picker had been designed with a system which prevented the operation of the equipment without the extension of the outriggers. With the assistance of engineering experts, MMDT proved that the company that rented the cherry picker had altered the machine so that it would operate without the extension of its outriggers. Had the cherry picker not been altered by the rental company, the accident would have never occurred. Despite the defendant's unrelenting comparative negligence defense, MMDT recovered \$407,500 from the rental company.



Negligent asphalt manufacturer pays \$350,000 to roofer for burns sustained in tar explosion

An asphalt manufacturer paid a 60-year-old roofer \$350,000 after he sustained second and third degree burns over his face, chest, arms and back when a kettle holding boiling tar exploded. The explosion occurred moments after the roofer had placed an asphalt keg, manufactured by the company, into the kettle. The keg had been wrapped in a paper carton and sold without a lid, and delivered from the manufacturing plant to the job site. The keg had been outside and uncovered for weeks. Rain water had seeped into the cartons and had remained trapped in air pockets within the keg.

MMDT's investigation revealed that the hidden water inside the keg combined with the boiling hot tar created the large explosion which sent gallons of tar and flames onto the roofer. The manufacturer knew or should have known of the grave risks and possible consequences associated with hidden water in air pockets within the keg. The accident could have been prevented by adequately packaging the asphalt and warning the user to keep the kegs covered and away from water at all times. MMDT was also successful in obtaining significant worker's compensation benefits for the client. 📌



EMPLOYEE PROFILE

Meet Janet DeFabrizio

The legal field has always held tremendous draw for Janet DeFabrizio. She began her legal career as an Assistant to a Judge of Workers' Compensation Claims. After several years of learning every aspect of the Workers' Compensation law, she sought to advance her career and obtained a position as Judicial Assistant to a Circuit Court Judge.

In 1986, when the Judge retired, Janet sought employment in the private sector. She began working for a large, prominent defense firm. At that time, she was introduced to Attorneys Julio C. Martinez, Jr., Michael Manglardi and Carlos Diez-Arguelles. When Attorneys Martinez and Manglardi announced they were making plans to open their own law firm, she was asked to join them and was excited at the prospect of becoming an instrumental and integral part of their firm.

As the firm grew, so did Janet's position. Initially, she handled all legal secretarial and office matters. When Mr. Diez-Arguelles joined the firm, she became his primary litigation assistant. She enjoyed the excitement of litigation, this time from a plaintiff's perspective.

As the firm continued to grow, new positions were established. Years of experience and education enabled Janet to advance. She began interviewing clients and ultimately became Mr. Manglardi's personal injury paralegal.

MMDT recently celebrated its tenth anniversary and Janet is proud to say she has too! The professional accomplishments and success she has enjoyed has also aided in enriching her personal life. Janet is happily married to Jim DeFabrizio, a wonderful man who mirrors the standards she so admires. Her husband has a 22 year old son, Louis who is involved in the Christian music industry and who is a very important part of their lives.

He currently attends college and instills pride and joy in their hearts. Janet and her husband are grateful for all their blessings, not the least of which has been her proud and lengthy service to the Hispanic community and MMDT. 📌



Martinez, Manglardi, Diez-Arguelles & Tejedor

Central American Relief

MMDT prides itself on community service and Bar-related activities. The firm plays an active role in the Central Florida business and political community. For example, when Central Florida



Some MMDT volunteers working for Central American relief efforts.

rallied together to provide aid to the hurricane stricken areas of Central America, MMDT, and radio stations La Fantasia and La Mega, led the way. Members of the community donated clothing, water, medicine, food and other needed items. MMDT provided the necessary support to make the drive a tremendous success. The radio stations publicized the event and MMDT volunteers assisted in collecting the items.

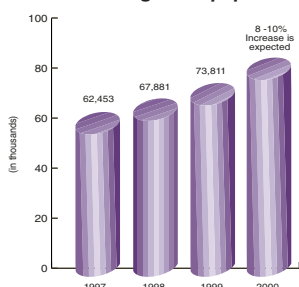
Attorney Carlos Diez-Arguelles and his children and

numerous other MMDT volunteers spent hours inventorying and loading goods into trucks.

"I believe it is extremely important for businesses to support this type of effort and to give back to the community...we try to give back whenever possible," said attorney Diez-Arguelles.

MMDT was involved in similar efforts to assist families in Puerto Rico and the Dominican Republic following hurricane Georges and maintains involvement in numerous charitable organizations. 📌

Florida's nursing home population



Resident Abuse continued from page 1

dents. MMDT also argued that the nursing home violated Florida Statute 766.106, the medical malpractice statute, when their nurses failed to provide reasonable and appropriate healthcare.

The reckless behavior of the nursing home unveiled

by MMDT in this case will hopefully deter such future abuses and neglect of the elderly. MMDT is committed to bringing an end to the needless suffering of our senior citizens. 📌

MMDT moves into new office building

In July 1999, Martinez, Manglardi, Diez-Arguelles & Tejedor moved into their new Orlando Office building. The event commemorated the start of the MMDT's second decade of protecting the safety of Florida's families.

Since October 1, 1988, the firm's Orlando office had been located at the NationsBank Tower in downtown Orlando. The 14th floor suite was within walking distance to the Orange County courthouse, and provided a spectacular view of the beautiful downtown Orlando skyline. The office also offered MMDT a powerful base from which to zealously represent its clients.

Despite the obvious appeal of the downtown Orlando office, several years ago the firm began to actively search for a new location for its Orlando office. By that time, MMDT became convinced that being located in downtown Orlando served as a psychological barrier to many clients. The firm realized that while the Downtown office may have been ideal for litigation purposes, the location inadvertently discouraged client contact.

In commencing its search for a new office location, MMDT focused on the interests of its client,



as well as litigation concerns. The firm understood that any new location had to be fully accessible to its clients, while not hindering MMDT's ability to provide aggressive representation.

The firm investigated several potential locations in many different areas of metropolitan Orlando. Eventually, because of its proximity to clients, and its accessibility to the courthouses, MMDT settled on the 436 Corridor as the best general location for its Orlando office.

In early 1998, after considering several properties, MMDT finally selected the exact location of its new Orlando office. The property, which sits on the banks of Lake Barton, met all of the firm's goals. The 436 location is on a major thoroughfare and provides easy access for clients and the courts. Moreover, the property offers a glorious view of the downtown Orlando skyline.

Indeed, the new building offers the firm a superlative base in which to continue to serve and protect the safety of Florida's families. 🏡



540 NORTH SEMORAN BOULEVARD
ORLANDO, FL 32807
(407) 381-4123

903 NORTH MAIN STREET
KISSIMMEE, FL 34744
(407) 846-2240

NOTE: The accounts of recent trials, verdicts and settlements contained in this Newsletter are intended to illustrate the experience of the firm in a variety of litigation areas. Each case is unique, and the results in one case do not necessarily indicate the quality or value of any other case.