

BASCH & KEEGAN

PERSONAL INJURY ATTORNEYS

Brief Insights



A DIGITAL BULLETIN—SEPTEMBER 2021

John DeGasperis obtains seven-figure settlement for Kingston Miner



Basch & Keegan recently obtained a seven-figure settlement on behalf of a Kingston man who was seriously injured in a workplace accident. John A. DeGasperis represented the 64-year-old miner in this personal injury action. After years of litigation, John negotiated a settlement worth \$1,068,500.

Our client sustained a multitude of injuries including femur and pelvic fractures that necessitated a total hip replacement as well as nerve injuries, rendering the client incapable of working. John fought hard to ensure a settlement that took the permanent nature of his client's injuries into consideration.

This case involved an accident that occurred at the Clinton Point Quarry located in Poughkeepsie, New York. The quarry was owned and operated by the client's employer: Tilcon New York, Inc. ("Tilcon"), where our client worked as a miner.

At the time of the accident in question, Tilcon was in the process of erecting the quarry's new "wash plant", a facility used to process mined materials and extract ore.

Tilcon hired general contractor Bietzel Corporation for the project and contracted with American Materials Processing, Inc. to design the wash plant and manufacture steel components for the project. The fabricated steel had to be transported more than 600 miles on flatbed trailers from Western New York to Dutchess County.

Mendon Enterprises, Inc., a trucking company, was hired to transport the steel pieces, which included 4 fifteen-foot sections of railing and 4 eight-foot sections of railing, with an estimated combined weight of 2,000 pounds. Our client was assigned by his employer to help unload the steel components from the trailer at a staging area located in the quarry. This is where the accident happened.

Our client and his co-workers utilized a mechanized lifting machine called a Telehandler, essentially a more powerful forklift. One major downfall to the Telehandler is visibility. Due to the placement of the vehicle's cab, there is a significant "blind spot" and spotters are necessary for safe Telehandler operation.

The Telehandler operator grew concerned about the steel railings as he inspected the load. During pre-trial depositions, the Telehandler operator gave testimony indicating that the railings had not been properly loaded onto the trailer. According to the operator, the railings did not stand upright well without support and thus should have been laid down on the flatbed trailer; instead, they were stacked upright and secured with straps.

Our client climbed onto the flatbed trailer to help guide the Telehandler operator and the truck driver began the process of unstrapping the steel pieces. As the final strap from the load was removed, the steel railings shifted and tipped over. The railings struck our client and catapulted him off the trailer onto the hard packed dirt below. He landed on his right side with an impact so powerful that his pants burst open at the seams.

Our client was rushed to the emergency department at Vassar Brothers Medical Center via ambulance. X-rays revealed a right sub-capital femur fracture and right inferior and sub-pubic remi fractures. Our client had to undergo a full right hip surgery with blood transfusion.

Following a multi-day hospital admission, our client was discharged to an inpatient therapy program where he remained for six weeks. He recovered from the hip injury and adapted to the hip prosthetic, but he subsequently began to show signs of a severe neurologic injury to his spinal cord. He was referred to a spine surgeon and remained "totally disabled as a result of this injury" according to multiple doctors. Even after a subsequent spinal surgery, he suffers numbness in his leg and can only walk with a leg brace.

John argued the accident occurred due to the general negligence of all parties, but the transportation company violated the Federal Motor Carrier Safety Act. John targeted said company for its negligent conduct and federal regulatory violations. A safety expert who reviewed the incident concluded that the trailer was not suitable for the load and lacked deck-mounted anchor points to adequately secure heavy cargo.

After months spent investigating the accident and hiring multiple experts, John obtained an extraordinary settlement on behalf of his clients. Basch and Keegan never hesitated to invest the resources necessary to win. The transportation company's liability insurance company made numerous unreasonable settlements over the course of two years, but they eventually capitulated and offered the entire \$1 million policy one week before trial. The general contractor and steel manufacturer settled out for a combined \$68,500, totaling \$1,068,500.

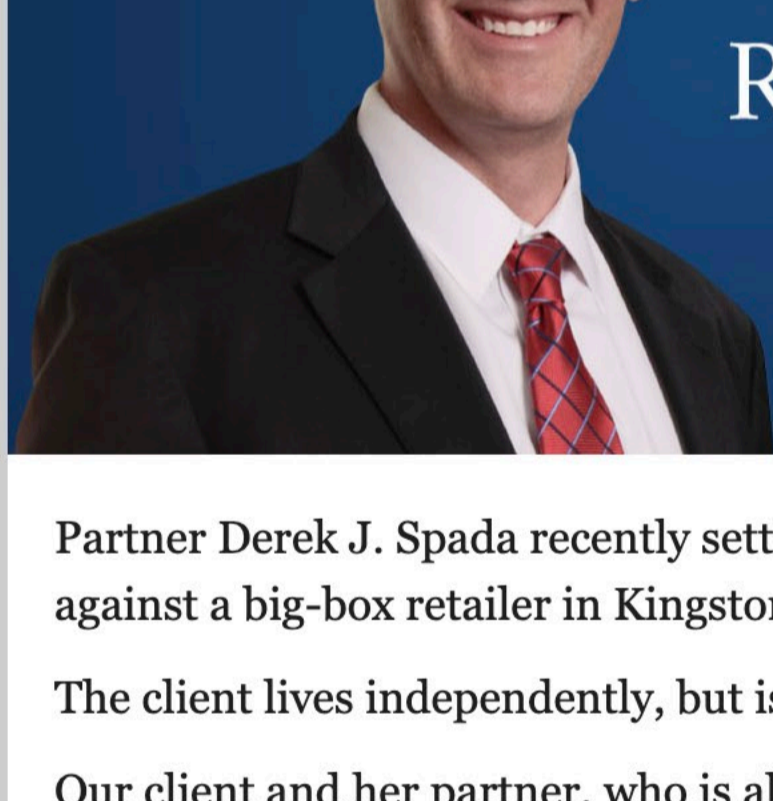
This accident had a profound impact on the life of our client, but John's knowledge of the law, investigative abilities, and diligence got our client the settlement he deserves.

Family Break



The attorneys at Basch & Keegan work around the clock for their clients, and this makes the time with family all the more sweet! Here are some snapshots of each lawyer enjoying some time away with their families this summer to recharge. We hope everyone was able to sneak away with family and enjoy the summer!

Derek J. Spada takes on Big-Box Retailer and wins!



Partner Derek J. Spada recently settled a case on behalf of our client against a big-box retailer in Kingston.

The client lives independently, but is disabled and requires assistance.

Our client and her partner, who is also disabled, entered the store and shopped separately. While our client was walking in the produce section of the store, she slipped on water near a vegetable display. She fell hard and severely injured her left shoulder.

She called out to an employee in the store who was hanging up clothes in an area adjacent to the produce section. The employee came over to our client and asked if she was okay. Our client said "no" and asked for help. The employee said she would get help and left our client on the floor.

The employee never returned.

Eventually, our client's partner found her lying on the floor. He helped her up. They stood there for a long time waiting for the employee to return, but she never came back.

Our client finally left the store and went to the Kingston Hospital Emergency Room. She was ultimately diagnosed with a shoulder injury that required surgery.

Basch & Keegan sued the corporation that owned the store. The store claimed to have no knowledge of the incident and initially defended the case.

The case proceeded to depositions, where our client testified very clearly about the details of this incident and vividly described the employee's appearance.

The attorneys who represented the corporation indicated that this employee no longer worked at the store, and there were no remaining employees with knowledge of the incident. We also demanded video footage of the produce section from the day the incident occurred, but defense attorneys informed us that the store did not save the video footage.

We did not let these hurdles stop us. Derek continued to push this big-box retailer until our client was finally offered a fair settlement. Derek held them accountable.

The settlement will go into a special needs trust. Despite her disability and inability to work, the settlement proceeds will continuously add to our client's quality of life.

A Brief Relief



The information on this newsletter is for general information purposes only. Nothing found in the content should be taken as legal advice for any individual case or situation. This information is not intended to create, and receipt of viewing does not constitute, an attorney-client relationship.



Copyright © 2021 Basch and Keegan

Our mailing address is:
P.O. Box 4235
Kingston, New York 12402

Want to change how you receive these emails?
You can [update your preferences](#) or [unsubscribe from this list](#).