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NEWS

  **Claim of Failure to Diagnose Ocular Cancer Settles For \$2 Million in Monmouth**

 A man whose right eyeball was removed following what he claimed was a delayed diagnosis of cancer agreed to a \$2 million settlement in his Monmouth...

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 Personal Injury



Charles Toutant



Colleen Murphy



A man whose right eyeball was removed following what he claimed was a delayed diagnosis of cancer agreed to a \$2 million settlement in his Monmouth County suit, *Stern v. Borchers*, on Jan. 13.

According to the suit, Stuart Stern visited optometrist Ronald Borchers at Pearle Vision in Freehold for a routine eye exam in September 2019. Borchers advised him to return in 12 months. Then, in May 2020, Stern went to another eye doctor after experiencing impaired vision. Stern was diagnosed with a uveal melanoma in his right eye, said Adam Epstein of Mazie, Slater, Katz & Freeman in Roseland, who represents Stern.

Stern underwent aggressive treatment but nonetheless had the eyeball removed and now wears a prosthetic, according to Epstein. Stern is at risk for a future return or spread of cancer, Epstein said. The suit claimed the eye might have been saved if the cancer was discovered sooner.

During his visit to Borchers' office, Stern did not have his eyes dilated, which is a violation of the standard of care, Epstein said. An image taken of his eye at Borchers' office showed a small tumor, but Borchers did not notify Stern nor take any further steps, which is another violation of the standard of care, according to Epstein.

After the cancer was discovered, Stern was treated with radiation, which damaged his optic nerve, Epstein said.

Epstein sued Borchert, Pearle Vision and its owner, Luxottica of America. The suit claimed Borchert's failure to detect the melanoma caused a nine-month delay in treatment.

The suit was settled in mediation with **Raymond Reddin**, a former Superior Court judge now with **Hall Booth Smith** in Saddle Brook. The \$2 million settlement, at the defendants' policy limit, was reached Jan. 13. The settlement was subsequently paid, according to Epstein.

Maura Waters Brady and **Robert Evers** of **Marshall Dennehey Warner Coleman & Goggin** in Roseland represented the defendants. They didn't respond to a reporter's calls about the case.

— *Charles Toutant*

\$730,000 Recovery in Ocean

Sona v. Progressive Insurance Co.: A 55 year-old Bayville man injured when his dump truck was struck by an underinsured motorist on Route 9 in Freehold recovered a total of \$730,000, including most recently \$435,000 in an underinsured-motorist action.

Sona's attorney, **James A. Maggs** of **Maggs McDermott & DiCicco** in Wall Township, said that Sona was driving a work-issued dump truck in a construction zone at the intersections of Route 9 and Schibanoff Road when he was rear-ended. The defendant was traveling at an unsafe speed in a 2013 Scion XB, according to Maggs. At the time of the accident, Sona was slowing down as he approached a traffic light when the other vehicle collided with his truck.

Sona and his wife, Maria Carbone, filed suit in Ocean County, *Sona v. Cronin*, which was settled on Oct. 14, 2020, for \$295,000. An underinsured-motorist action was then filed in Ocean County in 2021, *Sona v. Progressive Insurance Company*, and was settled on Feb. 16 for an additional \$435,000 for a combined total settlement of \$730,000.

Sona was struck on the back of the head by the interior rear windshield of the dump truck. As a result, he sustained injuries to his neck, back, and both wrists, according to Maggs.

An MRI revealed that Sona had disc herniations at the C3-4, C4-5, and C5-6 levels, as well as a bulging disc at L5-S1. After conservative measures that included physical therapy and cervical epidural injections provided only minimal relief to Sona's neck pain and cervical radiculopathy, he underwent another MRI. That test revealed worsening cervical herniated discs, which required Sona to undergo a discectomy, decompression and fusion surgery at the C5-6 level.

An EMG revealed Sona had bilateral carpal tunnel syndrome, and his orthopedic physicians concluded that additional treatment were required, including an extension of the prior cervical fusion surgery at the C3-5 levels, a series of lumbar epidural injections, and surgical releases to both wrists. Sona continues to suffer from neck, back and bilateral wrist pain, said Maggs.

"This was a very challenging case," said Maggs. "We had to establish that a relatively small Scion XB vehicle could cause a substantial impact to the dump truck driven by Mr. Sona, resulting in his cervical disc herniations and ultimate cervical fusion. We are pleased with the outcome for Mr. Sona and his family."

Progressive was represented by **Lori S. Klinger** of **Kent & McBride** in Cherry Hill, who declined to comment.

— *Colleen Murphy*

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