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Motor vehicle strikes state college tennis player in Virginia Tech campus crosswalk

We are fortunate to represent some truly remarkable and inspiring individuals. This is such a case.

The plaintiff was a student at the State College in Blacksburg, Virginia. She was walking in the pedestrian crosswalk when, without warning, the defendant slammed into her, hurling her through the air and onto the pavement. As the plaintiff lay on the ground, officers took photos of the dents and damage to the defendant's pickup truck made by the 19-year-old girl's body. She sustained a fractured collarbone, compartment syndrome, and multiple contusions.

The defendant fought the traffic charge, resulting in a 92-page General District Court transcript! Because the defendant and insurance company would not accept full responsibility for this event, we filed suit in the Circuit Court of Montgomery County.

The plaintiff was followed by VCOM's (Virginia College of Osteopathic Medicine) Dr. Michael Sampson. The plaintiff, an outstanding young athlete, had never been injured before and had overcome being born with no left arm below the elbow. She was nationally ranked in her precollege career, using a prosthetic arm and hand to toss the ball. Trained at the Smith Sterns Tennis Academy in Hilton Head Island, S.C., by none other than U.S. tennis champion Stan Smith, she utilizes a one-arm backhand, a perfect drop shot, serve, and topspin backhand that enabled her to play at the highest levels of amateur tennis.

The plaintiff had to take summer-school classes. We presented exhibits to graphically demonstrate the "noneconomic" losses in the case, including GPA, cumulative GPA, and tennis ranking.

The plaintiff was one of the top tennis players at Tech since it joined the competitive ACC, and counsel was able to show the costs to



this out-of-state scholarship athlete caused by this crash. Because the spring season had already started, the NCAA would not allow her to "redshirt," so she lost the year forever. At Virginia Tech, she excelled from the start, playing 2nd singles and was constantly contending for the 1st spot. She was also on the #1 doubles team, which was ranked 43rd in the country. Ten days before the accident, the plaintiff upset the #2 player on the #3-

ranked team in the country. At that time, it appeared she would be eligible for the NCAA tournament in the spring, an honor no Virginia Tech player had ever qualified for before. This freshman was featured twice as an "Athlete of the Week" for winning Tech's first-ever ACC match. When she returned to tennis after the crash, she played behind two players she had played in front of before, and she has not been an "Athlete of the Week."

It is difficult when representing an elite athlete to demonstrate the true extent of what has been taken from them, as the permanency ratings that physicians normally resort to do not take into account these victims' significant preinjury abilities. In addition to \$2,600 for

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SOCIAL SECURITY
DISABILITY
OCCUPATIONAL DISEASES

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Our agenda is clear...justice for all.

Welder's fatal fall results in award for widow and child

The newspapers published the reports of how our client, Julio Caesar Rivera Garcia, fell to his death on June 5, 2002, while working as a welder at the Interstate 95 and 395 "mixing bowl" project. Traffic was stopped for many hours on one of the United States highway system's main arteries.

We were contacted by his North Carolina counsel to bring the case here in Virginia. The general contractor denied the claim after the Workers' Compensation Commission found that the direct employer did not have workers' compensation insurance that was valid in Virginia. We arranged with the embassy so that we could fly his widow to National Airport from Mexico in order for her to testify at the Spotsylvania Courthouse. We also brought the decedent's coworkers, father, and documentation showing that in addition to his regular wages, he earned overtime, was given hotel lodging, money for food, and a truck to drive to work each day. We sought to add all of these "perks" to his average weekly wage, as allowed by Virginia law.

The former Chief Deputy Commissioner found in our favor on the compensability of the claim and added these "perks" (called prerequisites) to the comp rate. The general contractor appealed, and we won again after the full commission issued its "review" decision. As a result, the widow and child have received over \$150,000 in benefits to date, including funeral, transportation, and burial expenses. We currently have several fatal accident cases in the office. These claims are never easy, but we try to help the families with their legal claims and give counsel as to where and how they may get further assistance.



Margarita Juarez-Borgua with Doug Landau

Motor vehicle strikes state college tennis player in Virginia Tech campus crosswalk

(continued from front page)

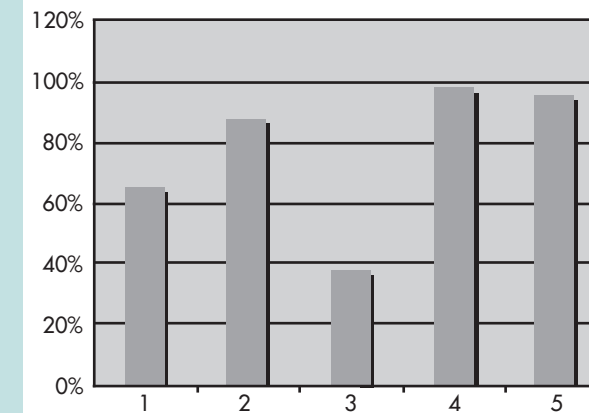
summer school, other costs claimed in order to bring her back to the physical and mental condition this elite, nationally ranked athlete was in prior to the crash included five months of intensive training and tournament travel expenses. The plaintiff was prepared to present expert testimony as to these items of loss in order to show what it would take to put her in the condition she was in prior to the crash. The case settled such that the client's studies would not be interrupted by trial and pretrial discovery. She will leave college not with debt, but with long-range goals and the financial ability to achieve them.

Who said the federal government—specifically, the Social Security Administration—has to be slow?

In a recent case tried in Washington, D.C., this fall, **Abrams Landau** not only received a favorable decision from the Administrative Law Judge (ALJ) at the hearing, but the judge even typed her opinion on her computer while Mr. Landau and his client, his wife, and grandson happily sat and watched!

While we have had other federal disability cases result in "fully favorable" opinions and heard ALJs advise that they were going to find in our favor, we wait weeks, and usually months, for the opinions to be dictated, transcribed, and then mailed to our disabled clients. We have won Social Security cases in Virginia, Florida, Maryland, West Virginia, Arkansas, South Carolina, and the District of Columbia. However, we won this case on behalf of a Christmas tree farm operator who contracted hepatitis as the result of tattoos he had done years earlier. This case was the fastest decision from a federal judge that we had ever seen. While the wheels of justice move slowly, every once in a while, we are able to achieve unusually swift justice for a deserving client.

Social Security Disability Claims NOT Allowed



■ Series 1

1: Initial Level of Social Security, 2: Reconsideration Level, 3: Administrative Law Judge (ALJ) Hearing, 4: Appeals Council, 5: Federal District Court

Claims NOT Allowed	Social Security Stage	Claims in 2006
65%	Initial Level	2,482,870
87%	Reconsiderations	500,806
38%	Administrative Law Judge	550,011
98%	Appeals Council	88,907
95%	Federal District Court	13,396

D.C. workers' compensation claim

Our client was a 56-year-old union welder who was struck by a large, heavy pipe that slipped from a forklift-cable transport, injuring his right knee, right shoulder, back, head, and neck. This Virginia claimant also had a laceration to his head and lost consciousness. The treating doctors opined that the patient had reached maximum medical improvement, and that they had little to offer the injured worker. The claimant was making \$24/hour at the time of injury.

In one of the unusual aspects of the claim, our office was shut down when this client was taken, by ambulance, from the meeting with the carrier's nurse case manager. An ambulance, firetrucks, and other rescue personnel were summoned to our office as the result of a stress attack. Also, Mr. Landau's billable hours, at his customary hourly rate, exceeded the percentage (20%) awarded by the D.C. Office of Workers' Compensation (OWC). He voluntarily asked the OWC for a reduction in the attorney fees. This was granted by the claims section in its approval of the \$200,000 lump-sum settlement. See *Virginia Lawyers Weekly*, page 21, 1337.



Sexual assault by an airport security supervisor

Abrams Landau, Ltd., achieved a settlement after five years of litigation in a case involving the criminal, sexual assault of a passenger by the airport security supervisor.

The injuries included emotional distress, fear of airports and security personnel, and aggravation of preexisting emotional distress. The case was filed in the Loudoun County Circuit Court. There were no lost wages, as the plaintiff was already out of work, taking medications, receiving psychological treatment, unemployed, and on Social Security Disability.

Facts of the case:

On the date of this incident, the defendant was a uniformed employee of Argenbright Security, Inc. (ASI). His jacket was a different color than the security personnel under him, as he was a supervisor that night. The plaintiff had missed her evening flight, and the next one out was in the early morning the next day. The defendant led the plaintiff back through the security checkpoint (as depicted in the airport security disc) and told the other security officers to allow her to pass with her large luggage. The ASI security officer indicated that this was all right because the man in the red jacket was the supervisor. The defendant led the plaintiff towards the ASI security office at Dulles Airport. He indicated that she would be fine to rest

in the area adjacent to the ASI security office. There were other airport security personnel sitting across from this area.

The plaintiff set her luggage cart in this area (which pretrial discovery revealed was used to check those with pacemakers, pregnant travelers, etc.) and then lay down to rest. Thereafter, she was awakened by the defendant, who was rubbing his body against her and touching her in an inappropriate manner. The plaintiff told him to get off of her, and grabbed her purse, wallet, and carry bag. The security people located directly across from where she had been resting appeared to be watching her and her assailant in some sort of ritual. They did not come to her aid and did nothing to help her. She found refuge, and an airport detective easily identified the attacker, who was charged, pled guilty, and was convicted of sexual assault and battery in the Loudoun County General District Court. ASI no longer provides security services at Dulles International Airport. The area where the assault took place has been removed, and the defendant supervisor was fired after this attack.

—See *Virginia Lawyers Weekly*, page 21, 1263



This is the actual surveillance video showing the defendant escorting the plaintiff to an area of the international airport where the attack took place.

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“How many Social Security Disability cases are there each year?”

One recurrent question clients and their families ask is, “Why does the federal government take so long to get to, and then decide, our Social Security Disability case?”

A huge number of cases are filed each year, and there are several stages at which they can be denied or delayed. As the graph on page 3 demonstrates, our best chance for success seems to be at the Administrative Law Judge (ALJ) level. Presenting our case, our client, and their witnesses at a hearing before a live human being has been successful in many, but not all, cases. After the ALJ hearing level, the statistics fall off, with the additional delay and expense of federal court litigation. The 2007 National Ranking Report lists **the average processing time nationally as 508 days**. Hearing offices in which we have tried cases have processing times as follows: Charleston (473), Washington (417), Richmond (388), and Tampa (614). Evidence tends to suggest that these cases will continue to take a long time, even though: no one is being sued; our clients are merely seeking the money that was set aside from their paychecks for many years; and, there is no inquiry as to whether the disability has more than one cause.



*Standing: Wilson Castellanos, Lauren Holtzman, Beatriz Vargas
Seated: Ferhana Ali, Dianna Meredith, Douglas K. W. Landau, Esq.*

A member of the bars of Florida, Connecticut, Virginia, New Jersey, and the District of Columbia, and the Federal Circuit Courts, **Doug Landau** teaches and spends a great deal of his time in the areas of catastrophic personal injury; state workers' compensation; Social Security Disability; occupational disease; and product, airport, and premises liability claims.

Mr. Landau is a member of WILG—Workers Injury Law & Advocacy Group. WILG is the national nonprofit membership organization dedicated to representing the interests of millions of workers and their families who, each year, suffer the consequences of workplace injuries and illnesses.



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