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Defense Verdict obtained in Georgia case alleging that defendant driver was negligent per se for hitting pedestrians

Joshua C. Canton, Partner in our Tallahassee Office, obtained a Defense Verdict on behalf of Nationwide Mutual Insurance Company and Harold L. Lindsey in a pedestrian versus vehicle/underinsured motorist case. Plaintiffs were a retired couple on vacation in Savannah, GA for a month. The accident occurred on the Plaintiffs' first evening in Savannah as they were crossing the street at a crosswalk in a historic downtown neighborhood. The tortfeasor, Mr. Lindsey, driving to a gas station from his nearby home. Plaintiffs alleged that Mr. Lindsey was negligent for pulling into the crosswalk and colliding with them, after he stopped at the stop bar. They alleged that Mr. Lindsey was negligent for failing to watch where he was driving and that he was negligent per se for violating Georgia Statutes requiring a driver to yield to a pedestrian in a crosswalk. Mr. Lindsey alleged that the Plaintiffs suddenly stepped in front of his vehicle from behind a large bush on the corner that obstructed his vision, after they observed that Mr. Lindsey was looking away from them. Nationwide alleged that the damages did not exceed the underlying limits of \$50,000/\$100,000.

Mr. Brockway alleged that the accident caused bilateral rotator cuff tears, bilateral carpal tunnel syndrome requiring surgery, and low back pain. Mrs. Brockway alleged that the accident caused low back pain, neck pain, and headaches. Plaintiffs hired an accident reconstruction expert who testified at trial that the accident was Mr. Lindsey's fault and that the bush did not obstruct Mr. Lindsey's vision. The defendants did not retain an expert. During closing arguments, Plaintiffs' attorney asked the jury to award \$150,000.00 to Mr. Brockway and \$50,000.00 to Mrs. Brockway. The Defendants argued that the jury should find that the Brockways were themselves negligent for stepping in front of Mr. Lindsey's vehicle after seeing that he was looking away from them and that their injuries were pre-existing and not related to the subject accident. After one hour and forty minutes deliberating, the jury returned a verdict for the Defendants.

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