

Story Missed The Point: Jury Found Settlement Fair

By Andru Volinsky

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I write in response to the recent article written for the Citizen of Laconia by reporter Bea Lewis and republished in the Monitor concerning the jury award against Great American Dining, the owner of the Common Man Restaurants ("Local restaurant owner's company appeals civil suit," Local & State page, Nov. 19).

In this day and age of insurance company propagandizing about runaway verdicts and misled juries, it is important that reporting about civil trials be complete and accurate. Unfortunately, this article missed the mark by a wide margin because it failed to disclose the nature of the verdict reached by the jury, which was a finding that the \$1.7 million settlement negotiated for Dr. James Wyly was fair and reasonable.

The purpose of the lawsuit in question was to determine which parties were to pay for a settlement negotiated by Wyly. I am Wyly's lawyer. The competing parties were insured by different insurance carriers who could not agree which insurance company was responsible for paying for the injuries caused by the negligence of a workman who failed to secure a railing that did not protect Wyly when he slipped on a raised porch and fell 6 to 8 feet onto his face and head on Halloween night three years ago. Wyly suffered multiple facial and skull fractures in the fall, as well as a ruptured spleen and fractured vertebrae. He was not found for hours and became hypothermic. He spent weeks at the Hitchcock Hospital followed by weeks at the Spaulding Rehabilitation Hospital in Boston, where he had to relearn all his normal activities, including basic personal hygiene functions. Wyly, a psychiatrist, can no longer pursue his profession as a result of the permanent injuries suffered in the fall.

As this was a lawsuit in which one insurer requested a finding that another insurer should contribute to a settlement, one of the questions put to the jury was whether the settlement amount was fair compensation for Wyly, given the absence of fault on his part and the nature of Wyly's injuries.

A fair and complete article would have begun, or at least disclosed, that the jury found the settlement was fair and reasonable. This would have put Alex Ray's noble comments about accepting responsibility in a context that would have brought credit both to him and the court system in which this dispute was fairly tried. It also would have avoided fueling the arguments made by insurance companies and those who front for them that insurers should not provide reasonable settlements to compensate those injured as a result of the negligence of others.

(Andru Volinsky lives in Concord.)