

# Jessica D. Wachstein

Shareholder

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As a member of the Health Care Department, Jessica defends clients in matters involving medical malpractice and nursing home negligence, representing long-term care and sub-acute rehabilitation facilities. She provides legal counsel to hospitals, nurses, allied health professionals, nursing homes and physician practices. Jessica's clients appreciate her ability to think outside the box when evaluating claims to uncover key liability and damage issues and determine the best course of early resolution.

With more than a decade of litigation experience, Jessica has tried several cases to verdict and routinely represents clients at arbitration and mediation. Her past experience includes representing both individuals and commercial clients in a variety of personal injury lawsuits. She has also represented clients in the areas of automobile and premises liability.

Jessica is a graduate of Rutgers University and Rutgers University School of Law. Following law school, she clerked for the Honorable Robert G. Millenky in the civil division of the New Jersey Superior Court in Camden, New Jersey.

## Education

- Rutgers Law School (J.D., *with honors*, 2007)
- Rutgers, The State University of New Jersey (B.A., *high honors*, 2004)

## Admissions

- New Jersey, 2007
- Pennsylvania, 2007
- U.S. District Court District of New Jersey, 2007

## Associations & Memberships

## Practices

- Medical Malpractice
- Long-Term Care Liability
- Veterinary Liability
- Automobile Liability
- General Liability
- First-Party Property
- Premises & Retail Liability
- Behavioral Health Risk & Liability
- Insurance Services – Coverage & Bad Faith Litigation

- American Bar Association
- Camden County Bar Association

## **Published Works**

- "Are PIP Benefits Truly No-Fault Now?," *Defense Digest*, Vol. 23, No. 4, December 2017
- "Sidewalk Liability- What You and Your Condo Association Have in Common," *Defense Digest*, Vol. 18 No. 4, December 2012

## **Significant Representative Matters**

- Successfully defended a claim for failure to diagnose infectious endocarditis after a periodontal procedure. It was asserted at trial that our client, the periodontist who performed the surgery, and the co-defendant dentist failed to recognize signs and symptoms of potential infectious endocarditis in post-op interactions with the plaintiff. The claim also alleged that had the plaintiff been diagnosed sooner, he would not have required open heart surgery and could have successfully been treated with antibiotics only. We argued that the appropriate standard of care was followed and that the plaintiff's damages were unrelated to the care and treatment provided by their client.
- Successfully defended a chiropractor with a directed verdict on informed consent and a no cause, 7-0, on standard of care. Plaintiff claimed the defendant was negligent in failing to obtain a MRI before adjusting the lumbar spine with a differential diagnosis which included a herniated or bulging disc. Plaintiff claimed increased risk of harm for foot drop, surgery, pain and suffering and alteration in work and life enjoyment.
- Obtained a defense verdict following a 10-day jury trial on behalf of a national home improvement company and garden center, where the plaintiff's demand was over seven figures. The plaintiff, a 79-year-old female, was using a rollator (walker) to assist her walking when she fell at a garden center. Plaintiff claimed that the front wheel of her rollator struck and got caught on the raised baseplate bolts of a column, causing her to fall. The plaintiff was taken out on a stretcher with a fractured leg that required ORIF surgery and a recommendation for future hip replacement. The defense established via an in-store surveillance video, forensic engineering expert and cross-examination, that it was very unlikely that the plaintiff's rollator ever came into contact with the baseplate. Furthermore, even if the plaintiff did contact the baseplate, it was due to her being inattentive and not as a result of any alleged negligence by the garden center. The jury returned a defense verdict after only 35 minutes of deliberation.
- Obtained a defense verdict in Monmouth County in a underinsured motorist claim. The jury returned a verdict that plaintiff did not meet the verbal threshold required to sustain a cause of action.

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## **Results**

### **Successfully Defended a Claim for Failure to Diagnose Infectious Endocarditis After a Periodontal Procedure**

We successfully defended a claim for failure to diagnose infectious endocarditis after a periodontal procedure. The plaintiff, who was 56 at the time, was diagnosed with streptococcal endocarditis after undergoing periodontal surgery with our client. As a

result, he required an aortic valve replacement and claimed he had to sell his business as he could no longer work. It was asserted at trial that our client, the periodontist who performed the surgery, and the co-defendant dentist failed to recognize signs and symptoms of potential infectious endocarditis in post-op interactions with the plaintiff. The claim also alleged that had the plaintiff been diagnosed sooner, he would not have required open heart surgery and could have successfully been treated with antibiotics only. We argued that the appropriate standard of care was followed and that the plaintiff's damages were unrelated to the care and treatment provided by their client.

#### **Directed Verdict Secured in Case Involving Alleged Negligence by a Chiropractor**

We successfully defended a chiropractor with a directed verdict on informed consent and a no cause, 7-0, on standard of care. The plaintiff claimed the defendant was negligent in failing to obtain an MRI before adjusting the lumbar spine with a differential diagnosis, which included a herniated or bulging disc.

#### **Defense Verdict in Premises Liability Case with Well Over Seven-Figures at Stake**

We obtained a defense verdict following a 10-day jury trial on behalf of a national home improvement company and garden center, where the plaintiff's demand was over seven figures. The plaintiff, a 79-year-old female, was using a rollator (walker) to assist her walking when she fell at a garden center. Plaintiff claimed that the front wheel of her rollator struck and got caught on the raised baseplate bolts of a column, causing her to fall. The plaintiff was taken out on a stretcher with a fractured leg that required ORIF surgery and a recommendation for future hip replacement.

The defense established—via an in-store surveillance video, forensic engineering expert and cross-examination—that it was very unlikely that the plaintiff's rollator ever came into contact with the baseplate. Furthermore, even if the plaintiff did contact the baseplate, it was due to her being inattentive and not as a result of any alleged negligence by the garden center. The jury returned a defense verdict after only 35 minutes of deliberation.