

# **DEFENSE VERDICT -- PREMISES LIABILITY -- SLEDDER CRASHES INTO HIDDEN POST ON SLEDDING HILL**

**TRIAL ATTORNEYS:** **JAY S. JUDGE & ERIKA G. BALDONADO**  
**JUDGE, JAMES & KUJAWA, LLC**

**RISK POOL:** **METRO RISK MANAGEMENT AGENCY (MRMA)**  
**FRED TOLOKEN**

## **(UU 51/12) PREMISES LIAB.--SLEDDER CRASHES INTO HIDDEN POST ON SLEDDING HILL (8)**

Bradley Greener, Mary Greener v Palatine Park District 00L-6619 (formerly 96L-10842) Tried Aug. 13-22, 2003

**VERDICT:** \$115,450: \$100,450 after 2% off \$102,500 to Bradley (\$75,000 past pain & suffering; \$8,000 past loss of normal life; \$12,000 past medical; \$7,500 past LT; \$0 for all future damages); \$15,000 to Mary (\$10,000 past loss of consortium; \$5,000 past loss of services; \$0 future). Special Interrogatories: Was pltf's contributory negligence more than 50% of total proximate cause? "No." Was Palatine Park District guilty of wilful and wanton conduct which proximately caused pltf's claimed injuries? "Yes."  
JUDGE: Robert E. Gordon (Law Division)

**PLTF ATTYS:** Chester A. Lizak of DiMonte & Lizak (Park Ridge) DEMAND: \$750,000 ASKED: \$2,500,000

**DEFT ATTYS:** Jay S. Judge and Erika G. Baldonado of Judge, James & Kujawa (Park Ridge) (SELF-INSURED) OFFER: \$150,000

**PLTF MEDL:** Dr. Mohammed Kahn (Pain Management); Dr. Edmund Regan (Orthopedist); Dr. James Pride (Internist); Dr. John Brayton (Neurosurgeon); Dr. Steven Jammers (Psychiatrist)

**DEFT EXPERT:** Dr. Marshall Matz (Neurosurgeon)

**FACTS:** Jan. 7, 1996, pltf M-34 was sledding down a hill on an inner tube at the Palatine Park District's Margaret H. Reimer Reservoir when he struck a cement post that was concealed by weeds. Pltf sustained a back injury and missed 7 weeks from work as an auto mechanic, returned to work for four years after the accident, and then claimed he was unable to work again due to chronic back syndrome and extreme pain; treating physicians could not find any objective evidence of non-degenerative pathology (\$33,982 medl., \$99,850 LT). Deft contended it placed signs in the park that prohibited sledding, but the sign was constantly being removed by vandals in the 1980's and was not replaced in recent times before this occurrence. Deft acknowledged being aware of people sledding, but maintained that only one other sledding accident occurred on a cement post prior to this one and that it was not foreseeable that sledders would sled into areas where posts were located which was at the end of the property line; the posts were placed as a safety measure to keep motor vehicles out of the area. Defense argued that plf's negligence exceeded 50% because he knew it was dangerous to use an inner tube to sled down a hill without a device to stop or steer, and pltf should have fallen off the tube when it became out of control. Defense expert testified there was no objective evidence of any physical injury other than a bruise which had resolved. In original lawsuit, deft was granted summary judgment on liability, which was reversed on appeal.