

SJC Decision Finalizes Dismissal of Brain Injury Case

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THE MASSACHUSETTS SUPREME JUDICIAL COURT REFUSES TO OVERTURN A MOTION TO DISMISS FILED BY BOYLE | SHAUGHNESSY LAW IN AN ALLEGED BRAIN INJURY CASE

Today the Massachusetts Supreme Judicial Court (“SJC”) refused to review the Massachusetts Appellate Court’s (“Appeals Court”) decision upholding the trial court’s granting of a motion to dismiss filed by Boyle | Shaughnessy Law on behalf of the defendants in *Ramon Gonzalez, et al. v. Dec-Tam Corporation, et al.*, MICV2006-02871, in an alleged brain injury case.

In the underlying case, the Plaintiff alleged that he fell off staging at a construction site located in Connecticut. As a result of the fall, the Plaintiff alleged that he suffered from serious neck, back, leg and head injuries. The Plaintiff, a Massachusetts resident, filed suit in Massachusetts on behalf of himself and his minor children.

Zurich North America retained Boyle | Shaughnessy Law to defend that case on behalf of all defendants. Boyle | Shaughnessy Law immediately filed a motion to dismiss arguing, for the first time in Massachusetts, that although the Plaintiff filed his lawsuit within Connecticut’s two-year statute of limitations, he failed to serve the complaint within the limitations period, as required by an unusual Connecticut procedure. Utilizing choice-of-law principles articulated in another case argued by Boyle | Shaughnessy Law, *Nierman v. Hyatt Corp.*, 441 Mass. 693 (2004), we argued that the failure to comply with the service requirement required dismissal. The trial court agreed and dismissed the case.

The Plaintiff appealed to the Appeals Court and retained former Massachusetts Appeals Court Justice Mel Greenberg to author and argue the appeal. The Appeals Court agreed with Boyle | Shaughnessy Law’s position in rejecting Justice Greenberg’s arguments and upheld the trial court. The Plaintiff sought further appellate review from the SJC, which Boyle | Shaughnessy Law opposed. The SJC has denied the Plaintiff’s application for further appellate review.