

# New Jersey Law Journal

MARCH 3, 2014

An ALM Publication

2014

NEW JERSEY  
LAW JOURNAL

PERSONAL  
INJURY

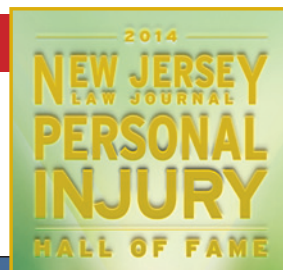
HALL OF FAME

**FINALIST: PREMISES LIABILITY**

***Kilpatrick v. Interstate Realty Mgmt. Co.: \$6 Million***

Attorney: John Zaorski

# Kilpatrick v. Interstate Realty Mgmt. Co.: \$6 Million



Attorney: John Zaorski **in**

**A**n unusual case of a birth defect allegedly caused by a mother's exposure to a virus carried by rodents led to a \$6 million settlement of a suit against her landlord, won by plaintiff lawyer John Zaorski of Cappuccio & Zaorski in Hammonton.

According to the suit, Leroy Kilpatrick III was paralyzed at birth from a mouse-borne infection passed on in utero. He was born on Sept. 23, 2010, with water on the brain and is a blind, deaf and spastic quadriplegic who might not be able to speak, Zaorski said.

The virus, diagnosed as lymphocytic choriomeningitis, is primarily hosted by the domestic mouse, which can carry it in saliva, urine and feces.

Kilpatrick's mother, Lourdes Rivera, had complained numerous times about rodent infestation in the Brigantine Home Apartments in Atlantic City, where she lived, Zaorski said.

Rivera and the boy's father, Leroy Kilpatrick Jr., sued building owner Brigantine Home Associates and manager Interstate Realty Management of Marlton, claiming they failed to provide a safe living environment.

Corbett Exterminating Inc. of Cranford was brought in on a third-party complaint.

The case settled on Nov. 22 in mediation with former U.S. Magistrate Judge Joel Rosen of Montgomery McCracken Walker & Rhoads in Cherry Hill.

Atlantic County Superior Court Judge James Isman approved the settlement last Dec. 6.

Defense lawyer Marc Zingarini, of Weber Gallagher Simpson Stapleton Fires & Newby in Philadelphia, confirmed the agreement and the \$4.5 million payout by Brigantine and Interstate.

Corbett is paying \$1.5 million. Its

lawyer was Jonathan Field of Mintzer Sarowitz Zeris Ledva & Meyers in Cherry Hill.

## About the Attorney

John Zaorski focuses his practice in the area of civil litigation, concentrating primarily on accident cases, including those involving catastrophic injuries, such as brain, neck or spinal cord injuries and amputations. He also practices in the area of workers' compensation law and represents clients in employment law matters.

Zaorski, a native of Bloomfield, did his undergraduate work at Montclair State University in 1993 and earned his law degree at Rutgers Law School-Camden in 1996.

He was with Pennington & Thompson in Cherry Hill, practicing as a civil defense lawyer, prior to founding his present Hammonton firm in 2000 with Marie A. Cappuccio, a trained mediator whose practice is focused in alternative dispute resolution.

## Also of Note

Zaorski also achieved a noteworthy confidential settlement in another premises liability case last year, on behalf of a woman who suffered partial amputation of two fingers in an elevator accident. She was attempting to hold the door open for another patron of the commercial building when it closed on her hand.

According to Zaorski's engineering expert, the elevator in question failed to comply with numerous safety standards. The cab door was deformed or bent and there was no photoelectric sensor "electric eye" present in the elevator. Zaorski also argued the doctrine of *res ipsa loquitur* applied. The defendant's expert engineer opined that the elevator conformed to all applicable codes and was not defective in any manner.



John Zaorski

PHOTO COURTESY OF JOHN ZAORSKI

As a result of the injuries, surgical intervention was required to complete the amputations and repair the wounds. Zaorski's expert, an orthopedic hand surgeon, gave an opinion that the deformities were permanent and that nothing else could be done from a surgical standpoint.

Also, the plaintiff clearly suffered a loss of grip strength in her hand and it was determined that a prosthetic device would not help her as these devices are clumsy, work poorly and interfere with hand functions. Finally, another plaintiff expert, a psychiatrist, diagnosed the woman with post-traumatic stress disorder.

The matter was resolved in mediation with a retired Superior Court judge, producing a structured settlement that is expected to pay in the seven-figure range over the plaintiff's lifetime. ■