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**PATTON**  
& RYAN LLC

SPRING 2017 ISSUE 32

Spring is upon us and we are already off to another great start to the year here at Patton & Ryan. We continue to be called upon by our clients to handle all varieties of matters, from pre-suit negotiations to complex, catastrophic injury trials, sometimes with a moment's notice, anywhere in the country.

We anticipate and look forward to continued success throughout 2017, and expect to grow on our previous years' successes as an established national trial litigation firm.

Please let me know if we can assist you in any way.

*John W.  
Patton, Jr.*

312.261.5166



## Defense Verdict Win in \$31 Million Pediatric Malpractice Case

Patton & Ryan Senior Partner John W. Patton, Jr. and associate Kathryn Vaughan secured this remarkable verdict after a two week medical malpractice trial with deliberations lasting just under two hours. This case involved an infant, Dramara Sivals, Jr. (hereinafter "DJ") that was discharged from Memorial Medical Center in Springfield, Illinois 36 hours after birth. 63.5 hours after birth DJ was admitted to St. John's with possible sepsis. The sepsis ultimately became meningitis, and DJ's neurological system was irreversibly damaged as a result of the infection. The cause of the DJ's infection was Group B strep. DJ's mother tested negative for Group B strep prior to giving birth.

Plaintiffs claimed that Koke Mill, acting through its agent Dr. Vasconcelles, negligently discharged DJ less than 48 hours after his birth despite his alleged complicated post-partum course which included respiratory distress, low blood glucose labs, feeding difficulty, vomiting and sleepiness.

Defendant, Koke Mill claimed that Dr. Vasconcelles was not negligent as DJ was not exhibiting any signs or symptoms of infection prior to discharge. Defendant further argued that the rapid and progressive nature of DJ's infection 60 hours after birth was further evidence that DJ could not have been showing signs and symptoms prior to discharge. Through our experts and numerous other healthcare providers, we went through the chart and explained how the symptoms that Plaintiff cherry-picked are seen in most normal newborns. Plaintiff's case required a jury to ignore the testimony of numerous treating physicians while listening solely to their nine retained experts.

Plaintiff asked the jury for an award of \$31 million. This verdict is the result of an aggressive and focused trial team of Patton & Ryan attorneys. Should you want John and our team to help you on a large exposure matter, anywhere in the nation, or just want more information on us, please do not hesitate to email or call.

## Aggressive Defense Results In Settlement in Wrongful Death

This past February, Patton & Ryan answered yet another call to parachute into a case as lead counsel with only weeks to go before trial. A wrongful death action in Seattle, WA, this cause arose out of a tragic incident involving the death of a two-year-old girl while on our client's premises. Already a difficult case to defend due to the heart-breaking death of such a young child, this case was further complicated by the fact that Plaintiffs had brought three separate actions in which all Defendants would be held liable if found to have been even 1% at fault.

Undeterred, the Patton & Ryan team mobilized and had boots on the ground in Seattle within 48 hours to meet with and prepare key witnesses for trial. Team members in Washington coordinated with the team back in Chicago to draft witness examinations, motions in limine, and to comb through every piece of evidence in the massive file in order to formulate the best possible strategy for trial.

The team's close scrutiny of the file and all the evidence proved worthwhile when they discovered a low-quality surveillance video from the date of the accident that had been overlooked by everyone else. Though Plaintiffs had objected to its introduction into evidence, the tape had been pretty much dismissed by the Defense due to the extremely low-quality nature of the video. Unwilling to leave any stones unturned, the Patton & Ryan team took a closer look and discovered exactly why the Plaintiffs tried to keep this video from the jury – it directly contradicted their version of events.

Armed with this evidence, Patton & Ryan confidently proceeded to jury selection. Co- Defendants, however, all settled out immediately after the jury was selected. Based on the recommendations of the mediator involved with these settlements, our client agreed to discuss the potential for settlement with the Plaintiffs. Plaintiffs, however, came in with an exorbitant and unreasonable demand, which abruptly terminated the settlement discussions. The Patton & Ryan team, led by Partner John W. Patton Jr., with assistance from Partner Paul D. Motz and Anthony W. Parker, proceeded to trial.

Medical Malpractice

...continued on page 2

## Defense Of Fortune 100 Company In Unique Catastrophic Injury Case Results In Favorable Outcome

Patton & Ryan was recently called to defend a Fortune 100 Company and its subsidiaries in a unique premises, transportation, and workers' compensation case.

Plaintiff, a bulk driver, suffered a catastrophic injury when he was struck and pinned between a parking block and a lift gate of a backing semi-tractor trailer operated by another bulk driver. Allegedly, Plaintiff went behind the semi-tractor trailer, lowered the lift gate, and started to open the roll door when the semi-tractor trailer began backing towards him. Plaintiff was unable to move out of the way in time and his leg was pinned.

Due to the incident, Plaintiff's leg was mangled, which required a below the knee amputation. Plaintiff's medical damages totaled more than \$500,000 and the demand was more than \$10 million.

Patton & Ryan vigorously defended the matter and quickly secured summary judgment in favor of the Fortune 100 Company. Thereafter, John W. Patton, Jr., and his team retained five experts to successfully challenge Plaintiff's account of the accident, the severity of Plaintiff's injury, Plaintiff's future medical treatment, life care planning, and economic damages.

As a result of Patton & Ryan's thorough investigation, diligent representation, and vigorous defense tactics, the case against the subsidiaries successfully resolved for a mere fraction of Plaintiff's demand following two rounds of mediation.

Patton & Ryan routinely defends Fortune 500 Companies in matters involving catastrophic injury and is ready to defend your company in any jurisdiction at any time.

Catastrophic Loss

## Wrongful Death continued from page 1

At trial, Plaintiffs took the position that the accident occurred due to a lack of a gate on the play area entrance because the child was able to run out of the play area and into traffic. To bolster this argument, Plaintiffs retained several liability experts to opine the lack of a gate violated several voluntary industry standards related to design and maintenance.

Using the surveillance footage as a visual aid, John W. Patton Jr. delivered the opening statements, taking the judge and jury on a tour of the events leading up to the tragic accident that claimed the child's life. Patton walked them through the video from the date of the accident that showed the professional nanny employed by the child's surviving parents and the child at a play area on the premises of our client's outdoor mall. The accident occurred when the child left the play area and ran out in front of a passing car.

Although the actual accident was not shown on the tape, Patton & Ryan utilized the video to demonstrate that the actual proximate cause was not, in fact, the lack of a gate on the play area entrance, but was actually the nanny's complete failure to supervise the child.

Following opening statements, the case abruptly settled when Plaintiffs greatly lowered their demands and requested to settle for our initial offer- which they had previously rejected. Through our tireless efforts, acute attention to detail, and aggressive defense strategy, Patton & Ryan achieved another favorable result for our clients.

Wrongful Death

## Getting The Right Experts Leads To Favorable Settlement In Exam Room Fall

Plaintiff, Deloris Davis, sued Foot & Ankle Health Care Center after she fell in an examination room during her treatment for chronic foot pain. The fall was allegedly due to the dangerous condition created when the podiatrist directed her to wear paper slippers and walk across the examination room's hardwood flooring. Plaintiff's damages included a complete tear of her rotator cuff requiring over 6 months of physical therapy and open rotator cuff surgery to repair. Despite a successful surgery, Plaintiff had daily pain and permanent loss of movement in her arm and shoulder.

Patton & Ryan retained experts in premises liability, human factors, and orthopedic surgery to attack Plaintiff's theory of liability and causation head on. Slip resistance testing was conducted showing that the hardwood flooring in the examination room met all recognized standards for slip resistance. A human factors analysis showed that the fall was not related to the medical grade paper slippers, but was rather due to Plaintiff's failure to follow the medical staff's directions. Our expert in orthopedic surgery identified that diagnostic imaging from after the accident showed degenerative changes to Plaintiff's shoulder consistent with a pre-existing condition.

Patton & Ryan's aggressive "*leave no stone unturned*" defense resulted in a favorable settlement of less than 1/2 the Plaintiff's past medical expenses and far below the cost of defense in the week before trial.

Premises Liability

## **Motion To Dismiss Granted In Riot Fest Crowd Surfing Incident**

Nina Zurawel broke her ankle at Riot Fest, a multi-day Chicago-based music festival, in September of 2016 during a performance by the band “Brand New” when the handlers of a large male ‘crowd surfer’ lost control and dropped him on her leg. On January 25, 2017, Ms. Zurawel filed a four-count negligence suit in Cook County against Riot Fest Corporation and its owner, the promotion company for Riot Fest, and one of the security companies that was hired to provide security services at the event. The main allegations against the security company were that it failed to provide adequate crowd control measures, failed to provide reasonably qualified and properly trained security personnel to handle crowd control, and failed to control the crowd and prevent the activity of ‘crowd surfing.’

Patton & Ryan appeared on behalf of the security company and immediately filed a motion to dismiss, arguing that the security company owed no duty to Ms. Zurawel. The security company was one of three companies that were providing security at Riot Fest and its contract specifically excluded from its scope the area where Ms. Zurawel was injured. The motion to dismiss was granted on the merits less than two months after the security company was served with process, saving the company thousands of dollars in potential legal fees.

**Personal Injury**

## **Settlement Secured On Eve Of Trial**

Patton & Ryan successfully secured a settlement on the eve of trial in January 2017 for a podiatric surgeon accused of providing unnecessary surgical treatment. Plaintiff alleged that her doctor inappropriately provided surgical treatment to repair her calcaneal bone spurs and extensive tendon damage.

Given Plaintiff’s history of prior injury and treatment to the area, Patton & Ryan engaged in extensive research into the Plaintiff’s activities, revealing that she was far more able-bodied than she had previously testified. This aggressive approach led directly to a settlement, protecting our doctor from an unnecessary, complex and time-consuming trial process.

The attorneys of Patton & Ryan always strive to bring the highest level of attention to their medical malpractice cases. Once again, our aggressive approach and attention to detail ensured the best outcome for our client.

**Medical Malpractice**

## **Mock Trial Aids Trial Team In Evaluating Settlement Position**

A school bus fully loaded with passengers rear-ended an SUV, allegedly causing the SUV driver, a woman in her 50s, to undergo cervical and lumbar spine fusions. She also claimed that she could no longer work. Her settlement demand was \$15 million. Patton & Ryan pursued all aspects of discovery and then proceeded with a full day, mock trial to obtain quantifiable data relating to the strengths and weaknesses of each party’s position as well as a profile of the type of juror who might favor the defense albeit a rear-end accident. The firm also assembled a team of liability and damages experts. Through such preparation, aggressive motion practice, and pre-trial discovery, the suit settled for a fraction of the demand, and within 9 months after the demand was made.

**Personal Injury**



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### AREAS OF PRACTICE

Appellate Litigation  
Attorney Malpractice Defense  
Catastrophic Loss  
Civil Litigation and Insurance Defense  
Commercial Litigation  
Construction Defect  
Employer Liability  
Insurance Coverage and  
Bad Faith Litigation  
Labor & Employment Law  
Mass Torts  
Medical Malpractice and Medical  
Device Defense Litigation  
Municipal Entity Defense  
Product Liability  
Professional Liability  
Transportation & Trucking Litigation

## Other News Spotlight

### Patton & Ryan Hosts Annual Parties

Patton & Ryan hosted its Annual Post Holiday Party in New York City on February 16, 2017 to thank all of our East Coast clients. The night drew one of the largest crowds in the history of the event, and we again thank all those who were able to attend.

Similarly, our Annual St. Patrick's Day Party was held in Chicago on March 15, 2017. We welcomed many of our Midwest clients and several Illinois judges.

We had a great time celebrating an incredibly successful 2016 and toasting to even bigger successes in 2017 and beyond.

### Favorable Outcome After Binding Arbitration

In this Cook County, Illinois matter, an employee of Patton & Ryan's client, Sysco Foods, was injured when he fell down stairs while making his delivery to a restaurant. As a result, plaintiff delivery man sued the operators of the restaurant where he was injured. In response, the restaurant brought a third-party complaint against Sysco as plaintiff's employer, claiming that Sysco's negligence had contributed in causing the injury and asking that Sysco pay the percentage of the Plaintiff's award consistent with its negligence.

Patton & Ryan aggressively defended Sysco against the restaurant's claim. Prior to agreeing to participate in binding arbitration, Patton & Ryan coordinated an agreement between the Plaintiff's attorney and the workers' compensation lien holder that substantially limited Sysco's exposure on the third-party claim. Finally, at the arbitration, Patton & Ryan aggressively advocated for Sysco's minimal liability. As a result, the arbitrator returned a binding decision that ensured a recovery on Sysco's workers' compensation lien.

Premises Liability