

PLAYGROUND SURFACE

Experts Investigate Fall from Playground Climbing Equipment

LACONIA — A city couple whose seven-year-old son suffered a traumatic brain injury when he fell from a piece of playground equipment at the Belknap Mall has negotiated a \$95,000 settlement in Belknap County Superior Court.

According to court documents, Allan and Wendy Kirker of 35 Old Prescott Rd. received court approval for a settlement of action against OCW Retail Belmont LLC, the mall owner, and Wilder Companies, the property manager, both based in Boston.

The settlement document states that the boy was injured on Nov. 17, 2011, about 7 p.m. while he was accompanied by his mother and 17-year-old sister who had gone to the mall to shop. The boy had climbed to the top of the Step2 Climber known as “Skyward Summit” — which is between six- and eight-feet-tall — when he fell, hitting his head on the floor.

The boy sustained a small left temporal subdural hematoma and subsequently was treated at Dartmouth-Hitchcock Medical Center in Lebanon.

The defendant was insured by Liberty Mutual Insurance Group of Weston, Mass.

According to an order approved by Judge James D. O’Neill III, the attorneys will be awarded \$27,225 in legal fees, an outstanding balance to medical providers of \$1,236 will be paid, and the balance of \$66,539 is to be made payable to Prudential Assigned Services Corporation to fund the purchase of periodic payments for the benefit of the minor child: \$32,982.55 at age 21 on Nov. 8, 2024; \$39,097.43 at age 25 on Nov. 8, 2028; \$45,503.02 at age 30 on Nov. 8, 2033. Total value of the annuity is \$120,583.

According to a report written by a physician at Children’s Hospital at Dartmouth-Hitchcock, brain injuries typically have a gradual course of recovery and it often is not possible to state the exact timeline. The physician wrote that, in the future, the child may find certain environments difficult to tolerate as a result of his injury, including rooms with bright lights, noise from more than one source at a time, or prolonged

exposure to computer or television screens. She said he also might experience headache, dizziness, feeling flushed, low frustration tolerance and emotional liability, especially if fatigued.

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The Kirkers were represented by Attorney David Gottesman of Nashua. The mall owner and the property management company were represented by Attorney Nicholas Deleault of Manchester.

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Headline: Award in brain injury case

By Bea Lewis (blewis@citizen.com)

Robson Forensic:

The experts at Robson Forensic have investigated more than 125 playground injuries and fatalities. These incidents occurred across a variety of playground settings from schools and parks, to commercial facilities, day care centers, and apartment complexes. Please contact an expert directly to discuss your matter and how we can help.

Experts Involved in this Investigation:

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