

See [The Philadelphia Inquirer](#) story

See [The Daily Pennsylvanian](#) story

The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES 1843 - 2011

PHILADELPHIA, WEDNESDAY, NOVEMBER 13, 2013

An **ALM** Publication

Case Over College Student's Fall Settles for \$11.6 Mil.



Tom Kline

P.J. D'ANNUNZIO

Of the Legal staff

A case involving a college student who was paralyzed after she fell 20 feet through a skylight has settled for \$11.6 million.

Settlement in the premises liability and catastrophic injury case *Bernhoft v. Palmer* was finalized Monday. The settlement was paid by 11 insurers, covering the property owners as well as the tenants, to Lorna Bernhoft, who became a paraplegic after falling through a skylight covered with a thin board in an off-campus residence in Philadelphia.

[Tom Kline](#), [Dom Guerrini](#) and [David Williams](#) of Kline & Specter in Philadelphia represented Bernhoft in the case.

Kline said the case, at first blush, presented many challenges to en-

suring recovery for the plaintiff, such as the presence of alcohol and marijuana in Bernhoft's system when the accident occurred.

"There was a significant impediment in the case," Kline said. "Very few cases are perfect, and while Lorna Bernhoft was a true victim of a serious defect in the premises that she visited, she also had a 0.26 blood alcohol level with marijuana in her system and we recognized that it would have been a significant case had it gone to trial."

Kline also mentioned that there was initially concern as to whether there existed sufficient resources and insurance coverage from the property owner and tenants to compensate Bernhoft.

Bernhoft's fall took place Oct. 12, 2010, when the woman, a junior at the University of Pennsylvania, was attending a student gathering at an off-campus event. She was injured when she fell through the raised skylight opening in the fourth floor of an off-campus home, according to Kline.

The University of Pennsylvania was not a defendant in the case.

The fall occurred when Bernhoft sat on a piece of flex board covering the skylight, according to Bernhoft's pretrial memorandum. Bernhoft landed on her tailbone on a staircase below, slid down the stairs, and landed on her head.

Bernhoft's court papers alleged that the primary defendants, Joseph, Irene and Jennifer Palmer, were reckless in that they covered the skylight with only a piece of flex board and subsequently did nothing to repair the hazardous condition of the floor where the skylight was situated.

On July 27, 2012, the Palmers filed a joinder complaint to add previous tenants of the property to the case. There were 14 additional defendants added, according to court papers.

According to the Palmers' defense papers, the skylight opening was covered with three-fourths-inch plywood and nailed shut during renovations to the building in the 1980s.

In the pretrial memorandum of one of the additional tenant defendants, Grant Frierson IV, allegations were made that the Palmers never inspected the fourth floor or

checked on the status of the skylight covering.

The Palmers' defense papers alleged that tenants of the property in 2009-10 never reported any removal of the plywood board or existence of hazardous conditions to the Palmers as was a condition of the lease.

Additionally, the Palmers' court papers alleged that Bernhoft was under the influence, underage and that the tenants during the time of the incident were liable as they were in exclusive possession and control of the building and its condition.

Joseph F. Van Horn of Fallon Van Horn in Philadelphia represented the Palmers and did not return phone calls seeking comment.

Kline said, "We sued the owner of the premises so we could see how the suit would evolve, encouraged joinder of the additional defendants, proceeded along the path of discovery and determined that there was significant insurance coverage."

In terms of the blood alcohol and marijuana issues, Kline said that in a pretrial conference, Philadelphia Court of Common Pleas Judge John Milton Younge educated "the defendants on the limitations of their defense, including the limitations of their substance defense and their exposure."

Kline also lauded the "non-traditional" mediation process employed by mediator and former state Supreme Court Justice Russell M. Nigro.

"Justice Nigro was instrumental in the process," Kline said. "He engaged in a process outside of the usual two-day mediation. He kept with the case in the position of a

mediator/facilitator. During the course of the post-mediation I had no fewer than 20 discussions where there was a continuing back-and-forth among 14 parties, including 11 insurance carriers. It was really his follow-through and perseverance that allowed the various pieces of a very complicated puzzle to be put together."