

APPELLATE UPDATE

JANUARY 17, 2014

IS IT REVERSIBLE ERROR FOR THE TRIAL COURT TO ADMIT EVIDENCE OF INTOXICATION WHERE LIABILITY HAS BEEN ADMITTED?

Recently, the Second District Court of Appeal, in Swanson v. Robles, Case No. 2D12-1257 (Fla. 2d DCA 2013), reversed and remanded for a new trial where the trial court admitted evidence of the Defendant's drug use. The Defendant had admitted liability for both compensatory and punitive damages.

At trial, over the objection of the Defendant, the Plaintiff Estate presented evidence that the Defendant had in his system Xanax, a trace amount of methadone, and a metabolite of marijuana. The Defendant was a recovering heroin addict, had missed a methadone treatment and was on his way to a methadone clinic at the time of the accident. In addition, marijuana was found in his truck.

The final judgment awarded the Estate over \$6,000,000. The jury found that the Defendant was under the influence of drugs or alcohol at the time of the accident.

On appeal, the Court explained:

When a defendant admits liability in an automobile negligence case and the only remaining Issue is the amount of compensatory damages, evidence regarding the defendant's sobriety should not be admitted into evidence. When a defendant admits the entire responsibility for an accident and only the amount of damages is at issue, evidence regarding liability is irrelevant and prejudicial.

The evidence of the Defendant's drug use was only meant to inflame the jury and was not relevant to the survivor's pain and suffering. As a result, the trial court abused its discretion by admitting the evidence and the Defendant was entitled to a new trial.

However, the Court noted that evidence of the Defendant's drug use is directly relevant to the amount of punitive damages in the second phase of a bifurcated trial. It directly goes to the egregiousness of the Defendant's actions and the amount of punitive damages.

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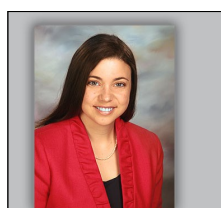
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We look forward to assisting you with all of your appellate-related needs. If you have any questions or would like to refer a case, please contact our appellate attorneys.



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