



TRIAL BY JURY  
*The Block O'Toole & Murphy Newsletter*

**BOM** **BLOCK**  
**O'TOOLE**  
**& MURPHY**  
ATTORNEYS AT LAW





## TRIAL BY JURY

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Amendment VII of the Bill of Rights of the U.S. Constitution protects us all. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States.

### FIRM EXPANSION

#### A Few New Faces . . .

In 2008, the firm hired four new associate attorneys, Frederick Aranki, Nick Gjelij, Anthony Minko and Sean Constable.

Fred Aranki is a veteran attorney who spent the majority of his career defending catastrophic injury cases for a major defense firm. He brings a unique perspective as well as his vast experience to the firm. Fred will be handling significant personal injury work from inception to trial on behalf of the firm.

Nick Gjelij came to the firm from a prominent plaintiff's firm that specialized in construction litigation. Nick is a welcome addition to the firm's burgeoning construction practice. Nick will be focusing his attention on significant personal injury work.

Anthony Minko comes to the firm directly from the Corporation Counsel of New York City where he was assigned to their elite Special Litigation Unit. He is an intelligent and aggressive attorney who will continue the firm's commitment to excellence in the courtroom.

Sean Constable comes to the firm with a vast amount of litigation experience, working for a prominent civil defense firm and then later handling the defense of major personal injury actions on behalf of the Long Island Railroad.

#### Solano joins firm as of counsel

Javier Solano, a well known and talented trial attorney, has joined the firm in an of counsel capacity. Mr. Solano, hailing from the Bronx, was a former homicide prosecutor who now handles a myriad of catastrophic civil and criminal cases. He also serves as legal counsel to the National Puerto Rican Day Parade.

#### Stephen J. Murphy Named a Partner

Jeffrey Block and Daniel O'Toole are proud to announce that Stephen J. Murphy has been named a partner at the firm. The firm will now be known as Block O'Toole & Murphy. Mr. Murphy joined the firm in early 2005 after a rewarding career as a homicide prosecutor.

#### O'Toole, Murphy and Donahue Serving on the Board of Directors for the New York State Trial Lawyers Association!

Daniel O'Toole, Stephen Murphy and Joseph Donahue have all been recently elected to serve 3 year terms on the Board of Directors of the New York State Trial Lawyers Association. The organization that has been routinely described as "powerful" and "influential" by publications such as The New York Times and Crain's New York Business represents nearly 5,000 lawyers from the Bronx to Buffalo. The organization focus is to protect the rights of litigants in the civil justice system. At his installation, O'Toole remarked that, for the firm, the organization is "a vehicle to help people and make sure that everyone gets a fair shake in our system of justice."



The firm continues to achieve astounding results, including a \$12,000,000 settlement on the eve of trial that will pay out more than 71 million dollars to a young boy and a record breaking verdict in Suffolk County for \$32,756,156. The verdict is the highest verdict of its kind in Long Island history. The firm now enjoys the top non-medical malpractice verdicts in Nassau and Suffolk County as well as Long Island history!

### \$71,643,000 Result!

Plaintiff was standing on the sidewalk when two vehicles collided within the intersection causing one vehicle to jump the sidewalk and strike him. The two vehicles were a Chrysler and an Audi. The Chrysler claimed he entered the intersection against a yellow traffic light. The Audi claimed that he was traveling at 22 mph and that the Chrysler entered against a steady red light causing the accident. Our accident reconstruction engineer was able to scientifically prove that the Audi was traveling at 38.5 mph at the time of the impact, thus contributing to the cause of this accident. This evidence was crucial in proving the Audi's liability.

#### INJURIES/DAMAGES

**Plaintiff sustained the following injuries:** **1.** Right femoral leg fracture; **2.** Right tibia fibula fracture; **3.** Left tibia fibula fracture; **4.** Fracture to the left distal femoral growth plate; **5.** Fracture to the left tibial condyle and growth plate; **6.** Left humeral fracture; **7.** Multiple pelvic fractures; **8.** Perforated posterior and anterior gastric walls; **9.** Perforated duodenum; **10.** Lacerated liver; **11.** Avulsed gastrocnemius muscle; **12.** Degloving of the left calf; and **13.** Damage to the popliteal artery requiring surgical repair.

#### VERDICT/SETTLEMENT AMOUNT

**\$71,643,000**

#### NOTE

\$71,643,000.00 is the expected payout of Plaintiff's structured settlement annuity based upon a \$12,000,000.00 settlement. This case settled prior to jury selection. This case was handled by Jeffrey Block, Esq. and Daniel O'Toole, Esq.

### \$32,756,156 Verdict!

On March 13, 2004, Plaintiff, a Vietnam Veteran, was a "good samaritan" helping accident victims at the scene of an unrelated motor vehicle collision in Port Jefferson, New York. The road was later blocked off by emergency personnel including members of the local police and fire department. Defendant was driving her car while impaired by marijuana and prescription pain killers. She drove through a police barricade and struck the plaintiff, propelling him 30 feet in the air. Plaintiff crashed to the ground and sustained severe life threatening trauma to his head. He was rushed to the nearest hospital.

#### INJURIES/DAMAGES

Plaintiff fractured his skull and hip. He underwent an emergency craniotomy to evacuate the hemorrhage in his brain and an open reduction internal fixation to repair his hip fracture. Plaintiff sustained severe brain damage and has been confined to a nursing home since the accident.

#### VERDICT/SETTLEMENT AMOUNT

**\$32,756,156.** The highest offer was \$7,500,000. Plaintiffs rejected the offer and proceeded to verdict.

#### NOTE

The jury verdict, which was covered extensively by the media, is the largest reported non-medical malpractice verdict in Long Island history. The case was tried by Stephen J. Murphy and Daniel P. O'Toole.



## LAWYERS WITH HARDHATS

- **Block O'Toole & Murphy has a proud and successful history of representing laborers who are injured on the job.**

- **A few recent results include:**

- \$5,030,572 for a construction worker injured when a scaffold tipped over.
- \$4,995,000 for a laborer that fell from an unstable floor at a Manhattan building worksite.
- \$4,000,000 for a mechanic injured after becoming entangled in a pump's motor.
- \$3,700,000 for an asbestos worker who fell off a scaffold.
- \$3,411,000 for a building superintendent injured by a brick that fell from a scaffold.



### WHAT DOES A WORKER NEED TO KNOW?

New York laws are designed to protect the workers of this State. Anyone who is injured while working on any construction or renovation project, no matter how big or small, needs to make sure that his or her rights are protected.

### WHO DOES THE LAW PROTECT?

The law is a broad one. Among others, it seeks to protect: Iron Workers, Construction Workers, Electricians, Mechanics, Bricklayers, Painters and Carpenters

- If you are hurt on the job, ANY job, you should consult an attorney to make sure your rights are protected.
- Don't make any statements until you have discussed the matter fully with an attorney.

## FIGHTING FOR CHILDREN

The law firm of Block O'Toole & Murphy continues to excel in the courtroom. But we are mindful that our obligations to help people in need don't stop at the office or in a courtroom. The firm remains involved in several important charities, perhaps no more significant than the St. Jude Children's Hospital and The Frances Pope Memorial Foundation.

St. Jude Children's Hospital is the leading hospital in the world in the ever important fight against pediatric disease, including cancer. Stephen J. Murphy and Daniel P. O'Toole, along with defense attorney Lois Ottobrino, are responsible for organizing the popular annual charity wine tasting to benefit the St. Jude Children's Hospital. The firm sponsors this highly successful event that continues to raise money for the hospital. The event raised more than \$115,000 in 2008.

The Frances Pope Memorial Foundation is the leading charity on the east coast that helps families of children that are afflicted by leukemia and cancer. The foundation contributes money for research to find a cure and financially assists the families with things like mortgage payments, medical bills or money for medications that insurance refuses to pay for. The firm enjoys a close relationship with Mary O'Dowd, the founder of the foundation. We consider it an extremely important responsibility to help this worthy cause. The firm is a perennial sponsor at the Friendship Ball.

## SUPER LAWYERS!

The firm wishes to congratulate Jeffrey Block & Daniel O'Toole for being recognized in the 2008 Super Lawyers magazine. This honor is reserved for elite members of the bar. The top 5% of practitioners in their respective fields are recognized.





# Local man awarded record judgment

Damages add up to \$32.7 million, the largest of its kind in county history

By Peggy Spellman Hovey

Jimmy Dunne pumped his fist in triumph when he learned the jury's verdict.

And he had every reason to. A Suffolk County jury awarded the 60-year-old Vietnam War veteran \$32.7 million in damages — said to be the largest nonmedical malpractice personal injury award in county history — for serious brain damage he suffered when he was struck by a car driven by a drug-impaired driver in March 2004. Mr. Dunne, of Mount Sinai, was driving home with his wife, Carol, from a child's first birthday party at the American Legion in Port Jefferson Station, where he was commanding officer, when they stopped to help victims of a three-car crash on Hallock Road in Port Jefferson

Station. While Mr. Dunne was giving a statement to police officers, a car driven by Lisa Lloyd, of Rocky Point jumped a police barricade and struck Mr. Dunne, catapulting him some 30 feet into the air, according to the Dunnes' attorney, Stephen Murphy of Block and O'Toole in Manhattan.

According to court documents, Ms. Lloyd later pleaded guilty to second-degree assault and recklessly driving a car while impaired by drugs. Ms. Lloyd could not be reached for comment. Her attorney, Aileen Kavanagh, was also unavailable for comment.

Mr. Murphy said the award money will be used by the family to bring Mr. Dunne, who requires round-the-clock nursing care due to his injuries, home from the veterans home in Stony Brook, where he has lived since being released

from the hospital. A former railroad conductor who retired about eight years ago, Mr. Dunne was in a coma for a month and required brain surgery to treat his injuries. The award money will allow him to be closer to his two sons, Brian, 35, and Jason, 27, and his two grandchildren, Mr. Murphy said.

"The money will allow them to care for Jim," Mr. Murphy said.

Mr. Murphy noted the trial, which lasted about 2 1/2 weeks, focused on evidence concerning the damages done to Mr. Dunne, nothing else. But it was videotaped testimony that really drove his client's plight home and really touched the hearts of the jury, particularly video depicting his struggle to rehabilitate, which included an excerpt of him reciting his favorite poem, "The Shooting of Dan McGrew."

Once the case was over, the jurors were very interested in meeting with the Dunne family and talking to "Jimmy," but most of all they wanted to hear him recite the poem, Mr. Murphy said.

"They asked if they could go see Jimmy Dunne and the family and give him a hug," Mr. Murphy said.

After some prodding outside the courtroom, Mr. Dunne gave his recitation, Mr. Murphy said.

Penned by Robert W. Service, the poem tells the fate of a card player who was caught in the middle of a love triangle between a saloon girl and a Yukon miner. The tragic tale brought everyone to tears and earned Mr. Dunne a standing ovation.

"When he was done, he pumped his fist and the jurors all cheered," Mr. Murphy said.

# \$1.1M awarded to ferry victim

By ED ROBINSON

A woman injured in the Staten Island ferry crash has reached a \$1.13 million settlement with the city, the largest to date.

Laura Diaz, 41, suffered a broken leg and pelvis when the Andrew J. Barberi crashed into a pier near the St. George terminal in Staten Island on Oct. 15.

She had to have screws put into her leg, said her lawyer, Daniel O'Toole. Diaz was in the hospital for two weeks and is still out of work.

"She's still wearing herself off a cane," O'Toole said.

"Unfortunately, that pain is going to be with her the rest of her life," Diaz was on her way home from her job as a federal bankruptcy court clerk on the afternoon of the disaster. She was one of 71 people injured in the crash, which killed 11 people.

The settlement comes after negotiations with the city corporation counsel.

The negotiations were "pretty amicable," O'Toole said, adding that "the city came up with a fair price."

It was the 33rd settlement reached in the city involving the ferry crash, said Kate O'Brien Ahlers, a spokeswoman for the corporation counsel.

Diaz' settlement, announced yesterday, is worth more than the other 32 cases combined, which totaled about \$600,000.

"Ms. Diaz had very serious injuries," said corporation counsel attorney Susan Rogerson Pondish.

"We feel this was a reasonable settlement that we hope will assist in bringing closure to her and her family."

There are still about 150 unresolved cases from the crash, which killed 11 people.

It's possible that there may be even larger settlements.

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ments or jury awards in the future, given that most of the cases involving the eleven deaths have not yet been resolved.

Earlier this month, the Brooklyn U.S. Attorney's office was granted a 30-day extension to file a new civil action in the ferry case or keep them from interfering with the criminal investigation.

It's believed federal indictments will be coming next month in the ferry probe. Much of the investigation has focused on the whereabouts of Barberi. Capt. Michael Ganagan was on the day of the crash.

The city has said that it was not in the pilot house during the crash. It fell with investigators and was fired. Assistant Capt. Richard Smith, who was in the ferry, said investigators passed out a tire wheel.

With Post Wire Service

## DAILY NEWS

## Queens



Denis HAMILL

### \$33M of justice for a tragic survivor

Tuesday, January 8th 2008, 4:00 AM

The \$33 million verdict - the largest non-medical-malpractice personal injury award in Long Island history - came in 13 days before Christmas.

But for Jimmy Dunne and his family the victory will always be bittersweet. For here was a guy who, on March 13, 2004, was a perfectly healthy, 56-year-old, happily married man living in Mount Sinai in Suffolk County, a father of two and grandfather of two.

"He was a beautiful guy, salt of the earth," says his attorney Stephen J. Murphy of the law firm of Block & O'Toole. "He was the kind of guy who'd light up a party by reciting his favorite poem, 'The Shooting of Dan McGrew,'" by Robert Service. He'd done two tours of Vietnam. He was a retired LIRR conductor. He was the commander of his local American Legion post. His wife, Carol, was a tour guide for the Port Jefferson ferry. They had a helluva good life."

At 4:33 p.m. that day Dunne was driving past the intersection of Hallock Ave. and Crystal Brook Hollow Road in Port Jefferson, coming from a 1-year-old's birthday party, when he saw a three-car accident ahead and decided to help.

And his life was forever changed.

"Jimmy gets out to help these people because he knows CPR," says Murphy. "He tells his wife to call 911. Soon cops, firemen, a constable and ambulance workers show up. Jimmy was giving a statement to the police, ready to go back to his car, when a brand-new, gray-green Subaru hatchback driven by a woman named Lisa Lloyd smashed through the police barricade, just misses a fire chief, and slams into Jimmy Dunne, lifting him onto the windshield."

The Subaru kept going, Dunne's head smashing into the windshield. The fire chief ran alongside her car, dove through the window, and threw the car into park. Dunne catapulted 30-feet, landing on his head.



Attorneys Stephen J. Murphy (l) and Daniel O'Toole meet case.

"They did emergency craniotomy brain surgery," says Murphy, who tried the case with Daniel O'Toole.

Doctors had to remove clinically dead portions of the brain. Dunne plunged into a coma. Hip surgery was also performed. He slowly awakened from his coma by April 5, and he's been hospitalized or institutionalized ever since.

"Jimmy had to relearn the names of his wife and children," says Murphy. "He needs help with dressing, eating, bathing and toileting. He's gone through years of physical therapy at a veterans home in Stony Brook, where, although he made much progress, they cut off the therapy for monetary reasons after bills reached over a million dollars."

Murphy, former top homicide prosecutor for the Brooklyn district attorney's office, says that when he got involved in the case it was plain to see that Dunne would need special care for the remainder of his life. He was not attending any parties, reciting "Dan McGrew."

"The family wants to take Jimmy home," he says. "But they need to modify their home to suit his 24-hour nursing care. Carol had to quit her job. Her life, obviously, has also been forever changed."

Lisa Lloyd later pleaded guilty to second-degree assault and recklessly driving while impaired on drugs. "That day Lisa and her boyfriend, who worked at Thomas Dodge car dealership, got whacked on drugs together," says Murphy. "Then she went to his dealership, where they leased her a brand-new Subaru, and let her drive the vehicle off the lot while intoxicated. She even strapped her two young children into the car. And then she crashed into Jimmy Dunne."

Murphy brought a suit against Lloyd and the car dealership.

The judge ruled that the trial was only about damages. "The attorneys for the other side never produced a witness, but argued that the award should be about \$5 million," says Murphy. "We asked for \$35 million, illustrating just how much Jimmy Dunne's life had changed. Some days Jimmy thinks it's 1971. Other days he's lucid. At that we played a video of him struggling through his therapy and reciting 'Dangerous Dan McGrew' to prove that he was personally aware of his own pain and suffering."

On Dec. 12, the jury deliberated for 90 minutes and returned with \$32.7 million of the \$35-million Murphy and O'Toole had sought.

"In the third-floor hallway of the courthouse in Riverhead the jurors asked if Jimmy Dunne would recite 'Dangerous Dan McGrew' for them," says Murphy. "He did, and ended with: 'He looked like a man with a foot in grave and scarcely the strength of a louse.' Yet he tilted his pole of dust on the bar and called for drinks on the house. Then Jimmy Dunne pumped his fist in the air as the jurors wiped tears from their eyes."

Then Carol Dunne took her husband home for Christmas.

# Injured Viet vet awarded \$32M

Man who suffered brain damage after being hit by an impaired driver who crashed police barricade to get a county record in damages

BY BART JONES  
bart.jones@newsday.com

A Suffolk jury has awarded what attorneys called a county record \$32.7 million in damages to a Vietnam War veteran from Mount Sinai who suffered serious brain damage when a drug-impaired driver plowed through a police barrier

cade and hit him.

The jury awarded the money to James Dunne, 56, and his wife Carol on Wednesday night after a 2 1/2-week civil trial, according to court officials and Stephen Murphy of Manhattan, Dunne's attorney.

Murphy, who had asked the jury for \$35 million in dam-

ages, said he was not surprised by the award.

"The Dunnes 'deserve every nickel they can get,' Murphy said, adding, "It was a quick verdict so we didn't know what to expect."

Attorneys for the defendant in the case, Lisa Lloyd, could not be reached immediately for comment. Court officials cautioned that the defense attorneys could appeal the decision or pursue other legal avenues to overturn or reduce it. Murphy said he believed

the award was a record for this type of case in Suffolk, although court spokesman Warren Clark said he was not certain. The Dunnes declined to comment.

Dunne and his wife had stopped to offer their help as Good Samaritans after an unrelated car accident on Hallock Road in Port Jefferson Station on March 13, 2004, Murphy said.

After police, fire and ambulance workers arrived, James Dunne was giving a statement

to authorities when Lloyd plowed through a police barricade and struck him. Dunne was sent flying 30 feet and landed on some concrete.

Dunne was in a coma for four weeks, had brain surgery and months of rehabilitation, Murphy said. He now lives in a veterans' home in Stony Brook and requires constant care.

Dunne, who has "pockets of awareness," asked his family whether they could celebrate by going out to eat shrimp and steak, Murphy said.



## ATTORNEY REFERRALS

Block O'Toole & Murphy want you to think of us as your law firm. Please feel free to refer us to your family, friends co-workers and neighbors if they are involved in a substantial personal injury case. You are part of the Block O'Toole & Murphy family. If you have any legal matters that need attention, please let us know. If we are unable to handle the matter we will make sure that we introduce you to an excellent attorney that will take care of your legal needs.

Block O'Toole & Murphy accepts referrals of substantial cases from attorneys and law firms throughout New York. We are honored when a colleague entrusts us with a case, and we are proud of the fact that attorneys who refer us one case begin what becomes a lifelong relationship with the firm.



## FEATURED EMPLOYEE



Name: Sharon Morris  
Job: Receptionist  
Nickname: The General

Sharon Morris has been with the firm since 1993. She has always been the 'face of the firm.' Clients and attorneys know her as the first person they see as they walk in to the warm offices of the firm and definitely the one with the loudest voice. Sharon, who is from the Bronx, is the mother of four. The pride she shows in her work is only matched by the pride she exhibits when discussing the academic and athletic achievements of her children. She is the embodiment of loyalty and we hope she never leaves our side.



# FIRM LINEUP



| JEFFREY A. BLOCK |



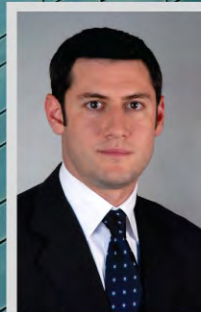
| DANIEL P. O'TOOLE |



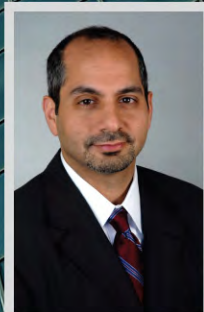
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| S. JOSEPH DONAHUE |



| DAVID L. SCHER |



| FRANK ARANKI |



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| ANTHONY MINKO |



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