



Two Brothers and a Sister Fall on Ice and Hold the Property Owner Accountable

Attorney
Eli B. Basch:
Recovers \$310,000 in
Slip & Fall Case



On a cold but clear night in January, a pizza delivery driver was working in Saugerties. Due to icy conditions on an extended driveway, the pizza delivery driver's vehicle slid off the driveway. He called his brother, who came to help him. When his brother arrived, his vehicle slid off the road and he sustained injuries from a fall on the ice. They called their sister, and when she arrived, she slipped on the ice and was injured. The three siblings called Eli B. Basch to help them hold the owner responsible for what happened to them.

Eli filed a lawsuit against the landlord for the condition and failing to sand, salt, properly plow or otherwise remedy the icy condition on the roadway so that it was safe. Eli was able to prove that there had been ice on the ground for approximately two days prior to the incident and was not properly cared for.

The pizza driver got stuck going to the house to deliver the pizza. When our client got out of the car to push his vehicle free, he fell on the ice, hit the ground hard and injured his knees. When his attempts to free his car did not work, he called his brother to help him.

His brother had a truck and arrived at the scene. He immediately fell hard onto his shoulder when he was getting out of his truck. The condition of the roadway was terrible. The brothers, both injured now, attempted to get the car free. When doing this, the truck slid on the ice and drifted off the road into a wet, icy field. There was no way the brothers were getting the truck out now. With both cars stuck, they called their sister and her boyfriend.

When their sister arrived on the scene, she fell on the ice and got hurt. The three siblings and the boyfriend were able to get the original car free but after failed attempts to get the truck, left it for a tow truck to get the next morning. Then they went to the Emergency Room. The sister had a sprained right ankle and fractured foot. She was in a soft cast with a walking boot and crutches for about four weeks. The pizza driver sustained contusions of both knees, needed a brace and physical therapy.

The brother with the truck suffered derangement of his left shoulder and contusion of the head and lumbar sprain. He will have permanent loss of range of motion and pain in his left shoulder due to the incident. He is a truck driver for a local produce company, and due to these injuries, he was out of work for a few weeks. He has had physical therapy on his shoulder and multiple cortisone injections since the injury. Later he underwent surgery to the shoulder twice.

The property owner's insurance did not want to pay our clients for their suffering. However, the owner of the property is responsible for the long roadway and the driveway our clients were stuck on. Eli argued that had the owner properly removed the ice and snow conditions from the road and driveway, our client would have been able to deliver the pizza and be on his way. His brother and sister would have never been called out in the middle of the night to help him and nobody would have gotten hurt.

On the eve of the trial, the insurance company offered a settlement agreement for all three siblings. Client 1, the pizza driver with the injured knees, was awarded \$45,000. Client 2, the brother with the pickup truck and injured shoulder, was awarded \$250,000. The sister with the sprained ankle and fractured foot was awarded \$15,000. The siblings received a combined \$310,000 for that night where injuries did not need to happen if the property owner took care of his property.

Against All Odds, Derek J. Spada Wins in Liability Trial

To say this trial was hard is an understatement. The client's first attorney gave up three months before trial. The accident reconstruction expert who was retained by the prior attorney also gave up and would not testify at trial. The judge asked Derek if he was crazy as he proceeded to trial.

The case involved a three-car collision. Each driver had a different version of how the crash happened, and a non-party witness had yet another story about what occurred. The testimony of each of these four people did not match.



The first part of the collision was a rear-end crash. A van was traveling in the southbound lane and began to decelerate and might have stopped abruptly and might have stopped very gradually based on who was believed. The van driver might not have activated his turn signal, or maybe it was on. The van was hit by a pickup truck from the rear, forcing the van into the northbound lane. The van likely went into the oncoming lane of traffic because the front wheels were turned sharply to the left, but the van driver denied that his wheels were turned. At the time the rear-end crash occurred, our client was traveling in the northbound lane. She did not particularly notice the van until it had crossed over into her lane and caused a huge crash between the front passenger side of the van and the front of her vehicle.

The judge indicated that the jury might not know who to believe and find that the evidence was so convoluted that no one would be found negligent or liable.

After a relatively brief but grueling trial, Derek convinced the jury that both drivers were responsible for the collision. The jury found 80% liability against the pickup truck driver and 20% against the van driver. Our client held 0% liable. The next step is a trial to determine damages owed to our client.

Our client is a Saratoga County resident, and originally hired a lawyer from New York City. After learning that a reasonable settlement offer would not be forthcoming, the client's lawyer told her to take whatever minimal amount he could generate to settle the case. The client suffered life-altering injuries and did not want to settle for a fraction of what she believed her case was worth. When the client would not settle for an inadequate sum, the prior attorney gave up on her.

This client searched online for a new attorney. She called Basch & Keegan and asked Derek to represent her. Luckily, Derek was here to help. The attorneys at Basch & Keegan are never afraid of trial.

The first hurdle of this case was working with the previous attorney, who told Derek he should take any offer they get from the insurance company because he was not confident in the facts of the case and thought the case would be lost at trial.

The second hurdle was finding a new expert. Derek hired an accident reconstruction expert to analyze the crash. The expert's analysis was a crucial factor in the success of this trial. Derek's argument put blame on the van for attempting to make a left-hand turn without a turn signal and without ensuring the northbound was clear. He argued that the van stopped short when seeing our client's car but had already begun turning his wheels to make the turn. This is the main factor that put the van in our client's lane; if the van's wheels were straight rather than turned, the van would have gone straight after the rear-end impact and not into our client's lane. The expert report and testimony proved the theory true.

Derek chose a jury of the smartest people on the panel, who he was confident would understand the testimony from the accident reconstruction expert. On the first day of trial, the jury heard testimony from all 3 drivers and the non-party witness. All 4 stories were different tales.

When Derek put the expert on the stand on the second day of trial, he created a plan where he would walk through all 4 versions of the crash with the expert and still be able to link liability to both defendants. Derek believes this was the key to winning the case.

Derek stated that this expert was the best expert he ever had testified at a trial. He had a near photographic memory and an eye for detail. He was able to explain the mechanics of the crash in a scientific manner while also breaking it down in layman's terms for the jury to understand. His testimony proved that the wheels on the van had to be turned left for the van to go sharply into our client's lane and proved that the pickup truck was following the van too closely by points of impact. Our expert created computer model stimulators, but the defense counsel objected at the use of them as evidence, and the judge sustained this objection. Although Derek wanted the jury to see these simulations, having the defense counsel object to their use also made the defense look like they were hiding something.

The jury deliberated and concluded in favor of the plaintiff, holding liability upon both defendants. They found fault 80% on the pickup truck and 20% on the van. This is a win for our client because now we can seek compensation from both insurance companies.

The next step is a trial for damages where Derek will seek to recover for our client's extensive pain and suffering, as well as her substantial lost earnings and medical expenses (unless the insurance adjusters come to their senses and settle).

Join Us on August 9th at Woodstock Harley-Davidson!



We're back at Woodstock Harley-Davidson this month for the second Cruise In of the season! Join us on Wednesday, August 9th from 4pm - 7pm where we'll be grilling free food and giving away a \$100 gift card to the dealership along with other Basch & Keegan swag! Bikes, cars, trikes and antiques are all welcome at the Cruise In at Woodstock Harley-Davidson.

As leading personal injury attorneys in the Hudson Valley, we understand the risk our friends on two wheels take, and want to make sure everyone on the road is aware of motorcyclists. If an injury does happen on your bike, we are Here to Help.

Upstate & Litigate: New Episode on Independent Medical Examinations

Derek Spada and John DeGasperis released Episode 7 of Upstate & Litigate: Independent Medical Examinations this month! You can watch all seven Episodes of Upstate & Litigate on YouTube. Derek and John bring a unique energy to the show by offering an educational experience surrounding legal issues while also being lighthearted at times, comical and entertaining.



Basch & Keegan is Here to Help the Community.

Here is a list of the sponsorships we have coming up:

- **August 9th:** Cruise In Night at Woodstock Harley-Davidson, 4pm – 7pm.
- **August 16th :** 46th Annual YMCA/Wiltwyck Pro Am Golf Tournament at Wiltwyck Golf Club.
- **August 28th:** VFW 23rd Annual Golf Tournament, 9am at Wiltwyck Golf Club.

As a law firm, we contribute to many local charities and sponsor community events. We love to get involved in what's going on in Kingston, and we love to get out and see our neighbors at local events. If you have an event coming up and are seeking sponsorships, tell us about it by scanning the QR code and filling out the form on our website!

