



## Fatal Fall Leads To \$1M Wrongful Death Settlement

### Meriden man plunges through rusted railings in condo complex

By THOMAS B. SCHEFFEY

**A**lice Blackman, et. al v. Villa East Estates Condo Association: On June 20, 2008, Alice and Robert Blackman had been entertaining neighbors all afternoon, hosting a tea party at their condominium unit in Meriden. The retired couple, both in their 80s, were preparing to go out for a pizza dinner about 6:30, but before doing so, Robert Blackman wanted to water a geranium on the porch.

He leaned against a black, wrought iron railing around the cement stoop, and it gave way. He fell to the pavement about five feet below, fracturing his skull and breaking his neck in two places. He died just after 10 p.m. at Mid-State Medical Center, surrounded by family members.

The incident was subsequently investigated by representatives of the Travelers Insurance Co., which insured the condominium association.

As executrix for her husband's estate, Alice Blackman filed a wrongful death action against the condominium board for failure to properly maintain the railings. She also filed individually for loss of consortium, ultimately settling for the \$1 million policy limits.

"The condominium association was responsible for the common elements," said Kimberly Andrade, of Bridgeport's Adelman, Hirsch & Newman, which represented the Blackman estate. "Those elements included the stoop, the railings, the steps – most of the outside of the individual units."

The railings had been in place for about 20 years. In March 2006, condo association board vice president Robert Gonyo and president Rebecca Bergeron "went out and checked all railings and the ones that



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Alice and Robert Blackman had helped care for an older couple for eight years before retiring themselves. Robert Blackman died when a rusted railing on his porch gave way. He broke his skull and neck in the fall.

needed to be repaired were repaired," Gonyo said in a deposition.

He stated that he contacted a fence company and had the railings on his own unit repaired, along with those on four other units. After the five repairs and painting were done, the board sent a letter to association members saying the steps and railings had been repaired.

Gonyo testified that he recalled putting down mulch in front of the Blackman's unit about a week before the fatal accident. In his deposition, he said the Blackmans complained to him that the railing was loose. He said he told Mrs. Blackman, "It's not

loose, it's severed." From the defense standpoint, this supported an argument that the Blackmans were aware of the danger, and that Gonyo had taken steps to warn them.

Gonyo also recalled seeing the couple about noon of the day of the tea party. He stated that he told them: "I called the repairmen to come and fix your railing, so be careful with it."

Mrs. Blackman's recollection was different. About 5 p.m., after the tea party ended, she said that Gonyo was working behind some trees. He called over to her: "Alice, we're going to be replacing the railings on all the ranch units." She remembers reply-

ing: "Okay."

After the accident, Meriden police photographed the hollow iron posts and the rusted connections to the concrete stoop outside the Blackmans' condominium unit.

"The interior of the railing posts, at the base of the concrete, were so severely rusted and deteriorated, it caused the entire railing to completely break off from the cement stoop," the plaintiff's team contended at the mediation. The crux of the negligence, according to Andrade, was testimony from Gonyo and board secretary Robert Squire that, even after it was found that some of the hollow posts had serious rust problems, only a few were fixed. Further, as Squire put it, "there was no organized routine inspection."

The board's decision to paint the railings, Gonyo complained, made it difficult to see the rust. He said it was agreed that no independent, professional inspection was conducted.

### **Matter Of Time**

"It was just waiting to happen, and they had a whole neighborhood of people coming into their home that day," said Andrade. "It could have happened to anyone."

After Blackman fell, his wife came to the door and was calling, "Bob, Bob, I'm ready," Andrade recounted. "She was horrified. She came to the door, saw the railing was gone and her husband was lying on the pavement."

The case was mediated by former Superior Court Judge **Joseph Mengacci**, of Middlebury, over a two-day period. It was defended by **James Wiles**, of Cynthia Garraty Law Offices in North Haven, a Travelers defense firm.

The defense introduced evidence that Blackman's medical history was a factor that should limit liability or damages. He had some degenerative disc disease, a history of some heart disease, and had a bypass operation.

Andrade and senior partner **Robert B. Adelman** made the case for Blackman's damages, his loss of life's enjoyment, and his wife's loss of consortium, by explaining their life together.

Robert Blackman had worked for Ingersoll Rand, lived in the historic Collinsville section of Canton, and had five children when his first wife died of cancer, more than 40 years ago. He then married his current wife, who was divorced with three

sons, and the couple raised the two youngest children together, living in Collinsville for 17 years. Eventually, they sold the house there, moved to the Meriden condominium, and helped care for an older couple for eight years, before completely retiring themselves.

They were far from inactive, Andrade says. They traveled extensively by car and by air, touring more than 20 states together. Every winter, including the winter before Robert Blackman's death, they drove to Arizona to stay between November and May. Blackman was an excellent chair caner, basket weaver and singer.

"We placed a value on this case far higher than the \$1 million policy limits," said Andrade. As such, she and Adelman said they could not settle for less than the full amount on the condominium board's insurance policy.

The attorneys said they decided to settle rather than go to court because there was no deep-pocket owner of the condo complex. Instead, the units were individually owned and Mrs. Blackman did not want to go after the assets of her neighbors. ■