

LITIGATION ALERT

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Minors Unable to Fully Recover Judgment in Tort Actions Where Parents Have Been Held Partly Liable

The Supreme Court of Puerto Rico recently held that the total payment of an award of damages to a minor who suffered damages as a result of an accident is unwarranted when the parents have been found negligent together with other liable third parties. Colón Santos v. Cooperativa de Seguros Múltiples, 2008 TSPR 32.

In Colón Santos, father and minor son were playing in the recreational area of their subdivision. The father walked to the street and left his son unsupervised for a moment, in order to talk to a neighbor who was inside his vehicle. When the minor walked toward his father and crossed the street, he was hit by defendant's car.

Parent and child then sued defendant and his insurance company for damages. After trial, the trial court found the father 50% liable. Accordingly, the trial court reduced the award of the minor from \$50,000.00 to \$25,000.00. The Court of Appeals affirmed.

On certiorari, the Supreme Court held that the trial court did not err when it considered the comparative negligence of the father in order to reduce the damages award of the child. It held that this was the only way to uphold the rule precluding immediate family members from suing each other. However, the Supreme Court reduced the comparative negligence of the father from 50% to 15%.

If you have any questions or comments, or wish additional information regarding this matter, please contact Francisco G. Bruno, Director of our Litigation Practice Group at (787) 250-5608 or fgb@mcvpr.com. The contact information of our Litigation Practice Group attorneys is available at our website: www.mcvpr.com.

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