

\$4.475 million settlement for Hammonton pool accident

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HAMMONTON—Nichole Imperatore, 18, of Northfield, who became a quadriplegic after diving into her uncle's above-ground pool in Hammonton, settled her lawsuit last week for \$4.475 million.

USA Industries, the pool's manufacturers, contributed \$3.7 million of the award. A liner company contributed \$600,000 toward the award. The homeowner's insurance company contributed \$100,000 and a ladder company contributed \$75,000.

Imperatore can use her thumb and a finger on her right hand, but she has lost the use of other motor functions below her neck. Representing Imperatore were the legal team of Anne McHugh, Esq. of Princeton and Charles H. Jones IV, Esq. of Hammonton.

Jones discussed the case at the law offices of Gravino, Vittese & Jones, where he is a partner.

"The ability to build up an argument in a case for somebody you feel strongly about or really want to help is really the pinnacle of the legal profession. You really latch onto it," Jones said.

As he spoke about the case, Jones laid out the argument he and McHugh used against the pool manufacturer. The attorneys made the case that a warning sign regarding diving should have been posted on the pool. Had such a sign appeared on the pool, the attorneys argued, Imperatore would have heeded the warning.

According to Jones, under a Supreme Court ruling involving "failure to warn" cases, judges must decide outside the presence of the jury whether a plaintiff would have heeded the warning if one had been provided.

New Jersey Superior Court Judge Carol Higbee ruled Imperatore, who was 14 at the time of the accident, would have followed the warning and found her not responsible. Jones felt that Imperatore's background as an athlete, a member of clubs and the safety patrol, as well as her involvement in church activities helped bring the judge to this conclusion.

Attorneys in the case had been arguing pre-trial motions when USA Industries agreed to settle the case. The lawsuit that began in 1996 had taken 4 1/2 years to reach the settlement achieved last week.

Jones said the settlement was the largest he had handled on the plaintiff side in his legal career.

"This settlement gives Nichole the ability to pay for her health care, for her basic needs. More importantly, it gives her the ability to do what she wants to do with her life. Nichole is a fighter and survivor, and has an incredibly positive outlook on life. As to what she can do, the sky is the limit," Jones said.

Imperatore sounds exactly like any other 18-year-old in many aspects when speaking on the phone — she is exasperated when call waiting cuts into a phone conversation, and laughs out loud when her

mother mentions "babies" when she is asked by a reporter about what she sees herself doing in the next five years.

But there is a confidence that can only be gained through experience that is clear in her voice. When she speaks about how people see her and how she sees herself in the future, it is with the pragmatic tones of someone years older.

"People shouldn't treat me differently. Who I am wasn't hurt. Who you are doesn't change. People should realize that I haven't changed. I'm just as fun and outgoing and social as anyone else," Imperatore said.

She acknowledges times of self-doubt and low periods, although more in the past than today. She drives herself now in a custom-made van that took her eight months to learn how to operate. She socializes as other young women her age do: trips to the mall, the movies, or to play billiards with her boyfriend.

"I love shooting pool. I'm pretty darn good at it, too," Imperatore said.

After graduating from Mainland High School last year, Imperatore enrolled in Atlantic Cape Community College, where she is studying Hotel and Restaurant Management. She once had dreamed of becoming a chef but now has plans to open a restaurant.

"I want to eventually have my own restaurant. I want to live on my own, be independent, and have children, a family of my own. The biggest thing I've gained from the lawsuit is a better future. The lawyers worked their butts off and did a great job. I wouldn't want to go against them," Imperatore said.

Nichole's mother, Sharon Imperatore, said that Jones and McHugh did an excellent job. She singled out Jones for his ability to relate to the teenage Nichole.

"Charlie really made things a lot easier for Nichole. He took the time to talk to her on her level. Lawyers can be scary to kids, but Charlie really was able to talk to her," Sharon Imperatore said.

The lengthy lawsuit process, coupled with the cost of Nichole's medical needs, put a strain on the family, one that was counteracted by a growing bond between the family members.

Nichole's father, Gary Imperatore, a 20-year employee of Harrah's Casino who grew up in Hammonton and attended grades K-12 at St. Joseph, talked about that bond — especially between Nichole and her younger sisters, Tara, 15, and Alyssa, 10.

"The sisters have a special bond and have developed a closeness between the three of them," Gary Imperatore said.

Gary grew up on Grape Street in Hammonton, one of the town's most closely-knit neighborhoods. The bonds of friendship carried from his boyhood streets to his home in Northfield. Warren "Duke" Bates, who grew up on nearby Marlyn Avenue and went to St. Joseph with Gary, lent a hand through the help of Universal Supply Company, where he is a vice-president. Lumber and supplies to build a ramp for Nichole were donated and delivered to the Imperatore's home in Northfield.

Rita Pavesi is another one of the Imperatore's Hammonton friends. Pavesi and her fellow hairdresser put their tips together, a dollar at a time, stuffing ajar and sending it to Nichole for spending money or for medical supplies every few weeks, for years.

"Rita is my grandmother's hairdresser. She and Helen [who cuts hair with Pavesi] have been collecting money ever since I got hurt. She collected for 4 1/2 years, and is still collecting money," Nichole said.

"They figured if everyone in Hammonton would give just a dollar, it would help. They were so nice, because they helped without really knowing how much it meant. Everybody in Hammonton has been so great. If it wasn't for our family and friends, I don't know what we would have done," Sharon said.

Many others from around the region have also made donations to Nichole and her family, and the Imperatores expressed their thanks to all of them repeatedly.

There are many highs and lows ahead for Nichole and her family, but Gary said that the settlement will aid in funding the fulfillment of a very special promise that Nichole's parents have made to her.

"Right after her accident, the chief surgeon at [Thomas] Jefferson [Hospital of Philadelphia] told us that in five to 10 years there would be developments regarding the rejuvenation of spinal cord tissue. We have always told her that no matter what, we will get her the spinal cord procedure. We will save enough money to get it for her. Whatever it costs. We want her to have it and not have to rely on insurance to cover it. If they do, it's great — but we don't want her to worry about it," Gary said.

Nichole's mother echoed Gary's feelings, and said the settlement is valuable, but she would rather not have ever needed it.

"She's going to have the procedure if it's the last thing we do — she'll have the chance to have it done. Before my husband and I die, we want to see her walk again. The money helps, but live one day the way Nic does and money wouldn't matter at all. It really wouldn't," Sharon said.

For her part, Nichole maintains her confidence, bolstered now by a settlement that helps give her and her family piece of mind.

"I've gained a different perspective on life. It opens your eyes up to a lot of things. I've had to grow up a lot. But it makes you stronger," she said.