

PRESS RELEASE: November 11, 2013

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Colonial Parking, Inc. Asks D.C. Court of Appeals to Hold that Colonial has No Duty to Keep its Garages Safe for its Customers

Washington, D.C. -- Colonial Parking, Inc., which operates more than 225 parking garages in the D.C. area, is currently attempting to change longstanding premises liability law to escape liability for injuries sustained by a six year old boy who fell two stories down an open air shaft in the garage Colonial managed and operated by Colonial at Children's National Medical Center. In its appeal of the April 22, 2013 \$1.86 million jury verdict in the case of *Destefano v. Children's National Medical Center and Colonial Parking, Inc.*, Colonial is attempting to shift the responsibility for injuries caused by safety hazards in its garages from itself to the injured customers. *Colonial's appeal* raises serious implications for customer safety in parking garages in the D.C. area -- a particular concern during the current holiday shopping season.

Colonial argues that D.C. Superior Court Judge Anita Josey-Herring was wrong when she held that Colonial, as a parking management company, has a duty to its customers to take reasonable steps to keep the parking facility safe. Judge Josey-Herring's ruling relied on long-established principles of premises liability and cases that already held that Colonial - specifically -- has such a duty: *Becker v. Colonial Parking*, 409 F.2d 1130 (D.C. Cir. 1969), *Daisy v. Colonial Parking, Inc.*, 331 F.2d 777 (D.C. Cir. 1963) and *Colonial Parking, Inc. v. Morley*, 391 F.2d 989 (D.C. Cir. 1968). Giovanni fell through a hole in the wall adjacent to a designated parking space in the garage while standing next to his mother, who was trying to open her car door for the children. The hole was the opening to an un-marked air shaft that had been left uncovered long enough to collect trash, debris, and a decomposing dead rat. The jury awarded him \$1.56 million for his past pain and suffering and also awarded \$26,000 to Giovanni's sister, who was 4 years old at the time of the accident, at the time of the accident and was holding his hand just before he fell. Giovanni sustained serious physical and emotional injuries, some of which continue to date. Hours after the accident, a building inspector from the D.C. Regulatory Agency (DCRA) issued the hospital a Notice of Violation for the open air shaft and for other vent covers in the garage that were poorly maintained and in danger of falling off the walls. Children's Hospital and Colonial filed cross-claims against each other, blaming each other for the accident. *Both* the hospital and Colonial argued that they should *not* be held responsible for the open air shaft and that they should pay *nothing* to the children. The jury held rejected their arguments, but both Defendants are appealing the judgment./ The hospital has refused to even reveal the basis of its appeal.

Colonial's contract with Children's Hospital, and its own internal correspondence and employee policies acknowledged a duty of Colonial managers to ensure that its employees patrolled, inspected the garage three times per day to correct or report safety hazards to the hospital. Trial testimony revealed that Colonial managers engaged in a "cover up" after the accident, falsifying and backdating inspection logs and forging the name of an employee, Belete Belete, on the forms, claiming that he conducted safety inspections that he did not conduct -- indicating that Colonial managers fully understood their responsibility to inspect for safety and tried to conceal their liability. Colonial's President and CEO, [Andrew Blair](#), testified, [in his deposition, at 156:14-163:05](#), <http://www.youtube.com/watch?v=KcHHKQhBSG0>, that Colonial's website's promise that customers can expect "the same level of "safety" in all of Colonial's garages, referred to keeping the cars safe -- *not people*. After his deposition, Colonial removed the "safety" promise from its website, [Colonial Parking, Inc.](#), <http://www.ecolonial.com/>. The *Destefano* trial was covered by The Washington Post on April 1, 2013, [Petula Dvorak, "After Son's Fall in Hospital Garage, the Nightmares Continue in the Courtroom."](#) See also NBC, Channel 4 <http://www.nbcwashington.com/news/local/Childrens-Hospital-Sued-Over-Accident-Waiting-to-Happen.html> (Derrick Ward, highlighted by anchors [Jim Vance](#), [Doreen Gentzler](#) and [Wendy Reiger](#)) and CBS, Channel 9 ([Lindsey Mastis](#)). For details and updates, see <http://www.dvmartinlaw.com/PersonalInjury>.