

TWO MULTI-MILLION-DOLLAR LAWSUITS IN ONE DAY

PART 2

# New Jersey Door Dealer Faces \$3.5 Million Judgment

## Case Spotlights Failure to Install Safety Equipment

On Oct. 3, 2014, the same day that the Indianapolis lawsuit concluded, a lawsuit in New Jersey concluded with a \$3.5 million settlement against one of the state's oldest garage door dealers.

For this New Jersey case, we have reviewed the court records, collected detailed information from the plaintiff's attorney, and inspected about 1,200 photos taken of the evidence. As you read the following account, be aware that the information comes from these sources and from the plaintiff's attorney.

We wanted to present the door dealer's side of the story. In spite of our repeated phone calls and emails, the involved dealer would not respond. It should be noted that Groenewal/Ramsey Door was sold in May 2014, and

the new owners have no connection to the accident. It was the previous owner who would not respond to our attempts at contact.

### Pre-Accident History

Napolitano v. Groenewal/Ramsey Door first came before the Bergen County Superior Court of New Jersey in 2011. Attorney Michael Breslin Jr. represented the plaintiff, Andrew Napolitano. At the time of the June 2010 accident, Napolitano was a 52-year-old salesperson with Cort Furniture Rental, and he was at the company's facility in Hasbrouck Heights, N.J.

According to Breslin, two 10' x 10' garage doors from Overhead Door and two Lynx commercial operators for this facility had been



**THE SIGN:** This sign, placed by Cort Furniture Rental, warned to check the lock before opening the door. (Photo by Dynamic Evidence of Fort Lee, N.J. Used with permission.)

purchased from Groenewal/Ramsey Door of Hawthorne, N.J., in 2005. In 2006, the doors were taken down and stored on site. In 2008, the building owner, Cardino Realty, hired Edmonds Contracting to refit the building for Cort, a new tenant in the building.

In March 2008, Edmonds contracted with Groenewal/Ramsey Door to reinstall one of the doors and operators. The door they installed was designed to be a manually operated door equipped with an end-stile lock. The jackshaft operator was installed on the wall at the upper right side of the door.

### The Focus of Attention

Here's the key issue: Groenewal/Ramsey did not install an interlock safety switch, which Breslin said was "the standard practice in the industry." An interlock safety switch would have disabled the operator when someone attempted to use it while the door was (manually) locked.

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**THE DOOR:** The accident occurred at the left side of this door. The stepladder had been placed under the open door, in the doorway. (Photo by Dynamic Evidence of Fort Lee, N.J. Used with permission.)

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Cort had problems whenever they used the operator and forgot to unlock the door. The door would open, but the arm of the lock would be badly damaged. When they wanted to close the door, it would typically get stuck in the open position, said Breslin.

### **The Problems Begin**

This first happened on May 15, 2008, only two months after the March 2008 installation. The door was stuck open, and Groenewal/Ramsey was called to service the door. When the technician came to the site, he replaced the end-stile lock with another one. That service bill noted that the customer had used the electric operator while the door was locked.

“But Groenewal/Ramsey failed to install the interlock safety switch,” said Breslin.

A few months later, in October 2008, the same thing happened again. This time, according to Breslin, the technician had to put the rollers back in the track and replace the damaged end-stile lock. “But again,” added Breslin, “they did not install an interlock safety switch.”

The same problem occurred again on Dec. 1, 2008, and Groenewal/Ramsey Door replaced the left-hand cable and did some other repairs. But again, no interlock safety switch was installed.

In January 2010 Cort again used the electric operator while the door was locked. Groenewal/Ramsey repaired the door and replaced the bent lock, but again they did not install an interlock safety switch.

At some point after that incident, Cort removed the end-stile lock and installed a sliding bolt lock. It was later learned that the new lock was not a type recommended by the door manufacturer.



**THE LOCK:** This slide lock, installed by Cort, was thought to be involved in the chain of events that led to the accident. (Photo by Dynamic Evidence of Fort Lee, N.J. Used with permission.)



**THE INSPECTION:** A large team of investigators descended on the accident scene to try to determine what happened. (Photo by Dynamic Evidence of Fort Lee, N.J. Used with permission.)

### **The Fateful Day**

Then, on June 29, 2010, the door was opened, apparently while locked. As before, it became stuck in the fully open position. Pressing the ‘close’ button would not close the door.

According to testimony, someone from Cort then called Groenewal/Ramsey Door to fix the door, said Breslin. The person who took the call for Groenewal/Ramsey stated that Cort had a problem paying its bills. The caller from Cort later cancelled the request for Groenewal/Ramsey to come fix the door.

It was about that time that Andrew Napolitano, a Cort salesperson, got up on a ladder to attempt to fix the door himself. Breslin said that a witness saw him place the ladder partially in the doorway, go two or three steps up the ladder, and reach up toward the jackshaft operator with a screwdriver in hand.

### **The Door Crashes Down**

The witness reportedly then looked away but heard what happened next. The door suddenly crashed down, knocking Napolitano off the ladder. When he fell, his head hit the concrete floor, reported Breslin.

“There is no evidence that answers the question of why the door dropped,” said Breslin. Photographic evidence later showed that the cable on the left-hand side of the door had snapped.

“Groenewal/Ramsey speculated that Napolitano had released something with the screwdriver. But no one knew why it was stuck, and Napolitano remembers nothing.”

### **Enduring Injuries**

Napolitano suffered three subdural hematomas in his brain and was in a coma for six weeks. He spent two months in a trauma hospital in Hackensack, N.J., and was then transferred to the Kessler Institute for Rehabilitation where he received care from August to December. After that, he underwent outpatient rehabilitation for two years.

Today, Napolitano can walk and talk, but not drive. He is no longer employable. His medical bills alone total \$1.6 million.

### **The Door Dealer's Defense**

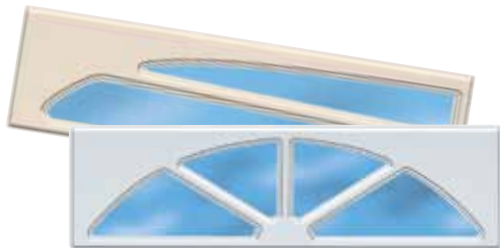
According to Breslin, Groenewal/Ramsey's defense argued that the accident was due to Napolitano's negligence. They contended that Napolitano ignored the warning labels and failed to allow a qualified company to make the repairs. In addition to the common warning labels, Cort also had put up its own warning sign that said, “CHECK DOOR LOCK BEFORE OPENING GARAGE DOOR.”

“But humans are humans,” said Breslin, who had a “human factors expert” ready to testify that people wouldn't always remember to check a lock before opening a door.

Further, the defense argued that, once the service call was cancelled, Groenewal/Ramsey no longer had any responsibility for what happened. They further claimed that on the May 15, 2008, service call, Groenewal/Ramsey had a discussion with the client that an interlock safety switch was needed.

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They also claimed that, on the next day, they faxed a proposal to Cort to install an interlock safety switch for \$598.

“However,” said Breslin, “there was no evidence that anyone from Cort ever received it.”

### The Plaintiff’s Case

On behalf of Napolitano, Breslin argued that Groenewal/Ramsey Door violated the standard practice of installing an interlock safety switch on a door equipped with an electric operator and manual lock. He used expert testimony to support this.

“None of the service calls, or the accident itself, would have occurred if the interlock safety switch had been installed,” said Breslin.

### Negotiating a Resolution

Even though the actual trial began on Sept. 29, negotiations for a settlement had begun months earlier. “In May 2014, we demanded \$6 million to settle out of court,” said Breslin.

Groenewal/Ramsey’s coverage from their primary insurer was \$1 million, but they had excess coverage with Zurich Insurance that brought their total coverage to \$6 million. Any amount in excess of \$6 million would have had to be paid by Groenewal/Ramsey. But the defendants declined the \$6 million settlement.

On June 10, the two parties went to mediation before a retired judge. Breslin again demanded \$6 million, but Zurich, which had hired a New York City law firm for the mediation, offered \$600,000. Breslin then reduced the demand to \$5.9 million, and Zurich increased their offer to \$660,000.

About four to six weeks later, in another mediation session with a different judge, Breslin’s team lowered its demand to \$5 million, and the defendants increased their offer to \$1.1 million. In late August, recalled Breslin, the defendant’s team offered \$2 million, and Breslin came down to \$4.5 million.

### Reaching a Settlement

Since the parties were still far apart, they went to trial on Sept. 29. After two days in court, the defendant offered \$2.5 million to settle, but Breslin elected to continue the trial.

Then, on Thursday night, after the fourth day of trial proceedings, Zurich offered \$3.5 million. Breslin’s team agreed to accept and formally did so in court the next morning. Thus, a trial that had been anticipated to go on for three weeks concluded after only four days.

Even though the original suit had included Overhead Door and Lynx as defendants, both were granted summary judgment and were dismissed in early 2014. “All my experts found no manufacturing or design defects,” said Breslin.

Through the four years of preparation, Breslin amassed 14 boxes of documents. Now 77, Breslin has been handling cases like this for 50 years. ■