

Steam-pit lawsuit settles for \$1.2M

BY **BRENDAN KEARNEY**

brendan. Kearney@mddailyrecord.com

The Baltimore lawyer who was badly burned when she fell into a steam-conduit excavation site has settled her case against the city, **Trigen-Baltimore Energy Corp.** and its subcontractors for \$1.2 million.

The city will pay Arianne Spaccarelli \$87,500, according to Andrew D. Levy, who represented Spaccarelli and her husband in the litigation. Insurers for **Johnson Controls Inc.**, which was managing the conduit for Trigen, and **Ligon & Ligon Inc.**, the subcontractor responsible for the dig, will contribute the rest. Trigen intends to pay only its own attorneys' fees, Levy said.

"It's good to have that part of my life be over," Spaccarelli, 31, said Tuesday, adding the settlement will cover her past and future medical bills and "some" of the pain and suffering.

"Physically, I've done pretty well," she said. "Emotionally ... it's still hard for me to walk past the steam and construction sites. But time makes things better, so I'm putting it behind me."

Spaccarelli, then a part-time law student working in the city health department, was walking alongside the chain-link construction fence on a very rainy night in October 2005 when she fell into the pit at Guilford Avenue and Saratoga Street.

Her husband of three months, Robert Galassi, was able to pull her out, but not before she sustained second-

and third-degree burns over 43 percent of her body from the steam conduit inside the pit.

The fence, which was secured only with concrete blocks, had been pushed back by a hit-and-run driver earlier that evening and no longer enclosed the four- to five-foot hole.

Robert D. Klein, a partner at **Wharton, Levin, Ehrmantraut & Klein P.A.** and local counsel for a Sparks unit of Johnson Controls, said the accident "came about as a combination of events that nobody foresaw," but Levy called it "as classic an example of a foreseeable intervening factor ... as you're ever likely to find."

Defense attorneys also had argued Spaccarelli was contributorily negligent, Levy said, but ultimately agreed to the settlement in May after a mediation session. The deal was finalized last week.

Klein said the case was resolved because the Milwaukee-based mechanical and power company determined the terms were "reasonable." (Lawyers for the city and Ligon & Ligon did not return calls for comment, and Trigen attorney E. Charles Dann Jr., of **Goodell, Devries, Leech & Dann LLP**, declined to comment.)

Likewise, Levy said, he could have pressed for separate damages for Spaccarelli's husband and punitive damages, but that likely would have meant litigating the case "not just at trial but at the appellate



HARRY KATZ

Arianne Spaccarelli, flanked by husband Robert Galassi (left) and attorney Andrew D. Levy, said she's glad she can put her fall into an excavation site behind her.

courts."

"The costs and benefits of doing that just didn't make sense," said Levy, of **Brown, Goldstein & Levy LLP**.

Spaccarelli, now a staff attorney and regional planner at the **University of Maryland Center for Health and Homeland Security**, has undergone skin grafts and physical and psychological therapy, but scarring on her feet and legs still restricts her mobility. She recently accepted a position in the Office of the Inspector General in the U.S. Department of Health and Human Services.

Levy called Spaccarelli "one of the most remarkable clients I've ever represented."

She was hospitalized for a month at the Johns Hopkins Burn Center and underwent two major surgeries, according to the suit filed last October. Her medical bills at the time of suit

were more than \$300,000, Levy said then, and could approach \$1 million in the coming years.

She only missed a couple months from work as she recovered, limiting her lost wages damages claim.

A Harvard grad, Spaccarelli withdrew from law school after the incident, forfeiting her tuition and the money she spent on books and student fees, the suit states. She eventually quit her job at the health department in order to pursue her legal education full-time and graduated with her class in May 2007.

Levy said her case shows how "inequitable" the statutory cap on non-economic damages can be.

"But for the cap, I think you would've seen a much, much larger settlement," he said.