

\$375,000 Settlement for Delayed Diagnosis of Ankle Fracture

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After twisting her ankle late one evening, a Sullivan & Brill client went to a Nassau County podiatrist complaining of pain. He took x-rays and told her it was a bad sprain. After three months of continued pain, she went to an orthopedist, who took additional x-rays and diagnosed her with a fractured lateral malleolus. Sullivan & Brill filed suit against the podiatrist, claiming that the delayed diagnosis made the fracture worse, requiring surgery that would not otherwise have been necessary. The podiatrist claimed that he did diagnose the fracture and his records so indicated. The turning point in the case came, when medical malpractice attorney, Joseph Sullivan, locked the podiatrist into this testimony and then secured insurance claim forms and a handwriting expert to demonstrate that the podiatrist's testimony was false and that he changed his records to cover up his mistake. The podiatrist and his insurance company continued to argue that even if the fracture had been immediately diagnosed, the course of treatment would have been the same, so the client had not sustained any injury from the missed diagnosis. The podiatrist and his insurance company finally acceded to Sullivan & Brill's demand as the jury was being impaneled.