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Daubert Tracker - Case Reports

Expert Name: Dr. **Sebastian Lattuga** M.D.

Discipline: Medicine; Orthopaedic Surgery

Case Name: Bastiampillat vs. Adisai

Citation: *2012 N.Y. Misc. LEXIS 2035; 2012 NY Slip Op 31154U*

Docket Number: 10801/2010

Area of Law: Personal Injury

Jurisdiction: State

Court: New York, Supreme Ct., App. Div.

Plaintiff: JUSTIN BASTIAMPILLAT, Plaintiff

Defendant: MOTANMI L. ADISA, MUNINAT, INC., ELENA BOCHIS and ELRAC, INC., Defendants

Judges: HON. ROBERT J. MCDONALD, J.S.C.

Opinion by: ROBERT J. MCDONALD

Disposition: Testimony sufficient to defeat summary judgment motion.

Retained by: Plaintiff

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Daubert Tracker - Case Reports

Expert Name: Dr. **Sebastian Lattuga** M.D.

Discipline: Medicine; Orthopaedic Surgery

Case Name: Caira v. Astrue

Citation: *2011 U.S. Dist. LEXIS 36338*

Docket Number: 08 CV 4534 (RJD)

Area of Law: Administrative Law

Jurisdiction: Federal

Court: New York, Eastern District

Plaintiff: ADELCHI CAIRA, Plaintiff

Defendant: MICHAEL J. ASTRUE, Commissioner of Social Security, Defendant

COUNSEL: For Adelch Caira, Plaintiff: Christopher James Bowes, LEAD ATTORNEY, Office of Christopher James Bowes, Shoreham, NY. For Michael J. Astrue, Commissioner, Social Security Administration, Defendant: SOCIAL SECURITY ADMINISTRATION - GENER-IC, LEAD ATTORNEY, Social Security Ad-ministration; Arthur Swerdloff, LEAD AT-TORNEY, United States Attorney - EDNY, Brooklyn, NY; Tiana A. Demas, LEAD AT-TORNEY, United States Attorneys Office, Brooklyn, NY.

Judges: RAYMOND J. DEARIE, United States District Judge.

Opinion by: RAYMOND J. DEARIE

Disposition: Testimony improperly discounted by ALJ; reversed on appeal.

Retained by: Plaintiff

Summary: Claimant Adelchi Caira appealed from a decision of the Administrative Law Judge (""ALJ"") denying claimant's application for social security disability insurance benefits. In evaluating claimant's appeal, the Court reviewed the administrative record de novo to determine whether there was substantial evidence supporting the Commissioner's decision and whether the

Commissioner applied the correct legal standard. The Court noted that claimant's treating physician Dr. Obedian stated that claimant could ""stand and/or walk less than an hour in a day, can sit less than four hours in an eight hour day and requires bed rest."" The ALJ conceded that ""if she were to rely on . . . those limitations then it is clear that the claimant could not perform work for a full eight hour workday."" The ALJ discounted Dr. Obedian's testimony as ""inconsistent with the testimony of the claimant and the treatment notes."" The Court found that the record contradicted the ALJ's conclusion, noting that Claimant testified he needed rest throughout the day"" and ""was in too much pain."" The Court observed that the ALJ credited only the sliver of Dr. Obedian's written opinion which suited a finding that claimant was not disabled, but ignored the vast majority of the opinion counseling otherwise. The Court noted that because a treating physician's well supported diagnosis deserves significant deference, the ALJ was required to provide 'good reasons' for the weight she gave to the treating source's opinion. However, the ALJ simply declared, without any analysis, that she gave ""significant weight"" to the opinion of consulting examiner Dr. Mohammed Iqbal. Dr. Iqbal concluded that claimant ""has no limitation of sitting, standing, walking short distances."" The ALJ also gave ""significant weight"" to the opinion of one Dr. Montorfarno. Dr. Montofarno found that ""plaintiff should be capable of, at least, a full range of sedentary work, not requiring very frequent overhead reaching"" with the right upper extremity. The Court noted that the ALJ accepted these doctors' bald conclusions despite substantial contemporaneous and contradictory evidence in the record including 1) examining physician Dr. Robert Duca's statement that claimant ""is not able to stand, sit down, or walk for extended periods of time that would be required in his workday;"" 2) Dr. **Sebastian Lattuga's** statement that claimant had trouble sitting and standing for long periods of time and recommended spinal fusion surgery; and 3) Dr. Laxmidhar Diwan's statement that claimant ""is unable to stand for any period of time and has difficulty bending, sitting, and lying down for long periods,"" and ""remains totally disabled."" In light of these findings, the Court concluded that the ""consulting physician's opinions or report should be given limited weight.' The Court also noted that the opinion of a doctor who merely reviewed the claimant's file ""cannot constitute substantial evidence to overcome a consensus among claimant's examining doctors."" The Court concluded that the existing record permitted a single conclusion: that claimant was disabled and entitled to benefits. The Court noted found that no useful purpose would be served by a remand for the development of further vocational evidence. Thus, the Court remanded this case solely for the calculation of benefits.

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Daubert Tracker - Case Reports

Expert Name: Dr. **Sebastian Lattuga** M.D.

Discipline: Medicine; Orthopaedic Surgery

Case Name: Demetrius vs. Nassau County

Citation: *2012 N.Y. Misc. LEXIS 2545; 2012 NY Slip Op 31425U*

Docket Number: 015962/2010

Area of Law: Personal Injury

Jurisdiction: State

Court: New York, County Ct. Misc.

Plaintiff: DANUEL DEMETRIUS, Plaintiff

Defendant: NASSAU COUNTY, NASSAU COUNTY POLICE DEPARTMENT and SCOTT THOMAS, Defendants

COUNSEL: For Plaintiff: Ellen Zweig, Esq., Law Offices of Neil Moldovan, P.C., Carle Place, New York.,For on the Counterclaim, Plaintiff: Law Office of Andrea G. Sawyers, Melville, New York.,For Defendants: Alan I. Korn, Esq., Deputy County Attorney, John Ciampoli, Esq., Nassau County Attorney, Mineola, New York.

Judges: HON. THOMAS P. PHELAN, J.S.C.

Opinion by: HON. THOMAS P. PHELAN

Disposition: Testimony was insufficient to raise a triable issue of fact, thus defendants motion for summary judgment was granted.

Retained by: Plaintiff

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Daubert Tracker - Case Reports

Expert Name: Dr. **Sebastian Lattuga** M.D.

Discipline: Medicine; Orthopaedic Surgery

Case Name: Elisirafy vs. Quirke

Citation: *2014 N.Y. Misc. LEXIS 2396; 2014 NY Slip Op 31343*(U)

Docket Number: 150643/11

Area of Law: Insurance Law

Jurisdiction: State

Court: New York, Supreme Ct., App. Div.

Plaintiff: Kareem Elisirafy, Plaintiff

Defendant: Patrick Quirke and Rosita Ann Quirke, Defendants

Judges: HON. ARLENE P. BLUTH, JSC

Opinion by: ARLENE P. BLUTH

Disposition: Testimony sufficient to defeat summary judgment motion.

Retained by: Plaintiff

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Daubert Tracker - Case Reports

Expert Name: Dr. **Sebastian Lattuga** M.D.

Discipline: Medicine; Orthopaedic Surgery

Case Name: Freeman vs. Volare Cab Corp.

Citation: *2014 N.Y. Misc. LEXIS 727; 2014 NY Slip Op 30418*(U)

Docket Number: 112325/11

Area of Law: Insurance Law

Jurisdiction: State

Court: New York, County Ct., Misc.

Plaintiff: Camille Freeman, Plaintiff

Defendant: Volare Cab Corp. and Harjit Singh, Defendant

Judges: HON. ARLENE P. BLUTH, JSC.

Opinion by: ARLENE P. BLUTH

Disposition: Testimony found to be speculative and conclusory; testimony was insufficient to raise a triable issue, thus defendants motion for summary judgment was granted.

Retained by: Plaintiff

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Daubert Tracker - Case Reports

Expert Name: Dr. **Sebastian Lattuga** M.D.

Discipline: Medicine; Orthopaedic Surgery

Case Name: Hicks vs. Manuzueta

Citation: *2012 N.Y. Misc. LEXIS 2185; 2012 NY Slip Op 31230U*

Docket Number: 22826/09

Area of Law: Personal Injury

Jurisdiction: State

Court: New York, Supreme Ct., App. Div.

Plaintiff: HUGH HICKS and ORVETTA JOHNSON, Plaintiffs

Defendant: JULIAN G. MANUZUETA and J&R TOURS, LTD., Defendants

Judges: Present: HONORABLE HOWARD G. LANE, J.S.C.

Opinion by: HOWARD G. LANE

Disposition: Testimony sufficient to defeat summary judgment motion.

Retained by: Plaintiff

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Daubert Tracker - Case Reports

Expert Name: Dr. **Sebastian Lattuga** M.D.

Discipline: Medicine; Orthopaedic Surgery

Case Name: Sweeney v Springs

Citation: *2012 N.Y. Misc. LEXIS 782; 2012 NY Slip Op 30415U*

Docket Number: 167/10

Area of Law: Personal Injury

Jurisdiction: State

Court: New York, Supreme Ct., App. Div.

Plaintiff: CYNTHIA SWEENEY, Plaintiff

Defendant: BREW C. SPRINGS and LINDA M. POWELL, Defendants

COUNSEL: For Plaintiff: Harmon Linder & Rogowsky, Esqs., New York, NY.

Disposition: Testimony sufficient to defeat summary judgment motion.

Retained by: Plaintiff

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Daubert Tracker - Case Reports

Expert Name: Dr. **Sebastian Lattuga** M.D.

Discipline: Medicine; Orthopaedic Surgery

Case Name: Williams vs. Perez

Citation: *2012 N.Y. App. Div. LEXIS 1129; 92 A.D.3d 528, 938 N.Y.S.2d 536, 2012 NY Slip Op 1176*

Docket Number: 6700, 305691/08

Area of Law: Personal Injury

Jurisdiction: State

Court: New York, Supreme Ct., App. Div.

Plaintiff: Lawrence Williams, et al., Plaintiffs-Respondents

Defendant: Andres Perez, et al., Defendants-Appellants

COUNSEL: Mead, Hecht, Conklin & Gallagher, LLP, White Plains (Sharon A. Mosca of counsel), for appellants.,Edelman, Krasin & Jaye, PLLC, Carle Place (Jarad Lewis Siegel of counsel), for respondents.

Judges: Gonzalez, P.J., Saxe, Moskowitz, Acosta, Freedman, JJ.

Disposition: Testimony was sufficient to raise a triable issue of fact, thus defendants motion for summary judgment was properly denied.

Retained by: Plaintiff