User Name: Jasen Abrahamsen
Date and Time: Dec 07, 2016 13:55
Job Number: 40574076

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1. Profile Suite Expert Witness Report: Gerling, Michael Christopher M.D.
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   Search Terms: michael /2 gerling
   Search Type: Natural Language
   Narrowed by:

Content Type	Narrowed by
Jury Verdicts and Settlements	-None-

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Report Created on 12/7/2016 1:55:58 PM

Expert

Gerling, Michael Christopher M.D.

Area of Expertise: Orthopedic Surgery

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Gerling, Michael Christopher M.D.

Area of Expertise: Orthopedic Surgery

Affiliation: New York University School of Medicine
New York University Langone Medical Center
Lutheran Health Care
LENOX HILL HOSPITAL
NYU HOSPITAL FOR JOINT DISEASE
SUNY Downstate Medical Center/Orthopaedic Surgery & Rehabilitation Medicine

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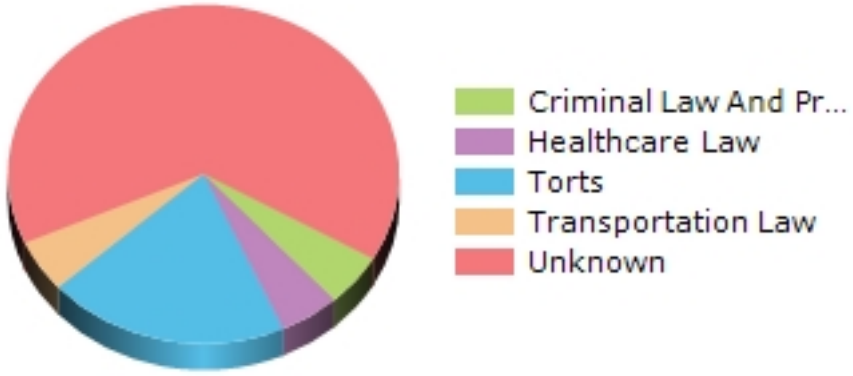
210 East 64 Street 4th Floor,New York,NY 10065
450 Clarkson Avenue Box 30,Brooklyn,NY 11203

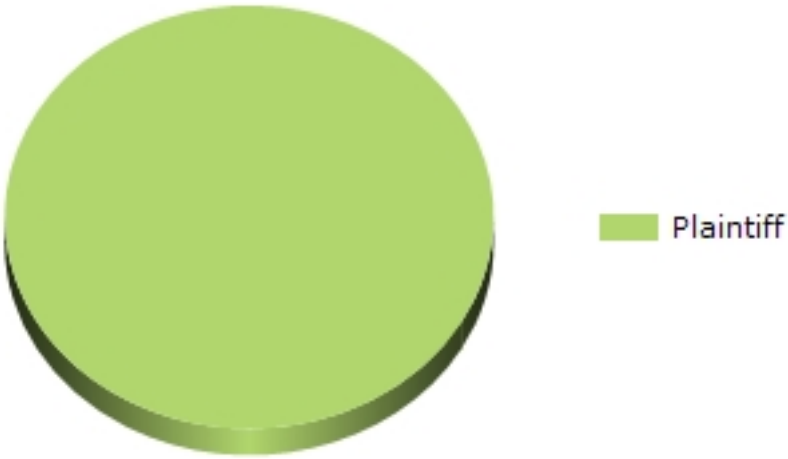
Curriculum Vitae (CV): None

Miscellaneous Directories: None

By Practice Area



Cases By Hiring Party



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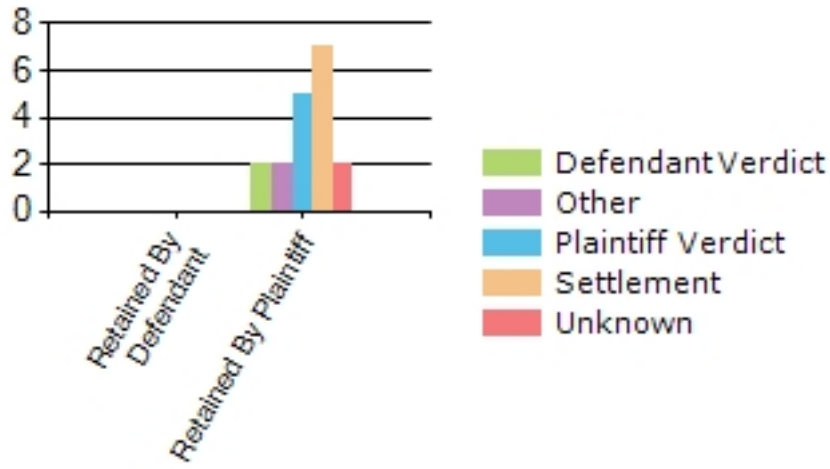
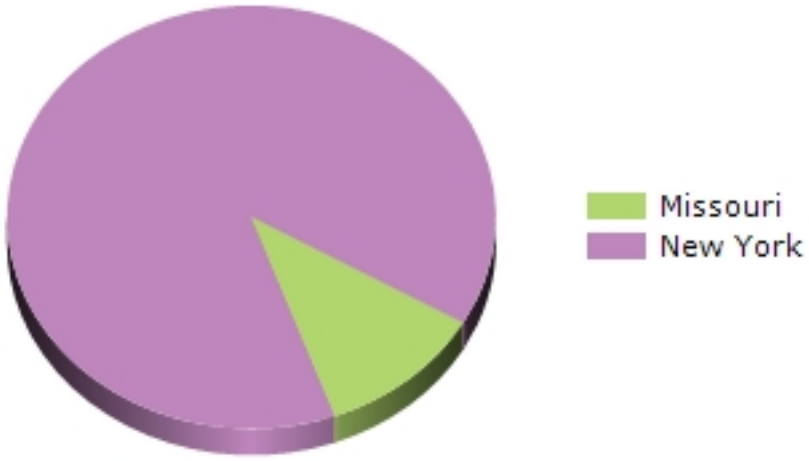
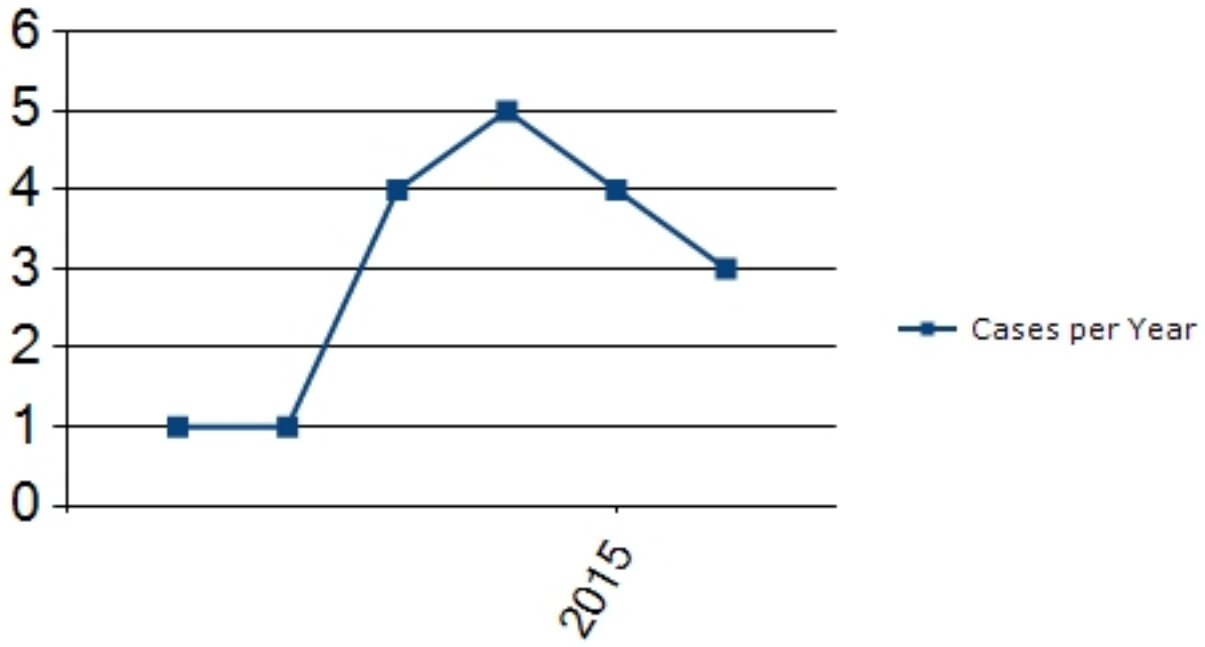


Cases By Jurisdiction



Cases per Year



Aida Oyola v. John A. Calabrese; 2015 Jury Verdicts LEXIS 12341

2726/12

November 23, 2015

Headline: Woman Hit by Van, Claimed Injuries of Back, Knee, Shoulder

Published Date: March 14, 2016

Topic: Motor Vehicle - Pedestrian - Motor Vehicle - Crosswalk - Motor Vehicle - Left Turn

Injury: Microdiscectomy, Bulging Disc, Lumbar, Supraspinatus Muscle/tendon, Tear, Lateral Meniscus, Tear, Physical Therapy, Effusion, Chondromalacia / Chondromalacia Patella, Glenoid Labrum, Tear, Rotator Cuff, Injury (tear), Swelling, Arthroscopy, Knee Surgery, Epidural Injections, Discectomy

State: New York

Court: Kings Supreme

Plaintiff Counsel
Adam J. Roth
Firm Name: Wingate, Russotti, Shapiro & Halperin, LLP
Address: New York, NY
Plaintiff Name: (Aida Oyola)

Defendant Counsel
Hugh J. Larkin
Firm Name: Montfort, Healy, McGuire & Salley
Address: Garden City, NY
Defendant Name: (1)

Judge: Richard Velasquez

Case Summary
On Feb. 28, 2011, plaintiff Aida Oyola, 36, a fast food restaurant's manager, was struck by a minivan. The incident occurred in a crosswalk of 39th Avenue, alongside its intersection at Fort Hamilton Parkway, in the Borough Park section of Brooklyn. She claimed that she sustained injuries of her back, a knee and a shoulder.

Oyola sued the vehicle's driver, John Calabrese. Oyola alleged that Calabrese was negligent in the operation of his vehicle.

Oyola claimed that a green traffic signal permitted her entrance to the roadway. She contended that Calabrese, who was executing a left turn onto 39th Avenue, should have yielded the right of way.

Calabrese claimed that his view was impaired by heavy rainfall, that he was waved into the intersection by a yielding motorist, and that his vehicle was traveling less than 0.5 mph at the moment of impact.

Oyola's counsel moved for summary judgment of liability, and the motion was granted. The trial addressed damages.

Injury Text:

Oyola was placed in an ambulance, and she was transported to Lutheran Medical Center, in Brooklyn. She underwent X-rays and minor treatment.

Oyola ultimately claimed that she sustained a tear of her left knee's lateral meniscus, a tear of her left, nondominant shoulder's glenoid labrum, a tear of the same shoulder's supraspinatus tendon, which is an element of the rotator cuff, and trauma that produced bulges of her L4-5 and L5-S1 intervertebral discs. She also claimed that her left knee developed chondromalacia, which is a softening of cartilage, and effusion, which is swollenness caused by a buildup of a joint's lubricating fluid. Her left knee's injuries were diagnosed in November 2011, and her bulging discs were diagnosed in August 2012.

Oyola quickly commenced a course of physical therapy. The treatment lasted about 13 weeks, and it was typically rendered two or three times a week. Oyola claimed that she subsequently performed independent therapeutic exercises.

Oyola further claimed that she suffered ongoing pain. In May 2011, she underwent arthroscopic surgery that addressed her left shoulder. In January 2013, she underwent administration of an epidural injection of a steroid-based painkiller. In June 2014, she underwent a microdiscectomy, a minimally invasive procedure that involved excision of a portion of her L5-S1 disc.

Oyola claimed that she suffers permanent residual pain and limitations. She claimed that she previously enjoyed jogging, but that her residual effects prevent her resumption of that activity. She also claimed that she cannot endure prolonged periods in which she is standing or walking, that she cannot lift heavy objects, that her residual effects hinder her performance of her household chores, and that her residual effects prevent her resumption of her job. She briefly resumed working, but she quickly stopped. She receives Social Security disability benefits.

Oyola also claimed that she must undergo replacement of her left knee and fusion of a portion of her spine's lumbar region.

Oyola sought recovery of $50,000 for past medical expenses, $150,000 for future medical expenses, $400,000 for past pain and suffering, and $800,000 for future pain and suffering.

Defense counsel claimed that the accident involved a relatively minor impact that could not have caused the injuries that Oyola claimed to have sustained. He further claimed that some eight months passed before Oyola reported an injury of her left knee.

The defense's expert radiologist contended that a post-accident MRI scan did not reveal an abnormality of Oyola's lumbar region, that another post-accident MRI scan did not reveal a tear of Oyola's left shoulder, and that a third post-accident MRI scan revealed effusion of Oyola's left knee but not a tear. The radiologist opined that Oyola's bulging discs are a degenerative condition. The defense's expert orthopedist agreed that the bulging discs are a degenerative condition, and he opined that Oyola's discectomy was unnecessary. The orthopedist also opined that Oyola achieved a complete recovery.

The parties negotiated a high/low stipulation: Damages could not exceed $1.3 million, but they had to equal or exceed $25,000. The high amount represented the limit of Calabrese's insurance coverage.

Trial Length

5.0 days

Jury Deliberation

3.5 hours

Jury Composition

6 female

Jury Poll

6-0

PLAINTIFF NAME	PROPERTY AWARD
Aida Oyola	$ 600,000

Insurer:

Government Employees Insurance Co.

Plaintiff Amounts:

(Aida Oyola)
$200,000 Personal Injury: Past Medical Cost
$150,000 Personal Injury: Future Medical Cost
$150,000 Personal Injury: Past Pain And Suffering
$100,000 Personal Injury: Future Pain And Suffering

Plaintiff Expert(s)
Shahid W. Mian
Address: New York, NY
Specialty: Orthopedic Surgery
Affiliation: treating doctor, Adam Roth

Michael C. Gerling, M.D.
Address: Brooklyn, NY
Specialty: Orthopedic Surgery
Affiliation: treating doctor, Adam Roth

Defendant Expert(s)
Sheldon P. Feit, M.D.
Address: Garden City, NY
Specialty: Radiology
Affiliation: Hugh Larkin

Joseph Y. Margulies, M.D.
Address: Pleasantville, NY
Specialty: Orthopedic Surgery
Affiliation: Hugh Larkin

Award: $ 600,000

Award Details: The jury found that Oyola's damages totaled $600,000.

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Dennielle Smith v. Weiner; 2014 Jury Verdicts LEXIS 10497

360-262011

October 20, 2014

Party Names
Plaintiff(s):
Smith, Dennielle

Defendant(s):
Weiner

Topic: Vehicular Liability

Injury: Physical Injury

State: New York

Court: New York Supreme Court

Defendant Counsel

Firm Name: Congdon Flaherty O'Callaghan Reid Donlon; Et Al
Address: 333 Earle Ovington Blvd Uniondale New York 11553
Phone: (516) 542-5900

Website: *http://www.cfolegal.com*

Plaintiff Expert(s)
Gary Paul Thomas
Address: 10 Union Square East 4K New York New York 10003
Phone: (212) 995-6495

Website: *http://www.mountsinai.org/profiles/gary-p-thomas*
Specialty: Pain Management, Anesthesiology
Affiliation: Comprehensive Pain Management
Affiliation: Mount Sinai Beth Israel
Affiliation: New York Methodist Hospital
Affiliation: Cabrini Pain Management Center
Affiliation: Beth Israel Pain Group
Affiliation: Methodist Pain Center

Boris Kleyman
Address: 3960 Flatlands Ave Brooklyn New York 11234
Phone: (718) 258-8128
Specialty: Pain Management, Anesthesiology
Affiliation: Boris Kleyman MD

Michael Christopher Gerling
Address: 550 First Avenue New York New York 10016
Phone: (718) 630-8600

Website: *http://www.med.nyu.edu/biosketch/gerlim01*
Specialty: Orthopedic Surgery
Affiliation: New York University School of Medicine
Affiliation: New York University Langone Medical Center
Affiliation: Lutheran Health Care
Affiliation: Lenox Hill Hospital
Affiliation: Nyu Hospital For Joint Disease
Affiliation: SUNY Downstate Medical Center/Orthopaedic Surgery & Rehabilitation Medicine

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Jack Glasser v. Colin Efrain, Jr. and Jem Caterers of Nassau Inc; 2013 Jury Verdicts LEXIS 4773

30257/10

April 30, 2013

Headline: Van's Driver Failed to Yield, Injured Bicyclist Claimed

Published Date: May 27, 2013

Topic: Motor Vehicle - Right Turn - Motor Vehicle - Bicycle

Injury: Fracture, Fibula, Fracture, Proximal Fibula, Herniated Disc at C6-7, Herniated Disc at L1-2, Herniated Disc at L5-s1, Physical Therapy, Chiropractic, Acupuncture, Discectomy, Fusion, Cervical, Fusion, Lumbar, Epidural Injections

State: New York

Court: Kings Supreme

Plaintiff Counsel
Stephen J. Murphy
Firm Name: Block O??Toole & Murphy, LLP
Address: New York, NY
Plaintiff Name: (Jack Glasser)

David L. Scher
Firm Name: Block O'Toole & Murphy, L.L.P.
Address: New York, NY
Plaintiff Name: (Jack Glasser)

Defendant Counsel
Robert B. Churbuck
Firm Name: Churbuck, Calabria, Jones & Materazo, P.C.
Address: Hicksville, NY
Defendant Name: (Colin Efrain Jr., Jem Caterers of Nassau Inc.)

Judge: Kenneth Grundstein

Case Summary
On Aug. 5, 2010, plaintiff Jack Glasser, a 52-year-old unemployed man, was bicycling on the eastbound side of Beech Street, near its intersection at Richard Street, in the village of Atlantic Beach. He was struck by a van that was being driven by Colin Efrain Jr., who was executing a right turn onto the eastbound side of Beech Street, from a parking lot that was located on the south side of the street. Glasser was knocked onto the ground, and he claimed that he sustained injuries of his back, a knee, a leg and his neck.

Glasser sued Efrain and the owner of Efrain's van, Jem Caterers of Nassau Inc. Glasser alleged that Efrain was negligent in the operation of his vehicle. Glasser further alleged that Jem Caterers of Nassau was vicariously liable for Efrain's actions.

Glasser acknowledged that he was bicycling against the flow of eastbound traffic, but he claimed that the collision occurred while he was stopped alongside the south shoulder of Beech Street. He contended that Efrain should have yielded.

Defense counsel contended that the accident was a result of Glasser traveling against the flow of traffic.

Injury Text:

Glasser was placed in an ambulance, and he was transported to Long Beach Medical Center, in the city of Long Beach. He underwent minor treatment.

Glasser ultimately claimed that he sustained herniations of his C6-7, L1-2 and L5-S1 intervertebral discs, a fracture of the shaft of his left leg's fibula, and a fracture of the same fibula's head, which is a lower component of the left knee's joint.

Glasser initially underwent conservative treatment that included acupuncture, chiropractic manipulation, pain management, physical therapy and the administration of six epidural injections of steroid-based painkillers. He claimed that the treatment did not resolve his pain. On Dec. 21, 2010, he underwent surgery that included a discectomy, which involved the excision of his C6-7 disc, and fusion of his spine's C6-7 level. He subsequently underwent surgery that included discectomies, which involved the excision of his L1-2 and L5-S1 discs, and fusion of the corresponding levels of his spine.

Glasser claimed that he suffers residual pain and limitations. He contended that he previously enjoyed bicycling, exercising and performing martial arts, but that his residual effects hinder his performance of those activities. He sought recovery of past medical expenses and damages for past and future pain, suffering and lost enjoyment of life.

Defense counsel contended that Glasser's injuries predated the accident. He claimed that the injuries were sustained during a motor-vehicle accident that occurred some three months prior to the instant accident. He contended that Glasser was undergoing physical therapy at the time of the instant accident and that two of Glasser's herniations were diagnosed during the month that preceded the instant accident.

The defense's expert neurologist and expert orthopedist submitted reports in which they opined that Glasser's injuries were not caused by the instant accident. The experts also opined that Glasser has recovered.

Insurer:

The Hartford Insurance Group for both defendants

Plaintiff Expert(s)
Michael Gerling
Address: Brooklyn, NY
Specialty: Orthopedics
Affiliation: did not testify, Stephen Murphy

Alan M. Leiken, Ph.D.
Address: Stony Brook, NY
Specialty: Economics
Affiliation: did not testify, Stephen Murphy, David Scher

Michael Gerling
Address: Brooklyn, NY
Specialty: Orthopedics
Affiliation: did not testify, David Scher

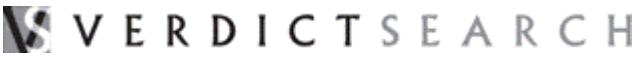
Edwin F. Richter, M.D.
Address: New York, NY
Specialty: Pain Management
Affiliation: did not testify, Stephen Murphy, David Scher

Defendant Expert(s)
Arnold T. Berman, M.D.
Address: Bristol, PA
Specialty: Orthopedics
Affiliation: did not testify, Robert Churbuck

Michael J. Carciente, M.D.
Address: Brooklyn, NY
Specialty: Neurology
Affiliation: did not testify, Robert Churbuck

Award: $ 1,300,000

Award Details: The parties negotiated a pretrial settlement, which was finalized via the guidance of mediator Kenneth Grundstein, of National Arbitration and Mediation Inc. The defendants' insurer agreed to pay $1.3 million.



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Judith Bryson; Donald Bryson v. John D. Miles, M.D.; Christopher Bauman, M.D.; Columbia Radionogy, Ltd., et al; 2010 Jury Verdicts LEXIS 254

09BA-CV04128

April 26, 2012

Party Names
Plaintiff(s):
Bryson, Judith
Bryson, Donald

Defendant(s):
Miles, M.D., John D.
Bauman, M.D., Christopher
Columbia Radiology, Ltd.

Topic: Medical Malpractice

Injury: Physical Injury

Method of Resolution: Dismissed

Case Resolution: For Defendant

State: Missouri

Court: Missouri Circuit Court, Thirteenth Judicial Circuit

Plaintiff Counsel
Burton M Greenberg
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Phone: (314) 241-4141

Daniel J Brown
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Phone: (314) 231-4878

Defendant Counsel
Kevin F O'Malley
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Address: 10 South Broadway, Ste 2000 Saint Louis Missouri 63102-1774
Phone: (314) 241-9090

Website: *www.greensfelder.com*

Mark A Gonnerman
Firm Name: Gonnerman Reinert LLC
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Phone: (314) 880-8060

Website:

Mark A Gonnerman
Firm Name: Gonnerman Reinert LLC
Address: 222 S Central Ave, Ste 500 St Louis Missouri 63105
Phone: (314) 880-8060
Website:

Judge: Scott Alan Hayes

Case Summary
Failure to diagnose back injury resulting in delay of treatment and pain and suffering. Bone disruption, sacral compression fracture, muscle spasms in legs, acute back, buttocks & leg pain, drop in oxygen levels, impingement at neural foramen, extensor halucis longus & tibialis anterior weakness on right side, reduction of spondylolisthesis, foraminal stenosis, nerve root irritations, atelectasis, hypesthesia in lower extremities.

Plaintiff Expert(s)
Dr. Walter Lemann, III
Address: 969 N. Mason Road, Suite 140 Saint Louis Missouri 63141
Phone: (314) 996-8830

Website: *http://www.wuphysicians.wustl.edu/physician2.aspx?PhysNum=2870*
Specialty: Neurology
Affiliation: Washington University School of Medicine in St. Louis
Affiliation: St. Lukes Hospital
Affiliation: Barnes-Jewish Hospital
Affiliation: Missouri Baptist Medical Center
Affiliation: VA St. Louis HCS-John Cochran Div.

Louis Arnold Gilula
Address: 510 South Kingshighway, 10th Floor Saint Louis Missouri 63110
Phone: (314) 362-2911

Website: *http://wuphysicians.wustl.edu/physician2.aspx?PhysNum=2705*
Specialty: Radiology, Musculoskeletal Radiology
Affiliation: Washington University School of Medicine in Saint Louis
Affiliation: Mallinckrodt Institute of Radiology
Affiliation: Barnes-Jewish Hospital

Andrew Stephen Zelby
Address: 1 Westbrook Corporate Center Suite 800 Westchester Illinois 601545714
Phone: (708) 343-3566

Website: *http://illinoisneurospine.com/_wsn/page2.html*
Specialty: Neurological Surgery, Spinal Surgery
Affiliation: Univ Chicago Pritzker Sch Med
Affiliation: Loyola U Med Ctr
Affiliation: MacNeal Hospital
Affiliation: Neurological Surgery & Spine Surgery Sc

Michael Christopher Gerling
Address: 550 First Avenue New York New York 10016
Phone: (718) 630-8600

Website: *http://www.med.nyu.edu/biosketch/gerlim01*
Specialty: Orthopedic Surgery
Affiliation: New York University School of Medicine
Affiliation: New York University Langone Medical Center
Affiliation: Lutheran Health Care
Affiliation: Lenox Hill Hospital
Affiliation: Nyu Hospital For Joint Disease
Affiliation: SUNY Downstate Medical Center/Orthopaedic Surgery & Rehabilitation Medicine

Defendant Expert(s)
Donald Laurence Resnick
Address: Ucsd Teleradiology & Education Center 8899 University Center Lane, Suite 370 San Diego California 92122
Phone: (858) 246-1011

Website: *http://radiology.ucsd.edu/faculty_staff/dresnick.html*
Specialty: Diagnostic Radiology
Affiliation: University Of California San Diego
Affiliation: Veterans Administration Medical Center
Affiliation: Scripps Clinic

Award: $ 0

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Kathleen Entrup; Matthew Entrup v. Neurosurgical Specialists of West County, Inc.; Peter Kong Woo Yoon, M.D.; Albanna Neurosurgical Consultants, PC, et al; 2014 Jury Verdicts LEXIS 11448

13SL-CC01103

September 29, 2016

Party Names
Plaintiff(s):
Entrup, Kathleen
Entrup, Matthew

Defendant(s):
Neurosurgical Specialists of West County, Inc.
Yoon, M.D., Peter Kong Woo
Albanna Neurosurgical Consultants, PC
West County Surgical Specialists

Topic: Medical Malpractice

Injury: Physical Injury

Method of Resolution: Dismissed

Case Resolution: For Defendant

State: Missouri

Court: Missouri Circuit Court, Twenty-first Judicial Circuit

Plaintiff Counsel
Burton M Greenberg
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Address: 500 N Broadway, Ste 1610 Saint Louis Missouri 63102
Phone: (314) 241-4141

Burton M Greenberg
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Defendant Counsel
Peter F Spataro
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Address: 800 MARKET ST, Suite 1100 Saint Louis Missouri 63101
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Phone: (314) 726-6670

Website: *www.eckenrode-law.com*

Firm Name: Brown & James, Pc
Address: 800 MARKET ST, Suite 1100 Saint Louis Missouri 63101
Phone: (314) 421-3400

Website: *www.bjpc.com*

Judge: Michael T. Jamison

Case Summary
Inappropriately performed spinal fusion causing nerve damage, CSF leak.

Plaintiff Expert(s)
Michael Christopher Gerling
Address: 550 First Avenue New York New York 10016
Phone: (718) 630-8600

Website: *http://www.med.nyu.edu/biosketch/gerlim01*
Specialty: Orthopedic Surgery
Affiliation: New York University School of Medicine
Affiliation: New York University Langone Medical Center

Affiliation: Lutheran Health Care
Affiliation: Lenox Hill Hospital
Affiliation: Nyu Hospital For Joint Disease
Affiliation: SUNY Downstate Medical Center/Orthopaedic Surgery & Rehabilitation Medicine

Ronald Arthur Lehman, Jr.
Address: 5141 Broadway New York New York 10034
Phone: (212) 932-5100
Specialty: Orthopedic Surgery, Spinal Surgery
Affiliation: Columbia University Medical Center

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Kendra Zimmerman v. Owen Kieran and Anne Kieran; 2014 Jury Verdicts LEXIS 10787

25917/11

March 07, 2014

Headline: Highway Accident Caused Spinal Injuries, Plaintiff Claimed

Published Date: December 08, 2014

Topic: Motor Vehicle - Sideswipe - Motor Vehicle - Multiple Vehicle

Injury: Herniated Disc at C6-7, Bulging Disc, Cervical, Discectomy, Fusion, Cervical, Corpectomy, Herniated Disc at L4-5, Epidural Injections, Headaches, Fusion, Cervical, Two-level, Leg

State: New York

Court: Kings Supreme

Plaintiff Counsel
Russell Ragland
Firm Name: Morelli Ratner, P.C.
Address: New York, NY
Plaintiff Name: (Kendra Zimmerman)

John Blyth
Firm Name: Hach & Rose, LLP
Address: New York, NY
Plaintiff Name: (Kendra Zimmerman)

Defendant Counsel
Beverly S. Tatham
Firm Name: James J. Toomey
Address: New York, NY
Defendant Name: (1, Anne Kieran)

Judge: Kenneth Grundstein

Case Summary
On April 22, 2011, plaintiff Kendra Zimmerman, a clerk in her 40s, was driving on the New England Thruway, in the Bronx. Her car was involved in a sideswipe collision with a car that was being driven by Anne Kieran. Zimmerman's vehicle spun, and it struck a concrete barrier. Zimmerman claimed that she sustained injuries of her back and neck.

Zimmerman sued Kieran and the owner of Kieran's vehicle, Owen Kieran. Zimmerman alleged that Anne Kieran was negligent in the operation of her vehicle. Zimmerman further alleged that Owen Kieran was vicariously liable for Anne Kieran's actions.

Zimmerman claimed that Anne Kieran lost control of her vehicle and initiated the collision.

Injury Text:

After 20 days had passed, Zimmerman presented to a hospital. She claimed that she was suffering severe pain that stemmed from her neck. She also claimed that she had been suffering headaches. She underwent minor treatment.

Zimmerman ultimately claimed that she sustained herniations of her C6-7 and L4-5 intervertebral discs. She also claimed that she sustained trauma that produced a bulge of her C5-6 disc. She further claimed that her C6-7 herniation caused compression of her spinal cord.

On Dec. 13, 2011, Zimmerman underwent surgery that included a discectomy, which involved excision of the anterior portions of her C5-6 and C6-7 discs; a corpectomy, which involved excision of a portion of her C6 vertebra; and fusion of her spine's C5-6 and C6-7 levels. She also underwent administration of two epidural injections of steroid-based painkillers.

Zimmerman claimed that she suffers residual pain that radiates to her legs, that her headaches persist, that her residual effects hinder her ability to exercise and that her residual effects prevent her resumption of work. Zimmerman's treating orthopedist and treating physiatrist submitted reports in which they opined that Zimmerman's pain is permanent. Zimmerman's treating orthopedist also opined that Zimmerman will require surgery, physical therapy and pain management.

Zimmerman sought recovery of past and future medical expenses, past and future lost earnings, and damages for past and future pain and suffering.

Defense counsel contended that Zimmerman's neck injuries were degenerative conditions that predated the accident.

Insurer:

Travelers Property Casualty Corp. for both defendants

Plaintiff Expert(s)
Joseph Carfi, M.D.
Address: New Hyde Park, NY
Specialty: Physical Rehabilitation
Affiliation: John Blyth, Russell Ragland

Michael C. Gerling, M.D.
Address: Brooklyn, NY
Specialty: Orthopedic Surgery
Affiliation: treating doctor, Russell Ragland, John Blyth

Defendant Expert(s)
Alan J. Zimmerman, M.D.
Address: Lido Beach, NY
Specialty: Orthopedic Surgery
Affiliation: Beverly Tatham

Steven L. Mendelsohn, M.D.
Address: Lindenhurst, NY
Specialty: Radiology
Affiliation: Beverly Tatham

Award: $ 905,000

Award Details: The parties negotiated a pretrial settlement. The defendants' insurer agreed to pay $905,000, from policies that provided a total of $5.5 million of coverage. The settlement was finalized via the guidance of mediator Kenneth Grundstein, of National Arbitration and Mediation Inc.

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Lina Spinello v. New York City Health Hospitals Corporation; 2016 Jury Verdicts LEXIS 6492

25870/08

July 26, 2016

Headline: Physician's Assistant Not Liable for Patient's Fall, Defense Argued

Published Date: August 29, 2016

Topic: Worker/Workplace Negligence - Slips, Trips & Falls - Slip and Fall

Injury: Fracture, Pars Interarticularis, Fusion, Lumbar, Fracture, Metatarsal, Fracture, Foot, Fracture, L5, Fracture, Vertebra, Fracture, Back

State: New York

Court: Kings Supreme

Plaintiff Counsel
Elliot Pasik
Firm Name: Gerald P. Gross, P.C.
Address: Cedarhurst, NY
Plaintiff Name: (Lina Spinello)

Defendant Counsel
Mark Sullivan
Firm Name: Counsel at New York City Health and Hospitals Corporation
Address: New York, NY
Defendant Name: (1 New York City Health and Hospitals Corp.)

Judge: Bernard J. Graham

Case Summary
On Jan. 28, 2008, plaintiff Lina Spinello, 66, fell while she was undergoing a medical examination. The incident occurred at Coney Island Hospital, which was located at 2601 Ocean Parkway, in the Sheepshead Bay section of Brooklyn. Spinello claimed that she sustained injuries of her back and a toe.

Spinello sued the hospital's operator, NYC Health + Hospitals. Spinello alleged that a physician's assistant negligently created a dangerous condition that caused the accident, that the physician's assistant's actions constituted malpractice, and that NYC Health + Hospitals was vicariously liable for the physician's assistant's actions.

The medical-malpractice claim was dismissed via summary judgment.

Spinello claimed that her fall was a result of her having slipped on a lubricant that the physician's assistant had spilled. She claimed that she stepped in the spilled lubricant while descending from an examination table. Spinello's counsel contended that the lubricant should have been cleaned immediately after it had been spilled.

Defense counsel claimed that Spinello's fall was not caused by a spill, and he further claimed that, had Spinello fallen while descending from an examination table, she likely would have toppled the physician's assistant. He claimed that Spinello fell while she was changing her clothes behind a curtain, away from the examination table.

Defense counsel also challenged Spinello's credibility. He claimed that, during the course of the litigation, she repeatedly changed her description of the manner in which she fell.

Injury Text:

Spinello returned to her home. During the ensuing day, she returned to the hospital. An X-ray revealed a fracture of her left foot's first metatarsal, which is the bone that joins the first toe and the center of the foot. Spinello claimed that the injury was a result of her fall.

Spinello also claimed that she sustained a fracture of her L5 vertebra's pars interarticularis. In 2013, she underwent fusion of her spine's L5-S1 level.

Spinello claimed that she suffers residual pain and limitations that hinder her performance of everyday activities. She sought recovery of past medical expenses, damages for past pain and suffering, and damages for future pain and suffering.

The defense's expert neurosurgeon opined that Spinello's vertebral fracture was a degenerative condition that predated the accident. He contended that, had the injury been a result of trauma, it would have been immediately accompanied by an outcry of pain. He claimed that Spinello's medical records indicate that nine days passed before she reported lumbar pain.

Defense counsel also contended that Spinello exaggerated the extent of her pain.

Trial Length

5.0 days

Jury Deliberation

10.0 minutes

Jury Poll

6-0

Post Trial Status

Justice Bernard Graham denied plaintiff's counsel's motion to set aside the verdict. Plaintiff's counsel contended that defense counsel's summation included inflammatory remarks that unfairly influenced the jury.

Plaintiff Expert(s)
Michael C. Gerling, M.D.
Address: Brooklyn, NY
Specialty: Orthopedic Surgery
Affiliation: treating doctor, Elliot Pasik

Defendant Expert(s)
Martin Zonenshayn, M.D.
Address: Brooklyn, NY
Specialty: Neurosurgery
Affiliation: Mark Sullivan

Award: $ 0

Award Details: The jury rendered a defense verdict. It found that Spinello did not fall after having stepped on lubricant.

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Luis Alvarez v. CMS Transportation Inc., Reynaldo Cubias, Sandra P. Alvarez and Arisleidy A. Ramos; 2014 Jury Verdicts LEXIS 13026

27335/11

November 21, 2014

Headline: Car Crash Led to Spinal Fusion, Plaintiff Claimed

Published Date: March 23, 2015

Topic: Motor Vehicle - Passenger - Motor Vehicle - Rear-ender - Motor Vehicle - Multiple Vehicle

Injury: Herniated Disc at C4-5, Herniated Disc at C5-6, Herniated Disc at L4-5, Herniated Disc at L5-s1, Physical Therapy, Discectomy, Laminectomy, Laminectomy, Lumbar, Fusion, Lumbar

State: New York

Court: Queens Supreme

Plaintiff Counsel
Scott C. Occhiogrosso
Firm Name: Armienti, DeBellis, Guglielmo & Rhoden, LLP
Address: New York, NY
Plaintiff Name: (Luis Alvarez)

Frederick C. Aranki
Firm Name: Block O'Toole & Murphy L.L.P.
Address: New York, NY
Plaintiff Name: (Luis Alvarez)

Defendant Counsel
Robert L. Bernstein
Firm Name: Baker, Greenspan & Bernstein
Address: Merrick, NY
Defendant Name: (1, Reynaldo Cubias)

None reported
Defendant Name: (Arias-Leidy Ramos, Sandra P. Alvarez)

Judge: Sidney F. Strauss

Case Summary
On Jan. 28, 2011, plaintiff Luis Alvarez, 50, a self-employed welder, was a seat-belted, front-seat passenger of a vehicle that was being driven by Arisleidy Ramos, who was traveling on Rockaway Boulevard, in Queens. The vehicle's rear end was struck by a trailing truck that was being driven by Reynaldo Cubias. Alvarez claimed that he sustained injuries of his back and neck.

Alvarez sued Cubias; the owner of Cubias' truck, CMS Transportation Inc.; Ramos; and the owner of Ramos' vehicle, Sandra Alvarez. Luis Alvarez alleged that Cubias and Ramos were negligent in the operation of their respective vehicles. He further alleged that the remaining defendants were vicariously liable for the actions of the drivers of their respective vehicles.

Liability was decided via summary judgment: Cubias and CMS Transportation were deemed entirely liable for the accident, and Ramos and Sandra Alvarez were dismissed. The trial addressed damages.

Injury Text:

Luis Alvarez claimed that he sustained herniations of his C4-5, C5-6, L4-5 and L5-S1 intervertebral discs. He underwent physical therapy and the administration of painkilling injections, but he claimed that he suffered ongoing pain. On Aug. 20, 2012, he underwent surgery that included a discectomy, which involved excision of a herniated disc, a laminectomy, which involved excision of a portion of a vertebra, and fusion of his spine's L5-S1 level.

Alvarez claimed that he suffers residual pain and limitations that restrict his performance of his job's duties, though he has continued to work since the accident. He also claimed that he requires additional treatment.

Alvarez sought recovery of past medical expenses, future medical expenses, and damages for past and future pain and suffering.

Defense counsel contended that Alvarez's injuries were degenerative conditions that predated the accident. He claimed that Alvarez underwent spinal surgery in 2002, after about three years in which he reported severe pain, that Alvarez had also undergone about 10 months of conservative treatment and that a pre-accident MRI scan depicted a herniation of Alvarez's L5-S1 disc.

Defense counsel also contended that Alvarez does not experience a restriction of his work or everyday activities. He presented a surveillance videotape that depicted Alvarez ascending ladders, walking on elevated beams, operating a forklift, and carrying and lifting large objects, including sections of fencing. Defense counsel further contended that Alvarez does not require additional treatment.

Trial Length

9.0 days

Jury Deliberation

2.5 hours

Jury Poll

6-0

Post Trial Status

The parties negotiated a settlement. The liable defendants' insurer tendered its policy, which provided $1 million of coverage, and it agreed to pay an additional $90,000. Thus, Alvarez's recovery totaled $1.09 million.

PLAINTIFF NAME	PROPERTY AWARD
Luis Alvarez	$ 1,198,000

Insurer:

Park Insurance Co. for CMS Transportation and Cubias

Plaintiff Amounts:

(Luis Alvarez)
$198,000 Personal Injury: Past Medical Cost
$50,000 Personal Injury: Past Pain And Suffering

$550,000 Personal Injury: future medical cost (28 years)
$400,000 Personal Injury: future pain and suffering (28 years)

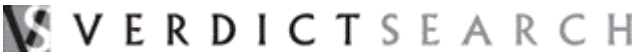
Plaintiff Expert(s)
John S. Vlattas, M.D.
Address: Bayside, NY
Specialty: Pain Management
Affiliation: Scott Occhiogrosso, Frederick Aranki

Michael C. Gerling, M.D.
Address: Brooklyn, NY
Specialty: Spinal Surgery
Affiliation: Frederick Aranki, Scott Occhiogrosso

Defendant Expert(s)
Stephen W. Lastig, M.D.
Address: Oceanside, NY
Specialty: Radiology
Affiliation: Robert Bernstein

Award: $ 1,198,000

Award Details: The jury found that Alvarez's damages totaled $1,198,000.



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Magdi S. Kalta and Nadia Kalta v. Joyce S. Serure and Elaine Serure; 2015 Jury Verdicts LEXIS 3647

4240/12

March 06, 2015

Headline: Man Struck by Car, Claimed Injuries of Back, Knee, Neck

Published Date: June 08, 2015

Topic: Motor Vehicle - Pedestrian

Injury: Fusion, Cervical, Fusion, Lumbar, Arthroscopy, Chondromalacia / Chondromalacia Patella, Medial Meniscus, Tear, Herniated Disc at C3-4, Herniated Disc at C4-5, Bulging Disc, Cervical, Radiculopathy, Herniated Disc at L5-s1, Herniated Disc at L3-4, Herniated Disc at L4-5, Hematoma, Internal Bleeding, Physical Therapy, Discectomy, Corpectomy, Fusion, Cervical, Two-level, Hardware Implanted, Bone Graft, Cortisone Injections

State: New York

Court: Kings Supreme

Plaintiff Counsel
Robin J. Bond
Firm Name: Douglas & London LLP
Address: New York, NY
Plaintiff Name: (Magdi S. Kalta, Nadia Kalta)

Defendant Counsel
Robert Yenchman
Firm Name: Lewis Johs Avallone Aviles, LLP
Address: New York, NY
Defendant Name: (1, Elaine Serure)

Judge: David I. Schmidt

Case Summary
On Jan. 9, 2012, plaintiff Magdi Kalta, an unemployed man in his 60s, was struck by a motor vehicle. The incident occurred on Ocean Parkway, alongside its intersection at Kings Highway, in the Gravesend section of Brooklyn. Kalta claimed that he sustained injuries of his back, a knee and his neck.

Kalta sued the vehicle's driver, Joyce Serure, and the vehicle's owner, Elaine Serure. Kalta alleged that Joyce Serure was negligent in the operation of her vehicle. Kalta further alleged that Elaine Serure was vicariously liable for Joyce Serure's actions.

Kalta claimed that the impact occurred in a crosswalk. He also claimed that a traffic signal permitted his entrance to the intersection. He contended that Joyce Serure, who was executing a turn off of Kings Highway, should have yielded the right of way.

Serure claimed that she did not see Kalta until the moment of impact.

Kalta's counsel moved for summary judgment of liability, and the motion was granted. The matter proceeded to damages.

Injury Text:

Kalta was placed in an ambulance, and he was transported to Coney Island Hospital, in Brooklyn. Doctors diagnosed a hematoma and internal bleeding. He underwent eight days of observation and treatment.

Kalta ultimately claimed that he sustained a tear of his left knee's medial meniscus, herniations of his C3-4, C4-5, L3-4, L4-5 and L5-S1 intervertebral discs, and trauma that produced bulges of his C2-3 and C5-6 discs. He also claimed that he developed residual radiculopathy that stemmed from his back and neck. He further claimed that his left knee developed residual chondromalacia: softening of cartilage.

Kalta underwent physical therapy, but he claimed that he experienced ongoing pain. On March 21, 2012, he underwent arthroscopic surgery that addressed his left knee. On Sept. 9, 2013, he underwent surgery that included a discectomy, which involved excision of the anterior portion of his C3-4 and C4-5 discs; a corpectomy, which involved excision of the anterior portion of his C4 vertebra; fusion of the anterior portion of his spine's C3-4 and C4-5 levels; implantation of a stabilizing cage; and application of an allograft, which is bony material harvested from a cadaver. On June 24, 2014, he underwent fusion of his spine's L5-S1 level. He subsequently underwent physical therapy and the administration of five injections of cortisone. Two injections were directed to his back; two were directed to his left knee; and one was directed to his neck.

Kalta claimed that he suffers residual pain and limitations, that he requires physical therapy and a regimen of pain management, and that he will require additional spinal surgery within 15 years.

Kalta sought recovery of a total of $2,361,000 to $2,467,000 for future medical and life-care expenses, unspecified damages for past pain and suffering, and unspecified damages for future pain and suffering. His wife presented a derivative claim.

Defense counsel contended that Mr. Kalta's injuries were exacerbations of disabling conditions that stemmed from a motor-vehicle accident that occurred in 2008. However, Kalta claimed that he had not undergone any treatment since 2011.

Insurer:

Allstate Insurance Co. for both defendants (primary insurer)

RLI Corp. for both defendants (excess)

Chubb Group of Insurance Cos. for both defendants (excess)

Plaintiff Expert(s)
Michael C. Gerling, M.D.
Address: Brooklyn, NY
Specialty: Orthopedic Surgery
Affiliation: did not testify, Robin Bond

Laura Lampton, R.N.
Address: Louisville, KY
Specialty: Life Care Planning
Affiliation: did not testify, Robin Bond

Defendant Expert(s)
Martin E. Wolpin, M.D.
Address: Brooklyn, NY
Specialty: Orthopedic Surgery
Affiliation: did not testify, Robert Yenchman

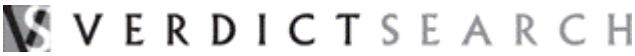
Ronald E. Missun, Ph.D.
Address: Louisville, KY
Specialty: Vocational Assessment
Affiliation: did not testify, Robin Bond

Jonathan S. Luchs, M.D.
Address: Garden City, NY
Specialty: Radiology
Affiliation: did not testify, Robert Yenchman

Anthony Maniscalco, M.D.
Address: Brooklyn, NY
Specialty: Neurology
Affiliation: did not testify, Robert Yenchman

Award: $ 1,250,000

Award Details: The parties negotiated a pretrial settlement. The defendants' primary insurer tendered its policy, which provided $1 million of coverage, and each of two excess insurers agreed to pay $125,000, from policies that provided a total of $12 million of coverage. Thus, the settlement totaled $1,250,000. The settlement was finalized via the guidance of mediator David Schmidt, of Resolute Systems, LLC.



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Michelle Perez v. Maria R. Tuzzolino; 2013 Jury Verdicts LEXIS 12123

14781/11

August 15, 2013

Headline: Motorist's Failure to Yield Caused Accident, Plaintiff Claimed

Published Date: November 25, 2013

Topic: Motor Vehicle - Stop Sign - Motor Vehicle - Broadside - Motor Vehicle - Intersection - Motor Vehicle - Multiple Vehicle

Injury: Herniated Disc at C4-5, Herniated Disc at C5-6, Herniated Disc at L4-5, Herniated Disc at L5-s1, Discectomy, Fusion, Cervical, Aggravation of Pre-existing Condition, Physical Therapy, Epidural Injections, Decreased Range of Motion

State: New York

Court: Queens Supreme

Plaintiff Counsel
Stephen Z. Williamson
Firm Name: Corporation Counsel
Address: New York, NY
Plaintiff Name: (Michelle Perez, Michelle Perez, Michelle Perez)

Defendant Counsel
John J. Ficara
Firm Name: Mendolia & Stenz
Address: Westbury, NY
Defendant Name: (Maria R. Tuzzolino)

Judge: Joseph M. Lane

Case Summary
On Sept. 25, 2010, plaintiff Michelle Perez, 43, a homemaker, was driving on Fairview Avenue, near its intersection at Palmetto Street, in the Ridgewood section of Queens. While she was proceeding through the intersection, her vehicle's right side was struck by a van that was being driven by Maria Tuzzolino, who was traveling on Palmetto Street. Perez claimed that she sustained injuries of her back and neck.

Perez sued Tuzzolino. Perez alleged that Tuzzolino was negligent in the operation of her vehicle.

Perez noted that her course was not governed by a traffic-control device. She claimed that Tuzzolino ignored a stop sign that governed her entrance to the intersection. Perez also claimed that she was maintaining a speed of about 10 mph when she entered the intersection. Perez's claims were supported by her adult daughter, who was a front-seat passenger of her mother's vehicle at the time of the accident. Perez's counsel contended that photographs showed that Tuzzolino should have had a clear view of oncoming traffic.

Tuzzolino claimed that she executed a full stop when she reached the intersection. She claimed that her view of cross traffic was partially obstructed, so she inched into the intersection. She further claimed that the elder Perez was speeding.

Injury Text:

After three days had passed, Perez sought medical treatment. She ultimately claimed that the accident aggravated pre-existing, asymptomatic herniations of her C4-5 and C5-6 intervertebral discs. She also claimed that the accident aggravated pre-existing, asymptomatic bulges of her L4-5 and L5-S1 discs, resulting in herniations of those discs.

Perez immediately commenced a course of physical therapy that ultimately spanned about 10 weeks. In April 2011, she underwent the administration of an epidural injection of a steroid-based painkiller. In May 2011, she underwent a percutaneous discectomy, which involved the partial removal of her L5-S1 disc. In December 2011, she underwent surgery that included discectomies, which involved the excision of her C4-5 and C5-6 discs, and fusion of the corresponding levels of her spine. She subsequently underwent about eight weeks of physical therapy.

Perez claimed that she suffers residual pain that stems from her back and neck, a residual diminution of her back's range of motion, and a residual diminution of her neck's range of motion. She further claimed that her residual effects hinder her performance of physical activities, such as her household chores or any task that involves lifting heavy objects. A doctor has recommended additional surgery that would address the lumbar region of Perez's spine.

Perez sought recovery of future medical expenses and damages for past and future pain and suffering.

Defense counsel contended that Perez did not sustain a serious injury, as defined by the no-fault law, Insurance Law ?? 5102(d). He claimed that the accident involved a merely minor collision that caused minimal vehicular damage, and he argued that such an accident could not have caused the injuries that Perez claimed to have sustained. He further claimed that she underwent sporadic physical therapy prior to her surgeries, that she did not undergo any conservative treatment that addressed her neck prior to undergoing surgery, and that her neck's surgery was not necessary.

The defense's expert orthopedist and expert radiologist opined that conservative treatment--not surgery--would best address Perez's current symptoms.

The parties negotiated a high/low stipulation: Damages could not exceed $600,000, but they had to equal or exceed $50,000.

Trial Length

2.0 weeks

Jury Deliberation

2.5 hours

Jury Composition

3 male, 3 female

PLAINTIFF NAME	PROPERTY AWARD
Michelle Perez	$ 4,400,000

Insurer:

Government Employees Insurance Co.

Plaintiff Amounts:

(Michelle Perez)
$3,000,000 Personal Injury: Future Medical Cost

$600,000 Personal Injury: Past Pain And Suffering
$800,000 Personal Injury: Future Pain And Suffering

Plaintiff Expert(s)
Mariano Mederos
Address: Brooklyn, NY
Specialty: Internal Medicine
Affiliation: Stephen Williamson

Leon Reyfman
Address: Brooklyn, NY
Specialty: Pain Management
Affiliation: treating doctor, Stephen Williamson

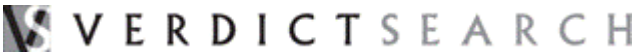
Michael Gerling
Address: Brooklyn, NY
Specialty: Orthopedics
Affiliation: treating surgeon, Stephen Williamson

Defendant Expert(s)
Edward A. Toriello, M.D.
Address: Flushing, NY
Specialty: Orthopedics
Affiliation: John Ficara

Dr. Sheldon P. Feit, M.D.
Address: Forest Hills, NY
Specialty: Radiology
Affiliation: John Ficara

Award: $ 4,400,000

Award Details: The jury found that Tuzzolino was liable for the accident. It also found that Perez sustained a serious injury. It determined that Perez's damages totaled $4.4 million, but Perez's recovery was reduced to the stipulated limit: $600,000.



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Miguelina Ronda and Allen Ronda v. Consolidated Edison Company of New York, Inc., and Marco Scorsonelli; 2015 Jury Verdicts LEXIS 4520

18216/12

April 02, 2015

Headline: Automobile Collision Caused Spinal Injuries, Plaintiff Claimed

Published Date: July 13, 2015

Topic: Motor Vehicle - Rear-ender - Motor Vehicle - Multiple Vehicle

Injury: Failed Back Syndrome, Herniated Disc at C6-7, Herniated Disc at L5-s1, Radicular Pain / Radiculitis, Fusion, Cervical, Fusion, Lumbar

State: New York

Court: Kings Supreme

Plaintiff Counsel
Kenneth J. Halperin
Firm Name: Wingate, Russotti & Shapiro, LLP
Address: New York, NY
Plaintiff Name: (Allen Ronda, Miguelina Ronda)

Philip A. Russotti
Firm Name: Wingate, Russotti & Shapiro, L.L.P.
Address: New York, NY
Plaintiff Name: (Allen Ronda, Miguelina Ronda)

Defendant Counsel
Jeffrey A. Reiner
Firm Name: Consolidated Edison Company of New York Inc.
Address: New York, NY
Defendant Name: (1 ConEd, Marco Scorsonelli)

Judge: Kenneth Grundstein

Case Summary
On May 14, 2012, plaintiff Miguelina Ronda, an unemployed woman in her 40s, was driving on Coney Island Avenue, near its intersection at Avenue J, in the Midwood section of Brooklyn. When she reached the intersection, she stopped at a red traffic signal. Before she could resume travel, her vehicle's rear end was struck by a trailing truck that was being driven by Marco Scorsonelli. Ronda claimed that she sustained injuries of her back and neck.

Ronda sued Scorsonelli and his employer, Consolidated Edison Company of New York Inc. Ronda alleged that Scorsonelli was negligent in the operation of his vehicle. She further alleged that Consolidated Edison was liable because the accident occurred during Scorsonelli's performance of his job's duties.

Ronda claimed that Scorsonelli failed to exercise due caution.

Scorsonelli claimed that he executed a full stop behind Ronda's vehicle, but that he accidentally released his truck's brake pedal when a bee entered the truck's passenger compartment.

Ronda's counsel moved for summary judgment of liability, and the motion was granted. The matter proceeded to damages.

Injury Text:

Ronda was placed in an ambulance, and she was transported to a hospital. She underwent minor treatment.

Ronda ultimately claimed that she sustained herniations of her C6-7 and L5-S1 intervertebral discs. She claimed that the herniations caused severe radicular pain.

After some three months had passed, Ronda underwent surgical fusion of her spine's C6-7 level. After an additional four months had passed, she underwent surgical fusion of her spine's L5-S1 level.

Ronda claimed that she developed failed back syndrome, which is a chronically painful condition that develops after spinal surgery. She underwent implantation of a device that provides pain-relieving stimulation of spinal nerves.

Ronda further claimed that she suffers residual pain and limitations. She sought recovery of damages for past and future pain and suffering. Ronda's husband presented a derivative claim.

The defense's expert biomechanical engineer submitted a report in which he opined that the accident involved a merely minor impact that could not have caused the injuries that Ms. Ronda claimed to have sustained. Defense counsel contended that Ronda's injuries predated the accident.

Plaintiff Expert(s)
Charles A. Kincaid, Ph.D.
Address: Hackensack, NJ
Specialty: Vocational Rehabilitation
Affiliation: did not testify, Kenneth Halperin

Michael C. Gerling, M.D.
Address: Brooklyn, NY
Specialty: Orthopedic Surgery
Affiliation: did not testify, Kenneth Halperin, Philip Russotti

Michael Freeman, Ph.D.
Address: Portland, OR
Specialty: Biomechanical
Affiliation: did not testify, Philip Russotti, Kenneth Halperin

Charles A. Kincaid, Ph.D.
Address: Hackensack, NJ
Specialty: Vocational Rehabilitation
Affiliation: did not testify, Philip Russotti

Defendant Expert(s)
Charles O. Funk, Ph.D., P.E.
Address: Ann Arbor, MI
Specialty: Accident Reconstruction
Affiliation: did not testify, Jeffrey Reiner

Ashok Anant, M.D.
Address: Brooklyn, NY
Specialty: Neurosurgery
Affiliation: did not testify, Jeffrey Reiner

Joseph McGowan
Address: Bala Cynwyd, PA
Specialty: Biomedical
Affiliation: did not testify, Jeffrey Reiner

Thomas K. Fitzgerald, Ph.D.
Address: Bronxville, NY
Specialty: Economics
Affiliation: did not testify, Kenneth Halperin

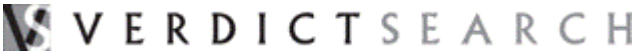
Leonard F. Berliner
Address: Brooklyn, NY
Specialty: Radiology
Affiliation: did not testify, Jeffrey Reiner

Thomas K. Fitzgerald, Ph.D.
Address: Bronxville, NY
Specialty: Economics
Affiliation: did not testify, Philip Russotti

Scott Hirsch, M.D.
Address: New York, NY
Specialty: Psychiatry
Affiliation: did not testify, Jeffrey Reiner

Award: $ 3,250,000

Award Details: The parties negotiated a pretrial settlement. Consolidated Edison, which was self-insured, agreed to pay $3.25 million. The negotiations were mediated by Kenneth Grundstein, of National Arbitration and Mediation Inc.



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Olga Hasbrouck and Craig Hasbrouck v. Bennett Feldstein; 2014 Jury Verdicts LEXIS 11198

2444/12

November 20, 2014

Headline: Driver Didn't Honor Offer to Yield, Plaintiff Claimed

Published Date: December 22, 2014

Topic: Motor Vehicle - Multiple Vehicle

Injury: Herniated Disc at C4-5, Herniated Disc at C5-6, Bulging Disc, Cervical, Shoulder, Decreased Range of Motion, Physical Therapy, Epidural Injections

State: New York

Court: Kings Supreme

Plaintiff Counsel
Michelle Holman
Firm Name: Jaroslawicz & Jaros
Address: New York, NY
Plaintiff Name: (Craig Hasbrouck, Olga Hasbrouck)

Defendant Counsel
Chikodi Emerenini
Firm Name: Of counsel, Harris King & Fodera
Address: New York, NY
Defendant Name: (1)

Judge: Mark I. Partnow

Case Summary
On Oct. 26, 2011, plaintiff Olga Hasbrouck, 38, a homemaker, was driving in the parking lot of a store that was located at 8973 Bay Parkway, in the Bath Beach section of Brooklyn. While she was attempting to execute a right turn onto the eastbound side of nearby Shore Parkway, from the parking lot, her vehicle collided with a vehicle that was being driven by Bennett Feldstein, who was traveling on the eastbound side of Shore Parkway. Hasbrouck claimed that she sustained injuries of her neck.

Hasbrouck sued Feldstein. Hasbrouck alleged that Feldstein was negligent in the operation of his vehicle. The matter proceeded to a summary jury trial.

Hasbrouck claimed that, upon reaching the entrance to Shore Parkway, she noticed Feldstein's vehicle on the parkway, some two car lengths short of her position. She claimed that Feldstein motioned to her, indicating that she could enter the parkway ahead of him, but that he instead proceeded forward and initiated a collision while she was turning. Hasbrouck's husband, who occupied his wife's vehicle at the time of the accident, agreed that Feldstein motioned in a manner that indicated that he was yielding the right of way.

Feldstein was hospitalized during the trial, so he was not present. Defense counsel contended that Feldstein did not perform any gesture that suggested that he was yielding the right of way. He contended that Ms. Hasbrouck nevertheless proceeded onto the parkway and caused the collision. In response, Hasbrouck's counsel noted that

Hasbrouck was transporting her husband and three children at the time of the accident, and she suggested that, as such, Hasbrouck would not have entered the parkway without having been assured that she had the right of way.

Injury Text:

After two days had passed, Hasbrouck presented to New York Methodist Hospital, in Brooklyn. She claimed that she was suffering pain that stemmed from her neck and her right shoulder. She underwent X-rays of her right shoulder.

Hasbrouck ultimately claimed that she sustained herniations of her C4-5 and C5-6 intervertebral discs. She also claimed that she sustained trauma that produced a bulge of her C3-4 disc. She further claimed that the injuries caused pain, that the pain extended to her left shoulder and that she suffered a residual diminution of her range of motion.

Hasbrouck underwent about 18 months of physical therapy, but she claimed that the treatment did not resolve her pain. A doctor recommended epidural injections of steroid-based painkillers, but Hasbrouck suffers an unrelated medical condition that does not allow safe administration of such injections. Surgery was also recommended, but Hasbrouck rejected that option. She claimed that she feared that her resultant convalescence would prevent her from caring for her children.

Hasbrouck further claimed that her pain persists, that her pain is permanent, that she cannot lift heavy objects and that her residual effects hinder her performance of her household chores, which include caring for a child who has special needs. She sought recovery of $35,000 for past pain and suffering, and she sought recovery of $65,000 for future pain and suffering.

Hasbrouck's husband claimed that he has had to assume some of his wife's household chores. He sought recovery of damages for past and future loss of services.

Defense counsel contended that Hasbrouck did not sustain a serious injury, as defined by the no-fault law, Insurance Law ?? 5102(d). The defense's expert radiologist submitted a report in which he opined that Hasbrouck's injuries were degenerative conditions that were not related to the accident.

The defense's expert orthopedist examined Hasbrouck, and he submitted a report in which he opined that Hasbrouck suffers a partial diminution of her range of motion, but that she does not exhibit another disability or impairment.

The parties negotiated a high/low stipulation: Damages could not exceed $45,000, but they had to equal or exceed $1,500.

Trial Length

1.0 day

Jury Deliberation

1.5 hours

Jury Composition

3 male, 3 female

Jury Poll

5-1 (liability); 6-0 (damages)

PLAINTIFF NAME	PROPERTY AWARD
Craig HasbrouckOlga Hasbrouck	$ 105,000

Insurer:

Liberty Mutual Insurance Co.

Plaintiff Amounts:

(Olga Hasbrouck)
$45,000 Personal Injury: Past Pain And Suffering
$60,000 Personal Injury: Future Pain And Suffering

Plaintiff Expert(s)
Michael C. Gerling, M.D.
Address: Brooklyn, NY
Specialty: Orthopedic Surgery
Affiliation: did not testifysubmitted report, Michelle Holman

Joyce Goldenberg
Address: New York, NY
Specialty: Physical Rehabilitation
Affiliation: did not testifysubmitted report, Michelle Holman

Marcello Sammarone
Address: Morristown, NJ
Specialty: Pain Management
Affiliation: did not testifysubmitted report, Michelle Holman

Dr. Salvatore Sclafani
Address: Brooklyn, NY
Specialty: Orthopedic Surgery
Affiliation: did not testifysubmitted report, Michelle Holman

Defendant Expert(s)
Scott S. Coyne, M.D.
Address: East Islip, NY
Specialty: Radiology
Affiliation: did not testifysubmitted report, Chikodi Emerenini

Robert Pick, M.D.
Address: Brooklyn, NY
Specialty: Orthopedic Surgery
Affiliation: did not testifysubmitted report, Chikodi Emerenini

Award: $ 105,000

Award Details: The jury found that Feldstein was entirely liable for the accident. The jury also found that Hasbrouck sustained a serious injury. It determined that she suffers permanent consequential limitation of use of a body organ or member, though it also determined that she did not suffer significant limitation of use of a body function or system.

The jury found that Ms. Hasbrouck's damages totaled $105,000, and it rejected Mr. Hasbrouck's claim. Ms. Hasbrouck's recovery was reduced to the stipulated limit: $45,000.

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New York Reporter Vol. 32

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Patrick Henry; & Jacqueline Kizzie-Henry v. Eleventh Avenue L.P., and DD 11th Avenue, LLC and J.E. Levine Builder, Inc; 2011 Jury Verdicts LEXIS 211736

22326/08

September 14, 2011

Headline: Fall From Roof Ended Career, Carpenter Claimed

Published Date: October 01, 2012

Topic: Construction - Labor Law - Construction - Accidents - Slips, Trips & Falls - Fall from Height

Injury: Comminuted Fracture, Fracture, Humerus, Acromioclavicular Joint Separation, Supraspinatus Muscle/tendon, Tear, Fracture, Rib, Herniated Disc at C5-6, Radiculopathy, Herniated Disc at L5-s1, Fracture, Shoulder, Fracture, Femoral Neck, Fracture, Hip, Rotator Cuff, Injury (tear), Open Reduction, Internal Fixation, Arthroscopy, Chiropractic

State: New York

Court: Kings Supreme

Plaintiff Counsel
Stanley A. Tomkiel
Firm Name: Tomkiel & Tomkiel PC
Address: Scarsdale, NY
Plaintiff Name: (Patrick Henry)

Defendant Counsel
Otto Cheng
Firm Name: Milber Makris Plousadis & Seiden, LLP
Address: White Plains, NY
Defendant Name: (DD 11th Avenue, LLC, Eleventh Avenue L.P., J.E. Levine Builder Inc.)

Judge: David I. Schmidt

Case Summary
On July 24, 2008, plaintiff Patrick Henry, 46, a carpenter, worked at a construction site that was located at 314 11th Ave., in Manhattan. Henry was applying waterproofing material to the roof of a construction shanty that had been erected inside of a parking garage. While he was crouching on top of the shanty, his head bumped a pipe that was located in a deck that was situated about 4 feet above the shanty's roof. Henry stumbled and fell off of the shanty. He landed on the ground, and he sustained injuries of a hip, his neck and a shoulder.

Henry sued the project's general contractor, J.E. Levine Builder Inc., and the premises' owners, Eleventh Avenue L.P. and DD 11th Avenue, LLC. He alleged that the defendants violated the New York State Labor Law.

Henry claimed that he was not provided a harness or any other device that could have prevented his fall. He contended that the shanty's roof was dangerously close to the deck and that the roof was not bounded by a railing.

Henry's counsel claimed that the incident stemmed from an elevation-related hazard, as defined by Labor Law ?? 240(1), and that Henry was not provided the proper, safe equipment that is a requirement of the statute.

Defense counsel contended that Labor Law ?? 240(1) is not applicable to ordinary accidents, such as a worker sustaining a bump of the head.

Henry's counsel moved for summary judgment of liability, and the motion was granted. The matter proceeded to damages.

Injury Text:

Henry claimed that he sustained a comminuted fracture of his left femur's neck, which is a lower component of the left hip's joint; a fracture of his left arm's humerus's greater tuberosity, which is a lower component of the left shoulder's joint; a grade-II separation of the same shoulder's acromioclavicular joint; a partial tear of the same shoulder's supraspinatus tendon, which is an element of the rotator cuff; a fracture of a rib; and herniations of his C5-6 and L5-S1 intervertebral discs. He also claimed that he developed radiculopathy.

His left hip's fracture was addressed via open reduction and internal fixation, and his left shoulder's injuries were addressed via arthroscopic surgery. His spinal injuries were addressed via an extended course of conservative treatment that included chiropractic manipulation, pain management and the administration of painkilling injections that were directed to his spine's lumbar region.

Henry claimed that he suffers permanent residual pain that prevents his resumption of work. He contended that he cannot lift heavy objects, and he claimed that he requires the use of a cane. He also contended that he may have to undergo fusion of his neck.

Henry sought recovery of about $80,000 for his past medical expenses, $2.6 million for future medical expenses, $1 million for future life-care needs, $125,000 for his past lost earnings, $2.8 million for future lost earnings, and unspecified damages for his past and future pain and suffering. His wife presented a derivative claim.

The defense's expert orthopedist submitted a report in which he opined that Mr. Henry did not sustain a permanent injury.

The defense's expert neurologist submitted a report in which he opined that Henry does not suffer permanent neurological limitations.

Insurer:

Illinois National Insurance Co. for all defendants (excess)

Ace Group of Cos. for all defendants (primary insurer)

Plaintiff Expert(s)
Michael Gerling
Address: New York, NY
Specialty: Orthopedics
Affiliation: did not testify, Stanley Tomkiel

Joseph Carfi
Address: New York, NY
Specialty: Physical Rehabilitation
Affiliation: did not testify, Stanley Tomkiel

Tom Fitzgerald
Address: Mount Vernon, NY
Specialty: Economics
Affiliation: did not testify, Stanley Tomkiel

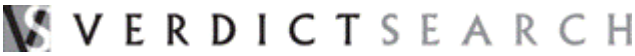
Defendant Expert(s)
Edward S. Crane, M.D.
Address: White Plains, NY
Specialty: Orthopedic Surgery
Affiliation: did not testify, Otto Cheng

Rosalind R. Zuger, M.A., C.R.C.
Address: New York, NY
Specialty: Vocational Rehabilitation
Affiliation: did not testify, Otto Cheng

William B. Head, Jr.
Address: New York, NY
Specialty: Neuropsychiatry
Affiliation: did not testify, Otto Cheng

Award: $ 2,700,000

Award Details: The parties negotiated a pretrial settlement. The defendants' insurers agreed to pay a total of $2.7 million.



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Racquel Rodriguez v. Grease Monkeys of NY, Inc. and Lo Tsepak; 2013 Jury Verdicts LEXIS 7091

3835/11

June 13, 2013

Headline: Defense: Driver Caused Collision While Exiting Parking Space

Published Date: July 29, 2013

Topic: Motor Vehicle - Lane Change - Motor Vehicle - Sideswipe - Motor Vehicle - Multiple Vehicle

Injury: Herniated Disc at C5-6, Bulging Disc, Lumbar, Radiculopathy, Fusion, Cervical, Bone Graft

State: New York

Court: Kings Supreme

Plaintiff Counsel
Stephen Z. Williamson
Firm Name: Corporation Counsel
Address: New York, NY
Plaintiff Name: (Racquel Rodriguez, Racquel Rodriguez, Racquel Rodriguez)

Defendant Counsel
James J. Collins
Firm Name: McCabe & Collins
Address: Mineola, NY
Defendant Name: (Grease Monkeys of NY Inc., Grease Monkeys of NY Inc., Lo Tsepak, Lo Tsepak)

Judge: Peter Paul Sweeney

Case Summary
On April 9, 2010, plaintiff Racquel Rodriguez, an unemployed woman in her late 40s, was driving on the southbound side of Schenectady Avenue, near its intersection at St. John's Place, in the Eastern Parkway section of Brooklyn. Her vehicle was involved in a sideswipe collision with a truck that was being driven by Lo Tsepak. Rodriguez claimed that she sustained injuries of her back and neck.

Rodriguez sued Tsepak and his vehicle's owner, Grease Monkeys of NY Inc. Rodriguez alleged that Tsepak was negligent in the operation of his vehicle. Rodriguez further alleged that Grease Monkeys was vicariously liable for Tsepak's actions.

Rodriguez claimed that the collision occurred while she was stopped at a red traffic signal. She claimed that Tsepak strayed into the lane that her vehicle occupied.

Tsepak claimed that the collision occurred while Rodriguez was driving away from a curbside parking space. He claimed that Rodriguez initiated the impact.

Injury Text:

The trial was bifurcated. Damages were not before the court.

During the day that followed the accident, Rodriguez presented to Lutheran Medical Center, in Brooklyn. She underwent minor treatment.

Rodriguez ultimately claimed that she sustained a herniation of her C5-6 intervertebral disc. She also claimed that she sustained trauma that produced bulges of her L4-5 and L5-S1 discs. She contended that she suffered residual radiculopathy.

Rodriguez underwent surgery that included fusion of her spine's C5-6 level and the grafting of stabilizing bony matter. She claimed that she suffers residual pain and limitations.

Rodriguez sought recovery of damages for past and future pain and suffering.

Defense counsel contended that the accident involved a merely minor collision that could not have caused the injuries that Rodriguez claimed to have sustained.

Trial Length

2.0 days

Jury Deliberation

2.0 hours

Jury Composition

3 male, 3 female

Jury Poll

5-1

Plaintiff Expert(s)
Leon Reyfman
Address: Brooklyn, NY
Specialty: Pain Management
Affiliation: treating doctordid not testify, Stephen Williamson

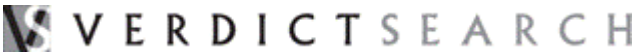
Michael Gerling
Address: Brooklyn, NY
Specialty: Orthopedics
Affiliation: treating surgeondid not testify, Stephen Williamson

Defendant Expert(s)
Robert M. Israel, M.D.
Address: New York, NY
Specialty: Orthopedics
Affiliation: did not testify, James Collins

Solomon Miskin, M.D.
Address: Mount Kisco, NY
Specialty: Neuropsychiatry
Affiliation: did not testify, James Collins

Award: $ 0

Award Details: The jury rendered a defense verdict.



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Rosmary McKnight v. New York City Transit Authority and Jimmie Cotton; 2013 Jury Verdicts LEXIS 7682

23705/10

July 18, 2013

Headline: Bus Accident Caused Disabling Injuries, Passenger Claimed

Published Date: August 19, 2013

Topic: Motor Vehicle - No-Fault Case - Motor Vehicle - Passenger - Motor Vehicle - Rear-ender - Motor Vehicle - Bus - Motor Vehicle - Multiple Vehicle

Injury: Bulging Disc, Cervical, Aggravation of Pre-existing Condition, Anterior Cruciate Ligament, Tear, Medial Meniscus, Tear, Synovitis, Physical Therapy, Arthroscopy, Fusion, Cervical, Herniated Disc at C4-5, Herniated Disc at C5-6, Herniated Disc at C6-7

State: New York

Court: Kings Supreme

Plaintiff Counsel
Frederick C. Aranki
Firm Name: Block O'Toole & Murphy, LLP, New York, NY, trial counsel, Bragoli & Associates, P.C., Melville, NY
Address: New York, NY
Plaintiff Name: (Rosmary McKnight)

Scott C. Occhiogrosso
Firm Name: Armienti, DeBellis, Guglielmo & Rhoden, LLP
Address: New York, NY
Plaintiff Name: (Rosmary McKnight)

Defendant Counsel
Horace Rhoden
Firm Name: Armienti, DeBellis, Guglielmo & Rhoden, LLP
Address: New York, NY
Defendant Name: (NYCTA, Jimmie Cotton)

Judge: Richard Velasquez

Case Summary
On June 2, 2010, plaintiff Rosmary McKnight, an unemployed woman in her late 40s, was a passenger of a public bus that was traveling on Nostrand Avenue, near its intersection at Lincoln Place, in the Crown Heights section of Brooklyn. The bus struck the rear end of a preceding tanker truck. McKnight claimed that she sustained injuries of her back, her knees and her neck.

McKnight sued the bus's driver, Jimmie Cotton, and his employer, the New York City Transit Authority. McKnight alleged that Cotton was negligent in the operation of his vehicle. McKnight further alleged that the New York City Transit Authority was vicariously liable for Cotton's actions.

McKnight's counsel moved for summary judgment of liability, and the motion was granted. The trial addressed damages.

Injury Text:

McKnight was placed in an ambulance, and she was transported to The Brookdale University Hospital and Medical Center, in Brooklyn. She underwent minor treatment.

McKnight ultimately claimed that she sustained herniations of her C4-5, C5-6 and C6-7 intervertebral discs; trauma that produced a bulge of her C3-4 disc; an aggravation of a fused area of her spine's lumbar region; a partial tear of her right knee's anterior cruciate ligament; and a tear of the posterior horn of her left knee's medial meniscus. She also claimed that her knees developed synovitis: inflammation of the tissue that lines a joint.

On Aug. 27, 2010, McKnight underwent arthroscopic surgery that addressed her right knee. On Oct. 26, 2010, she underwent arthroscopic surgery that addressed her left knee. On July 11, 2011, she underwent fusion of her spine's C4-5, C5-6 and C6-7 levels. She also underwent about 12 months of physical therapy that addressed all of her injuries.

McKnight claimed that she suffers residual pain and limitations that hinder her performance of her everyday activities. At the time of the accident, she was collecting disability benefits that dated to an accident that occurred in 2002. She claimed that she had completed a course to become a medical assistant, but that the instant accident's residual effects prevent her performance of any type of work. She also claimed that she must undergo replacement of her knees, additional fusion of her spine's cervical region, physical therapy and other treatment.

McKnight sought recovery of past and future medical expenses, past and future lost earnings, and damages for past and future pain and suffering.

Defense counsel contended that McKnight did not sustain a serious injury, as defined by the no-fault law, Insurance Law ?? 5102(d). He claimed that the collision involved a merely minor impact that could not have caused the injuries that McKnight claimed to have sustained. Cotton claimed that he was maintaining a speed of 5 to 10 mph during the moments that preceded the accident.

The defense's expert neuroradiologist and expert orthopedic surgeon agreed that the injuries of the cervical region of McKnight's spine were long-standing degenerative conditions that were documented in 2002 and were the subject of extensive treatment during the years that predated the instant accident. The orthopedic surgeon also opined that the injuries of McKnight's knees were degenerative conditions that stemmed from age and obesity. He noted that MRI scans, performed shortly after the instant accident, revealed severe chondromalacia, which is cartilage wear that generally develops during an extended period of time.

Defense counsel also contended that McKnight exaggerated the extent of her future medical needs.

Trial Length

14.0 days

PLAINTIFF NAME	PROPERTY AWARD
Rosmary McKnight	$ 2,270,000

Plaintiff Amounts:

(Rosmary McKnight)
$190,000 Personal Injury: Past Medical Cost
$80,000 Personal Injury: Past Lost Earnings Capability
$400,000 Personal Injury: FutureLostEarningsCapability
$150,000 Personal Injury: Past Pain And Suffering
$700,000 Personal Injury: future medical cost (25 years)
$750,000 Personal Injury: future pain and suffering (25 years)

Plaintiff Expert(s)
Edwin F. Richter, M.D.
Address: Stamford, CT
Specialty: Physical Medicine
Affiliation: Frederick Aranki

Michael Gerling
Address: New York, NY
Specialty: Spinal Surgery
Affiliation: Scott Occhiogrosso

Alan M. Leiken, Ph.D.
Address: Stony Brook, NY
Specialty: Economics
Affiliation: Frederick Aranki

Michael Gerling
Address: New York, NY
Specialty: Spinal Surgery
Affiliation: Frederick Aranki

Charles A. Kincaid, Ph.D.
Address: Hackensack, NJ
Specialty: Vocational Rehabilitation
Affiliation: Frederick Aranki, Scott Occhiogrosso

Alan M. Leiken, Ph.D.
Address: Stony Brook, NY
Specialty: Economics
Affiliation: Scott Occhiogrosso

Mehran Manouel, M.D.
Address: Forest Hills, NY
Specialty: Orthopedic Surgery
Affiliation: Scott Occhiogrosso, Frederick Aranki

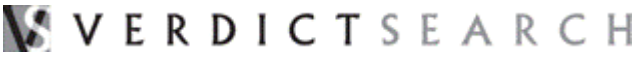
Edwin F. Richter, M.D.
Address: Stamford, CT
Specialty: Physical Medicine
Affiliation: Scott Occhiogrosso

Defendant Expert(s)
Lewis M. Rothman, M.D.
Address: Valhalla, NY
Specialty: Neuroradiology
Affiliation: Horace Rhoden

Jacquelin Emmanuel, M.D.
Address: New York, NY
Specialty: Orthopedics
Affiliation: Horace Rhoden

Award: $ 2,270,000

Award Details: The jury found that McKnight sustained a serious injury that was related to the accident. It determined that her damages totaled $2.27 million.



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Sevann Grant v. City of New York Andrew Herbert and Wanda King; 2015 Jury Verdicts LEXIS 7667

13651/12

July 07, 2015

Headline: Car's Passenger Claimed Collision Caused Spinal Injuries

Published Date: October 05, 2015

Topic: Motor Vehicle - Passenger - Motor Vehicle - Lane Change - Motor Vehicle - Sideswipe - Motor Vehicle - Multiple Vehicle

Injury: Bulging Disc, Lumbar, Herniated Disc at L4-5, Herniated Disc at L5-s1, Fusion, Lumbar, Discectomy, Chiropractic, Physical Therapy, Trigger Point Injection

State: New York

Court: Kings Supreme

Plaintiff Counsel
Stephen Z. Williamson
Firm Name: trial counsel, The Shulman Law Firm, PLLC
Address: New York, NY
Plaintiff Name: (Sevann Grant, Sevann Grant, Sevann Grant, Sevann Grant)

Defendant Counsel
None reported
Firm Name: Richard T. Lau & Associates
Address: New York, NY
Defendant Name: (Wanda King, Wanda King)

Yolanda Guadagnoli
Firm Name: New York City Law Department, Corporation Counsel
Address: Brooklyn, NY
Defendant Name: (1, 1, Andrew Herbert, Andrew Herbert)

Judge: Kenneth P. Sherman

Case Summary
On Oct. 21, 2011, plaintiff Sevann Grant, a 39-year-old unemployed man, was a front-seat passenger of a car that was being driven by Wanda King, who was traveling on a one-way portion of Fulton Street, in Brooklyn. King's vehicle collided with a firetruck that was being driven by Andrew Herbert. Grant claimed that he sustained injuries of his back.

Grant sued King, Herbert and Herbert's employer, the city of New York. Grant alleged that King and Herbert were negligent in the operation of their respective vehicles. Grant further alleged that the city of New York was vicariously liable for Herbert's actions.

Grant claimed that the collision occurred while Herbert was exiting a parked curbside position. He claimed that Herbert failed to assess traffic conditions before beginning to travel. Grant also claimed that King could have avoided the collision.

Liability was decided via summary judgment: Herbert and the city of New York were deemed entirely liable for the accident, and King was dismissed. The matter proceeded to damages.

Injury Text:

Grant was wearing a seat belt, but he claimed that the accident involved a significant impact that jostled him.

After nine days had passed, Grant presented to a medical clinic. He claimed that his back was painful and weak. He also claimed that he was experiencing radiating pain. He was referred for conservative treatment.

Grant ultimately claimed that he sustained trauma that produced bulges of his L4-5 and L5-S1 intervertebral discs. Grant's expert mechanical engineer submitted a report in which he opined that Grant's injuries were a result of the accident, though he acknowledged that Grant's vehicle sustained minimal damage.

Grant underwent chiropractic manipulation, physical therapy and a regimen of pain management, but he claimed that he experienced ongoing pain. On Dec. 2, 2012, he underwent surgery that included a discectomy--which involved excision of portions of his L4-5 and L5-S1 discs--and fusion of the corresponding levels of his spine. The surgery was followed by an additional course of physical therapy and an additional regimen of pain management, which included administration of painkilling trigger-point injections.

Grant claimed that he suffers residual pain and limitations. He also claimed that he requires lifelong treatment that will include physical therapy and a regimen of pain management. He sought recovery of past medical expenses, future medical expenses, damages for past pain and suffering, and damages for future pain and suffering.

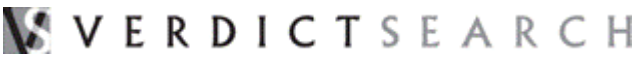
Defense counsel contended that the accident involved a merely minor collision that was not a likely cause of the injuries that Grant claimed to have sustained. Defense counsel also contended that Grant achieved a good recovery and does not suffer residual deficits.

Plaintiff Expert(s)
Kirk (A.K.) Rosenhan, P.E.
Address: Hillsboro, MO
Specialty: Mechanical
Affiliation: did not testify, Stephen Williamson

Michael C. Gerling, M.D.
Address: Brooklyn, NY
Specialty: Orthopedic Surgery
Affiliation: treating doctordid not testify, Stephen Williamson

Award: $ 975,000

Award Details: Shortly before the day on which a jury would have been selected, the parties negotiated a settlement. The city agreed to pay $975,000.



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Shaquita Cambridge v. Piccinini Brothers, Inc. and Socrates D. Fernandez; 2014 Jury Verdicts LEXIS 7251

1891/12

August 04, 2014

Headline: Car Crash Caused Spinal Injury, Plaintiff Claimed

Published Date: September 01, 2014

Topic: Motor Vehicle - Passenger - Motor Vehicle - Rear-ender - Motor Vehicle - Multiple Vehicle

Injury: Herniated Disc at L4-5, Epidural Injections, Discectomy, Chiropractic, Physical Therapy, Acupuncture, Radiculopathy, Microdiscectomy, Decreased Range of Motion, Nerve Impingement

State: New York

Court: Kings Supreme

Plaintiff Counsel
Daniel P. O'Toole
Firm Name: Block O'Toole & Murphy, LLP
Address: New York, NY
Plaintiff Name: (Shaquita Cambridge)

Defendant Counsel
Paul L. Kassirer
Firm Name: Lester, Schwab, Katz & Dwyer, L.L.P.
Address: New York, NY
Defendant Name: (Piccinini Brothers Inc., Socrates D. Fernandez)

Timothy J. Staines
Firm Name: Lester Schwab Katz & Dwyer, LLP
Address: New York, NY
Defendant Name: (Piccinini Brothers Inc., Socrates D. Fernandez)

Judge: Kenneth Grundstein

Case Summary
On Feb. 26, 2011, plaintiff Shaquita Cambridge, a 17-year-old unemployed woman, was a front-seat passenger of a car that was traveling on the eastbound side of Atlantic Avenue, in the Crown Heights section of Brooklyn. While the car was stopped at a red traffic signal at the intersection at Brooklyn Avenue, its rear end was struck by a trailing van that was being driven by Socrates Fernandez. Cambridge claimed that she sustained an injury of her back.

Cambridge sued Fernandez and his employer, Piccinini Brothers Inc. Cambridge alleged that Fernandez was negligent in the operation of his vehicle. She further alleged that Piccinini Brothers was liable because the accident occurred while Fernandez was performing his job's duties.

Cambridge's counsel moved for summary judgment of liability, and the motion was granted. The matter proceeded to damages.

Injury Text:

After two days had passed, Cambridge presented to a medical clinic. She claimed that she was suffering pain that stemmed from the lower portion of her back. She underwent minor treatment.

Cambridge ultimately claimed that she sustained a herniation of her L4-5 intervertebral disc. She also claimed that the disc caused impingement of a spinal nerve and resultant radiculopathy. She immediately commenced a course of conservative treatment that included acupuncture, chiropractic manipulation, physical therapy and the administration of an epidural injection of a steroid-based painkiller. The treatment ultimately lasted about eight months, though it temporarily stopped in June 2011, when Cambridge underwent an endoscopic discectomy, a minimally invasive procedure that involved excision of tissue of her herniated disc. On May 31, 2012, Cambridge underwent a microdiscectomy, which involved excision of a portion of her herniated disc. The procedure was followed by about one month of physical therapy.

Cambridge claimed that she suffers residual pain and a residual diminution of her back's range of motion. Cambridge is employed as a full-time security guard, but a vocational-rehabilitation expert submitted a report in which he estimated that Cambridge's residual effects will subtract 8.6 years from Cambridge's career. Cambridge's treating surgeon and expert physiatrist submitted reports in which they opined that Cambridge will require physical therapy and the use of painkillers. They also opined that Cambridge may have to undergo fusion of a portion of her spine's lumbar region.

Cambridge sought recovery of $1,540,432 for future medical expenses, $758,917 for future lost earnings, and unspecified damages for past and future pain and suffering.

The defense's expert physiatrist examined Cambridge, and he submitted a report in which he opined that the accident caused nothing more than a sprain of Cambridge's lumbar region. The expert also contended that a post-accident MRI scan did not reveal a herniated disc, and he opined that Cambridge does not exhibit objective signs of a residual injury. The expert further opined that Cambridge does not require additional treatment and that the accident did not cause an injury that altered the course of Cambridge's career.

The defense's expert orthopedic surgeon submitted a report in which he opined that Cambridge did not exhibit indications of having sustained a traumatic injury, that her surgeries were not warranted by anything he observed and that she does not exhibit objective signs of a residual injury, though he observed what he deemed a subjective diminution of her range of motion. The expert also opined that Cambridge requires no treatment other than an independent regimen of therapeutic exercises, and he contended that her ongoing effects do not restrict any of her activities.

Insurer:

Crum & Forster for both defendants (primary insurer)

National Surety Corp. for both defendants (excess)

Plaintiff Expert(s)
Michael C. Gerling, M.D.
Address: Brooklyn, NY
Specialty: Orthopedic Surgery
Affiliation: treating doctordid not testify, Daniel O'Toole

Kristin Kucsma
Address: Livingston, NJ
Specialty: Economics
Affiliation: did not testify, Daniel O'Toole

Charles A. Kincaid, Ph.D.
Address: Hackensack, NJ
Specialty: Vocational Rehabilitation

Affiliation: did not testify, Daniel O'Toole

Edwin F. Richter III, M.D.
Address: Stamford, CT
Specialty: Physical Medicine
Affiliation: did not testify, Daniel O'Toole

Defendant Expert(s)
Robert B. Goldberg, D.O.
Address: New York, NY
Specialty: Physical Rehabilitation
Affiliation: did not testify, Paul Kassirer

Paul L. Kuflik, M.D.
Address: New York, NY
Specialty: Orthopedic Surgery
Affiliation: did not testify, Timothy Staines

Peter D. Capotosto
Address: Churchville, NY
Specialty: Vocational Rehabilitation
Affiliation: did not testify, Timothy Staines

Robert B. Goldberg, D.O.
Address: New York, NY
Specialty: Physical Rehabilitation
Affiliation: did not testify, Timothy Staines

Paul L. Kuflik, M.D.
Address: New York, NY
Specialty: Orthopedic Surgery
Affiliation: did not testify, Paul Kassirer

Peter D. Capotosto
Address: Churchville, NY
Specialty: Vocational Rehabilitation
Affiliation: did not testify, Paul Kassirer

Award: $ 1,600,000

Award Details: Ten days before the scheduled start of the trial, the parties negotiated a settlement. The defendants' primary insurer tendered its policy, which provided $1 million of coverage, and the defendants' excess insurer agreed to pay $600,000, from a policy that provided $4 million of coverage. The settlement was finalized via the guidance of mediator Kenneth Grundstein, of National Arbitration and Mediation Inc.

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New York Reporter Vol. 32

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Wendy Sanchez v. Red Lobster; 2016 Jury Verdicts LEXIS 2802

1:12-cv-02324-CBA-MD; 12-CV-2324

May 02, 2016

Party Names
Plaintiff(s):
Sanchez, Wendy

Defendant(s):
Red Lobster

Topic: Premises Liability

Injury: Physical Injury

State: New York

Court: US District Court for the Eastern District of New York

Plaintiff Counsel
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Case Summary
Slip and fall.

Plaintiff Expert(s)
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Affiliation: Morristown Memorial Hospital, Mt. Kemble Division
Affiliation: Morristown Medical Center
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