



NEW YORK STATE
JURY VERDICT
 REVIEW & ANALYSIS®

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**SUMMARIES
 WITH TRIAL
 ANALYSIS**

**Volume 28, Issue 4
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*A monthly review of
 New York State and
 Federal Civil Jury Verdicts
 with professional analysis
 and commentary.*

*The New York cases
 summarized in detail herein
 are obtained from an on-
 going monthly survey of the
 State and Federal Courts in
 the State of New York.*

\$37,392,000 TOTAL VERDICT – Motor vehicle negligence – Auto/pedestrian collision – Defendant driving stolen vehicle while intoxicated – Co-defendant vehicle owner leaves keys in vehicle while running an errand – Plaintiff college student suffers traumatic brain injuries – Permanent memory loss – Loss of use of left side of her body 2

\$2,000,000 POLICY LIMIT RECOVERY – Motor vehicle negligence – Auto/pedestrian collision – Eight-year-old on sidewalk waiting for light to change is run over by right-turning private school bus 3

DEFENDANT’S VERDICT – Motor vehicle negligence – Auto/bicycle collision – Man on bicycle hit by car in parking lot – Alleged injuries to neck, back, and extremities 5

\$5,500,000 VERDICT – Medical malpractice – Hospital negligence – Excessive administration of epidural block – Inability to determine pain due to excessive birthing maneuvers – Fractured pelvis 5

\$300,000 VERDICT – Medical malpractice – Hospital negligence – Family of deceased man sues for negligence after he develops severe gaping bedsores – Advanced decubitus ulcers 7

DEFENDANT’S VERDICT – Medical malpractice – Surgery – Negligent management of endotracheal tube after coronary bypass surgery – Premature extubation – Tracheal stenosis – Tracheostomy 8

\$5,500,000 VERDICT – Premises liability – Hazardous premises – Failure to comply with electric code grounding requirements – Volunteer firefighter on business’s roof several days after minor fire contacts sign leaking electricity – Death by electrocution 9

\$3,158,599 VERDICT – Labor Law Sec 240 (1) – Plaintiff laborer engaged in major renovations falls eight to ten feet from unsecured ladder – Fracture of medial malleolus – Surgery after conservative course fails to achieve union – Lumbar herniation – Inability to continue physical work 10

**VERDICTS BY
 CATEGORY**

*A capsulized regional
 Northeast summary of
 significant verdicts from
 our companion publications
 in NJ, PA and the
 New England States
 is also included.*

Published monthly

Professional Malpractice (2)	Premises Liability (10)
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Auto/Pedestrian Collision 18	
Intersection Collision 19	
Left Turn Collision 19	
Rear End Collision 20	

REFERENCE

Henry vs. Alpers. Index no. 014697/2007; Judge Roy S. Mahon.

~~Attorney for plaintiff: **Robert Block of Sanders Sanders, Block, Woycik, M...** Grossman, P.C. in Mineola, NY. Attorney for defendant: **Colin Rathje of Kelly, Rode & Kelly, L.L.P. in Mineola, NY.**~~

Intersection Collision



\$50,000 RECOVERY

Motor vehicle negligence – Intersection collision – Failure to stop at stop sign – Two compression cervical fractures – Need for painkilling medication – Death from unknown causes several weeks after collision.

Queens County, NY

In this motor vehicle negligence action, the plaintiff contended that the defendant driver negligently made a left turn from the stem of a T-Intersection without yielding, causing the collision. Neither the defendant, nor his wife, both in their early 90s, recalled the details of the accident.

The plaintiff alleged that upon entering a T-intersection, the host vehicle was negligently struck by the defendant turning left. The defendant allegedly failed to stop at the stop sign and to yield to the plaintiff's car passing through the intersection.

The plaintiff's driver in his early 50s sustained two cervical compression fractures. The plaintiff maintained that the injuries were very painful and necessitated pain killing medication. The driver passed away from unknown causes several weeks after the collision. No autopsy was performed because of religious reasons.

The case settled prior to trial for \$50,000.

REFERENCE

Friedman vs. Zacher. Index no. 16842/06, 04-05-11.

Attorney for plaintiff: **Dov B. Medinets of Ginsberg & Wolf in New York, NY.**

Left Turn Collision

~~**\$305,000 VERDICT**~~

Motor vehicle negligence – Left turn collision – Non-host makes left turn in path of host automobile causing vehicles to collide – Plaintiff passenger in wife's car suffers lumbar herniation necessitating foraminotomy – Complication of cerebral-spinal leak in first surgery necessitates second procedure.

Nassau County, NY

The 29-year-old plaintiff passenger, in the car driven by his wife, contended that the defendant non-host driver negligently made a left turn in the path of the host automobile, causing the collision. The host driver was also a defendant and the non-host contended that she failed to make adequate observations. The host driver had indicated that she did not see the non-host until immediately before the collision.

The plaintiff contended that he sustained a herniation at L5-S1 that was causing extensive radicular pain in the right leg. The plaintiff maintained that after physical therapy and pain-killing medication proved to be inadequate, he underwent an initial foraminotomy. The plaintiff maintained that because of a complication involving a cerebral spinal leak, he required a second surgery a few days later.

The plaintiff contended that he will permanently experience severe pain and limitations and will require extensive future medical care, introducing evidence of costs that exceeded \$300,000. The defendant non-host driver's neurologist, orthopedist and radiologist contended that the plaintiff's symptoms stemmed from degenerative disc disease only. The defense further denied that the plaintiff's claims regarding the continuing pain should be accepted, pointing out that he lost little time from his heating, ventilation and air-conditioning systems servicing job.

The son of the host driver and plaintiff passenger, age 12, was in the rear seat and was a plaintiff making a claim for soft tissue cervical sprains and strains, lacerations to the neck, and allegedly permanent neck and chest pain and limitation. The Court held that this plaintiff did not satisfy the no-fault threshold as a matter of law and dismissed this aspect.

The jury found the defendant host driver 100% negligent and awarded \$285,000, including \$250,000 for past pain and suffering, \$0 for future pain and suffering and \$35,000 for future medical bills. During deliberations, the parties entered into a \$200,000/\$700,000 high/low agreement and the case settled for \$305,000.