

DRAFT

NEW YORK

NASSAU COUNTY

MOTOR VEHICLE

Rear-ender — Motor Vehicle — Stop Sign — Motor Vehicle — Negligent Entrustment

Headline Unknown.

Verdict Defense

Case Maria Huelmo v. Edward P. O'Gorman Jr. and Nancy O'Gorman, No. 26162-09

Court Nassau Supreme

Judge Anthony L. Parga

Date 9/16/2014

Plaintiff

Attorney(s)

John R. Ferretti, Nicolini, Paradise, Ferretti & Sabella, Mineola, NY
Brad H. Rosken, Law Offices of Brad H. Rosken, Huntington, NY

Defense

Attorney(s)

None reported

Facts & Allegations

On Aug. 19, 2008 plaintiff Maria Huelmo, a 47-year-old self-employed housekeeper, was driving a Honda Civic on the Southern State Parkway Wantaugh Avenue exit in Wantaugh when she was involved in a collision with a Chevrolet Suburban driven by Nancy O'Gorman and owned by Edward O'Gorman Jr.

Huelmo sued the O'Gormans, claiming negligence. Huelmo claimed she had come to a stop at the stop sign at the end of the exit ramp when O'Gorman failed to keep a proper lookout or control his speed and collided with the rear of her car.

The O'Gormans stipulated liability.

Injuries/Damages

herniated disc at L3-4; herniated disc at L4-5; herniated disc at L5-S1; fusion, lumbar; physical therapy; trigger point injection; epidural injections; discectomy

Huelmo claimed to have sustained herniations at L3-4, L4-5 and L5-S1.

Huelmo underwent three years of chiropractic treatment, acupuncture, epidural steroid injections and trigger point injections. She underwent a three-level lumbar fusion and discectomy with instrumentations, three screws and a rod in December 2011, after which she resumed physical therapy.

Huelmo was seeking \$200,000 for past pain and suffering and \$200,000 for future pain and suffering.

Defense counsel disputed the damages. Defense counsel argued Huelmo's car sustained only minor cosmetic damage, establishing the collision took place at too low a speed to cause the claimed injuries. The defense biomechanical expert testified the forces the collision would have exerted on her back were approximately one-tenth of those involved in moving a couch, which plaintiff's counsel argued Huelmo did routinely as part of her job. Defense counsel argued while Huelmo had denied prior back injuries her medical records showed an occupational lumbar injury in 2007. The defense orthopedic and radiological experts testified Huelmo's injuries were preexisting conditions not connected to the collision.

Result

The jury found the collision was not the proximate cause of Huelmo's injuries.

Plaintiff(s)

Maria Huelmo

Demand None reported

Offer None reported

Insurer(s)

State Farm Insurance Co. (\$250,000 policy)

Trial Details

Trial Length: 6 Days

Jury Deliberations: 30 Minutes

Jury Poll: None reported

Jury Composition: None reported

Plaintiff

Expert(s)

Barry M. Katzman, M.D., orthopedics, Astoria, NY (treating physician)

Defense

Expert(s)

Jessica F. Berkowitz, M.D., radiology, Suffern, NY

Michael D. Katz, M.D., orthopedic surgery, Flushing, NY

Post-Trial

None reported

Editor's Note

This report is based on information from defense counsel. Plaintiff's counsel declined comment.

Plaintiff(s)

Demographics

Maria Huelmo

Age: 47 Years

Occupation: housekeeper

Gender: Female

Married: Yes

Children: Yes

Children Description: Injured party

Written By –Rick Archer