

MOTOR VEHICLE

Pedestrian — Left Turn

Woman struck by car, claimed injuries of knee, neck, wrist

Verdict (P) \$62,800

Case Kathryn D. Seidenstein v. Halina A. Szlakowicz, No. 100437/11

Court New York Supreme

Judge Carol Robinson Edmead

Date 10/25/2013

Plaintiff Attorney(s)

Kostantinos Mallas, Georgaklis & Mallas PLLC, Brooklyn, NY

Defense Attorney(s)

John R. Ferretti, Nicolini, Paradise, Ferretti & Sabella, Mineola, NY

Facts & Allegations At about 6 p.m. on Dec. 12, 2010, plaintiff Kathryn Seidenstein, a human-resources manager in her mid-30s, was struck by a motor vehicle. The incident occurred on East 59th Street, alongside its intersection at First Avenue, in Manhattan. Seidenstein claimed that she sustained injuries of a knee, her neck and a wrist.

Seidenstein sued the vehicle's driver, Halina Szlakowicz. Seidenstein alleged that Szlakowicz was negligent in the operation of her vehicle.

Seidenstein claimed that the impact occurred in a crosswalk, while Szlakowicz was executing a left turn onto East 59th Street, from First Avenue. Plaintiff's counsel contended that Szlakowicz should have yielded the right of way.

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

Injuries/Damages *arthroscopy; avulsion fracture; epidural injections; fracture, knee; fracture, tibial plateau; herniated disc at C5-6; medial collateral ligament, damage; scapholunate ligament, tear*

Seidenstein was placed in an ambulance, and she was transported to a hospital. She underwent minor treatment. Seidenstein ultimately claimed that she sustained an avulsion fracture of her right leg's tibial plateau, which is a lower component of the knee, a complete tear of the same knee's medial collateral ligament, a herniation of her C5-6 intervertebral disc and a tear of her left, nondominant wrist's scapholunate ligament.

On Jan. 17, 2011, Seidenstein underwent surgery that involved the repair and reattachment of her left wrist's scapholunate ligament. On March 14, 2012, she underwent arthroscopic surgery that addressed her right knee's torn ligament. She also underwent the administration of epidural injections of steroid-based painkillers.

Seidenstein claimed that she suffers permanent residual limitations of her left wrist and her right knee. She also claimed that her left wrist's limitations hinder her ability to open doors and jars. She further claimed that she previously enjoyed an active lifestyle that included her completion of two 26-mile-long marathon races, but that her right knee's limitations prevent her resumption of that activity, her regular exercises and other physical activities.

Seidenstein's medical expenses were reimbursed by insurance. She sought recovery of \$300,000 for past pain and suffering and \$640,000 for future pain and suffering.

Defense counsel contended that Seidenstein's left wrist's injury healed in an excellent manner. He also contended that Seidenstein's left knee's medial collateral ligament healed without intervention and that, as such, the arthroscopic surgery was unnecessary. The defense's expert orthopedist opined that the surgery addressed degeneration of cartilage and an abnormal growth of tissue. Defense counsel also contended that Seidenstein's herniated disc was not related to the accident.

Result The jury found that Seidenstein's damages totaled \$62,800.

Kathryn Seidenstein

\$20,000 past pain and suffering

\$42,800 future pain and suffering

\$62,800 plaintiff's total award

Demand \$450,000

Offer \$125,000

Insurer(s) State Farm Mutual Automobile Insurance Co.

Trial Details

Trial Length: 5 Days

Jury Deliberations: 1 Hour

Jury Poll: 5-1

Jury Composition: 3 male, 3 female

Plaintiff Expert(s)

Jerry A. Lubliner, M.D., orthopedic surgery, New York, NY

Defense Expert(s)

Arnold T. Berman, M.D., orthopedic surgery, Philadelphia, PA

Melissa Sapan, M.D., radiology, West Islip, NY

Post-Trial Plaintiff's counsel contended that the damages awards were inadequate. He moved to set aside the awards, but the motion was denied.

Editor's Note This report is based on court documents and information that was provided by defense counsel. Plaintiff's counsel did not respond to the reporter's phone calls.

Written By –Dan Israeli