



Attorney for Plaintiff:

Francis M. Smith, Esq.

Francis M. Smith, Esq. P.C.

WWW.FRANKSMITHLAW.COM

\$1,975,000 RECOVERY – RED LIGHT/GREEN LIGHT – PLAINTIFF PASSENGER SUFFERS MULTIPLE FRACTURES AND NEEDS CANE TO WALK

Union County, New Jersey

The plaintiff, a 69-year old back seat passenger in her son's small sedan, contended that the defendant non-host driver of a large pick-up truck negligently failed to stop at a red light, striking the side of the host automobile. The defendant also named the host driver as a third party defendant, but this aspect was dismissed on Summary Judgment with the court noting that non-host did not dispute having the red light, and also pointing to evidence that reflected that the non-host suddenly struck the side of the host car after the host ran the red light, and that the host had no opportunity to take evasive action. The plaintiff contended that she sustained multiple pelvic fractures, a sacral fracture, knee and shoulder ligament tears necessitating surgery, a mild traumatic brain injury, and dizziness that was caused by a vestibular dysfunction.

The plaintiff maintained that she will suffer very significant pain and restriction, and will permanently require a cane to walk. The plaintiff also contended that she was previously very independent, and that the need to rely extensively on her adult son has caused a very significant psychological depression. The non-host driver had \$500,000 in primary coverage, and a \$2,000,000 umbrella.

The plaintiff contended that the fracture injuries could only be treated by way of bed rest, and that although the multiple pelvic fractures and sacral fracture ultimately healed, she was left with extensive permanent pain and difficulties ambulating. The plaintiff maintained that such impediments were increased by a knee tear that required arthroscopic surgery. The plaintiff contended that she will permanently require a cane to walk.

The plaintiff also contended that the shoulder tear required surgery, and that this aspect has increased her pain and difficulties performing everyday tasks.

The plaintiff further maintained that she suffered a closed head trauma in the collision, which caused a mild traumatic brain injury and some difficulties with short term memory, and concentration that were confirmed by a battery of neuropsychological tests. The plaintiff further contended that balance difficulties have been caused by a vestibular disturbance

associated with the head trauma. The plaintiff's ENT physician would have maintained that this aspect is permanent in nature based on objective testing.

The plaintiff would have related that up until the time of the collision, she was a very independent type individual, and placed great emphasis on her ability to remain self reliant.

The plaintiff contended that, because of the injuries sustained in the accident, and the difficulties with ambulation, she has been forced to give up much of this independence and now finds herself completely reliant upon her adult son for day-to-day assistance.

The plaintiff would have argued that the jury should consider that, in addition to the physical injuries in and of themselves, the impact on her life, as well as the loss of a great deal of independence, constituted a very substantial injury.

The plaintiff made no income claims. The plaintiff initially settled with the primary carrier for \$475,000. In conjunction with this aspect, a so-called Deblon Release, which enabled her to proceed against the excess carrier, even though the settlement with the primary carrier was for less than the full \$500,000 policy, was executed. The plaintiff then settled with the excess carrier for \$1,500,000, yielding a total recovery of \$1,975,000.



JURY VERDICT REVIEW & ANALYSIS

www.JVRA.com

National and State publications providing your best source for regular review and analysis of civil jury verdicts throughout the United States since 1980.

REFERENCE

PLAINTIFF'S ENT PHYSICIAN EXPERT: JAMES Z. CINBERG, M.D FROM ELIZABETH, NJ. PLAINTIFF'S FUNCTIONAL CAPACITY EXPERT: ELLEN RADER SMITH FROM MONTVILLE, NJ. PLAINTIFF'S LIFE CARE PLANNING EXPERT: DONNA FLANNERY FROM FAIRFIELD, NJ. PLAINTIFF'S NEUROPSYCHOLOGICAL EXPERT: SUSAN COOK, PSY.D FROM UNION, NJ. PLAINTIFF'S ORTHOPEDIC SURGICAL EXPERT: CARY SKOLNICK, M.D. FROM NUTLEY, NJ. PLAINTIFF'S PAIN MANAGEMENT PHYSICIAN EXPERT: WAYNE FLEISCHHACKER, DO FROM UNION, NJ. PLAINTIFF'S PSYCHIATRIC EXPERT: GRIGORY RASIN, M.D FROM UNION, NJ.

JUDGE RET JUDGE WILLIAM L'E. WERTHEIMER.

ATTORNEY FOR PLAINTIFF: FRANCIS M. SMITH OF FM SMITH,PC IN MOUNTAINSIDE, NJ.

COMMENTARY

It should be noted that the Court found the non-host fully responsible, as they had the red light. Summary Judgment and The Court also held on the plaintiff's motion for partial Summary Judgment, that the Limitation on Lawsuit threshold was satisfied a matter of law. The plaintiff, during negotiations with the defendant non-host driver, who had a \$500,000 primary policy, and a \$2,000,000 umbrella, argued that, although the objectively demonstrable injuries, such as that the fractures and continued vertigo, which combined to necessitate the use of a cane to walk, constituted severe injuries in and of themselves, the loss of independence by this proud individual, and the need to rely extensive on her adult son, caused a very profound psychological depression, and that in order to compensate for such loss, very significant compensation was required. The matter resolved after mediation by retired judge, William L'E. Wertheimer.