

PENNSYLVANIA LawWeekly

www.thelegalintelligencer.com An ALM Publication

VERDICTS & SETTLEMENTS



VERDICTS AND SETTLEMENTS FORM : WWW.LAW.COM/JSP/PA/SUBMIT_VERDICTS.JSP

Phila. Jury Awards \$850,000 for Parking Spot Accident *Moyer v. Medvinsky*

\$850,000 Verdict

Date of Verdict:

Aug. 24, 2010.

Court and Case No.:

C.P. Philadelphia No. 071103078.

Judge:

Ricardo Jackson.

Type of Action:

Personal Injury.

Injuries:

Lumbar disc herniations, degenerative disc disease, post-traumatic myofascial pain syndrome.

Plaintiff's Attorneys:

Ken Fulginiti, Duffy + Partners, Philadelphia.

Plaintiff's Experts:

Dr. Robert Sing, family physician, Springfield, Pa.

Defense Counsel:

Michael B. Pullano, Weber Gallagher Simpson Stapleton Fires & Newby, Philadelphia.

Defense Experts:

Dr. Joseph Bernstein, orthopedic surgeon, Philadelphia; Dr. Michael Brook, neuro-radiologist, Thornton, Pa.; Ron Tomasetti, liability, DJS Associates, Abington, Pa.

Comment:

A Philadelphia jury awarded \$850,000 to a woman struck by an Office Max truck as the truck was pulling out a parking spot, finding that the truck driver was 78 percent negligent and that the plaintiff was 22 percent negligent.

The judge molded the verdict awarded in favor of plaintiff Kim Moyer to \$663,000, according to the court docket.

The case was appealed from an arbitration in which an arbitration panel awarded \$50,000 in favor of Moyer in June 2009, according to the panel's report.

Moyer, a then-employee with Crozer-Chester Medical Center's billing department, was chatting with her mother in the smoking area of the hospital Sept. 29, 2006, when she was struck by an Office Max truck pulling out of a parking spot, the plaintiff's pretrial memorandum said.

Moyer was struck in the back and was knocked into her mother's arms, the plaintiff's papers said.

According to the defendants' pretrial memorandum, Moyer was not in the loading bay area when driver Michael Medvinsky began to pull out of his parking spot and after Moyer came into the area she had turned her back to the truck.

The defendants alleged Moyer's negligence caused the accident.

The incident was caught on tape, which the plaintiff said showed she was struck by the truck as it was pulling away, while the defense said it showed she was not knocked to the ground by her contact with the truck.

Fulginiti said both sides thought the security tape was good for them.

The defense also pointed out that Moyer had no marks on her back when seen in the emergency room two hours later, according to the defendants' pretrial memorandum.

Following the accident, Moyer had



KEN FULGINITI

to use crutches and no longer could work, the plaintiff's papers said.

Moyer's past medical expenses were \$50,000, her future medical expenses were estimated at \$320,000, her past wage loss was \$100,000 and her future wage loss was estimated at \$500,000, the plaintiff's papers said.

The defendants said in their memorandum that Moyer had a history of back and neck problems, including the chronic condition fibromyalgia and receiving injections in her back for the first time two weeks before the accident.

Because Moyer had a history of two motor vehicle accidents, one worker's compensation accident and back pain from dancing right before the Office Max-truck accident, the defense expert's strongest testimony said he couldn't pick one single cause for Moyer's back pain due to her extensive medical history, Fulginiti said.

The defendants were insured by AIG for \$1 million, the defendants' pretrial memorandum said.

Pullano said that the verdict will be appealed, but otherwise declined comment.

— *Amaris Elliott-Engel, of the Law Weekly*