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CASE INFORMATION SHEET

FLORIDA LEGAL PERIODICALS, INC.

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COUNTY AND COURT:

ORANGE COUNTY CIRCUIT COURT

NAME OF CASE:

DAVID KEIFFER and DARLENE KEIFFER,

Plaintiffs,

v.

MARCO ANTONIO MATIAS, COUNTRY FRESH, INC. and CHEROKEE TRUCK
LEASING, INC.,

Defendants

CASE DOCKET NO.: Case No.: 05-CA- **JUDGE:** Jose R.
4795 Rodriguez

PLAINTIFF (S) ATTORNEY (S)/TRIAL COUNSEL [full names, firm and city]:

Melvin B. Wright
Colling, Gilbert, Wright & Carter, P.A.
Orlando, FL

DEFENDANT (S) ATTORNEY (S)/TRIAL COUNSEL [full names, firm and city]:

Richard S. Womble
Rissman, Barrett, Hurt, Donahue
& McLain, P.A.
Orlando, FL

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT [at time of accident or occurrence]:

FOR WRONGFUL DEATH CASES, PLEASE GIVE AGE AND RELATIONSHIP OF SURVIVORS:

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

CAUSE OF INJURY: [factual description including allegations and defenses on liability]:

On May 28, 2003, Marco Matias, an employee of Country Fresh, was operating an 80,000 lb. tractor trailer on South Orange Avenue in Orange County, Florida. Plaintiff, David Keiffer, was operating his Geo Metro ahead of Mr. Matias' truck. A flagman waived the vehicles to a stop at a construction site.

Mr. Keiffer then began to move forward when he was told to do so by the flagman. He stopped and the tractor trailer made contact with the rear of the Geo Metro at a very low rate of speed. Photographs of the rear of the Geo Metro showed a small scratch caused by the accident.

At trial, defendants admitted that the driver of the tractor trailer was negligent in the operation of the vehicle.

NATURE OF INJURY [please be specific concerning injuries, treatment and medical testimony]:

Plaintiff, David Keiffer, claimed lower back and neck injuries due to the accident. Plaintiff returned to work after the accident but stopped one year later claiming that his injuries prevented him from working as a cook at a restaurant.

Plaintiff was treated with epidural steroid injections and heavy narcotic medications. Multiple evaluations were done by physicians but no doctor recommended surgery.

Plaintiff had been involved in a prior motor vehicle accident in March 2003. After that accident, he treated on one occasion with Chiropractor Shebovsky, the same chiropractor he saw after the subject accident.

In the patient information form, Mr. Keiffer complained of headaches and indicated that in the past he had experienced neck pain and spasms, as well as back pain and spasms. Plaintiff attempted to explain this history as neck and back pain which he would experience when he would have an epileptic seizure.

Despite the fact that plaintiff claimed that he was not working in Kentucky, medical records were introduced containing telephone logs in which the physicians recorded that the plaintiff called asking for a work excuse. The defendant argued that plaintiff was, in fact, working even though he claimed he was not since only people who are working need excuses from work.

Plaintiff told one of his physicians that the car he was driving at the time of the accident was sent into a spin or a roll as a result of the impact. That statement was, of course, not true.

Plaintiff also told one of his physicians that the accident had upset him so much that he was having homicidal thoughts about the defendant.

PLAINTIFF'S EXPERT WITNESSES [include full name, degree, specialty and city]:

Jeffrey N. Shebovsky, D.C. Chiropractor
Orlando, FL

Dr. Shebovsky testified that Mr. Keiffer sustained a permanent injury to his neck and back as a result of the accident.

Richard C. Smith, M.D. Orthopaedic Surgeon
Orlando, FL

Dr. Smith testified that Mr. Keiffer sustained a permanent injury to his neck and back as a result of the accident.

Stephen R. Goll, M.D. Orthopaedic Surgeon
Orlando, FL

Dr. Goll testified that Mr. Keiffer sustained a permanent injury to his neck and back as a result of the accident.

Michael D. Freeman, Ph.D. Forensic Medicine
Salem, OR

Dr. Freeman testified regarding the frequency of low back injuries sustained in low speed accidents.

DEFENDANT'S EXPERT WITNESSES [include full name, degree, specialty and city]:

Paul J. Maluso, M.D. Orthopaedic Surgeon
Orlando, FL

Dr. Maluso stated that Mr. Keiffer did not sustain a permanent injury as a result of the subject motor vehicle accident.

James R. Ipser, Ph.D. Professor at University of
Gainesville, FL Florida

Dr. Ipser explained the forces involved at impact and provided comparison incidents with similar amounts of force.

CHECK APPROPRIATE SPACE: Defense verdict

DATE OF VERDICT: July 30, 2009

VERDICT AMOUNT:

N/A

COMPARATIVE NEGLIGENCE

N/A

JUDGMENT:

DATE OF JUDGMENT:

Pending

DEFENDANT'S OFFER:

\$20,000

PLAINTIFF'S DEMAND:

\$150,000

ATTORNEY'S COMMENTS:

At the conclusion of the evidence, plaintiffs moved for a directed verdict arguing that the testimony was uncontradicted that Mr. Keiffer sustained at least some injury as a result of the impact. Defense expert, Paul J. Maluso, M.D., had conceded that based upon history it appeared that Mr. Keiffer had sustained a temporary injury as a result of the accident.

The court denied plaintiffs' motion stating that Mr. Keiffer's credibility had been attacked successfully and the jury was free to reject all of the physicians' opinions based upon ***Easkold v. Rhodes***, 614 So. 2d 495 (Fla. 1993).

Submitted Richard S. Womble Date: September 9, 2009
By:

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