

CASE INFORMATION SHEET
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COUNTY and COURT: Orange County, Ninth Circuit Civil

NAME OF CASE: Cari Walker v. Amber L. Hambey and First
Floridian Auto and Home Insurance Company

DOCKET NO.: 06-CA-11266 **JUDGE:** Honorable Lawrence Kirkwood

PLAINTIFF(S) ATTORNEY(S)/TRIAL COUNSEL

Cari Walker (Pro Se)
8635 Port Said Street
Orlando, FL 32817

DEFENDANT(S) ATTORNEY(S)/TRIAL COUNSEL

Vance R. Dawson, Esquire
Rissman, Barrett, Hurt, Donahue & McLain, P.A.
Post Office Box 4940
Orlando, FL 32802-4940
Counsel for Amber Hambey

Sylvia Grunor, Esquire
Sylvia Grunor, P.A.
1059 Maitland Common Boulevard
Suite 100
Maitland, FL 32751-7401
Counsel for First Floridian (UM Carrier)

AGE/SEX/OCCUPATION OF PLAINTIFF or DECEDENT

25 year old, female, unemployed at time of incident

DATE, TIME, and PLACE OF ACCIDENT or OCCURRENCE:

December 31, 2002, 4:15 p.m., near Race Trac gas station located
at 1819 Alafaya Trail, Orlando, Orange County, Florida

CAUSE OF INJURY

Ms. Walker was the right front passenger in a vehicle driven by Charles Wallace. The Wallace vehicle was travelling northbound in the inside left lane on Alafaya Trail. As the Wallace vehicle approached the Race Trac gas station located on the east side of Alafaya Trail, Ms. Hambey was attempting to exit the Race Trac, cross (to the west) the northbound lanes, and turn left onto

southbound Alafaya. The left front of Ms. Hambey's vehicle struck the right front of Ms. Walker's vehicle.

Ms. Walker alleged that the accident caused injury to her neck, lower back and arms with resultant headaches as well. Also, she contended the medications prescribed for her injuries caused acne.

NATURE OF INJURY

Eighty three days after the accident, Ms. Walker claimed her neck "froze up." She sought treatment with Dr. Brent Baldasare, a chiropractor, on March 24, 2003, with complaints of neck and arm pain. A few weeks later, she complained of low back pain, headaches and facial pain. Dr. Baldasare recommended massage therapy. A June 2, 2003 MRI revealed a normal cervical spine.

On September 29, 2003, Ms. Walker sought treatment with Dr. Alexander Jungreis, a pain management specialist and neurologist, for neck and low back pain. His assessment was cervical and lumbar spondylosis. Dr. Jungreis recommended lumbar facet injections, physical therapy and pain medications. Ms. Walker returned to Dr. Jungreis eleven times over the course of three years with continuing complaints of lumbar and cervical pain but some improvement in her overall condition. Despite Dr. Jungreis' recommendation, Ms. Walker declined trigger-point injections.

On October 11, 2005, Ms. Walker presented to her primary care physician, Dr. John Treharne. She reported mid-lumbar pain, no known injuries and no radicular complaints. Her follow-up appointments with Dr. Treharne were unrelated to the subject accident.

On December 10, 2008, Ms. Walker sought treatment at Southwest Anesthesia and Pain for upper back spasms. Dr. Claire-Marie Cyprien's assessment was severe muscle spasms and pain for which she prescribed Norco and Baclofen. Approximately one month later, on January 1, 2009, Dr. Cyprien performed an ultrasound which indicated cervicgia. Ms. Walker did not treat from July of 2009 through June of 2010.

PLAINTIFF'S EXPERT WITNESSES

None

DEFENDANTS' EXPERT WITNESSES

Robert Leland Murrah, MD
121 West Underwood Street
Orlando, Florida 32806
Specialty: Orthopaedic Surgeon

Dr. Murrah testified via videotape deposition¹ that Ms. Walker did not sustain an injury as a result of the December 2002 accident. It was his opinion that diagnostic studies obtained around the time of her injury in response to her complaints were absolutely normal. He opined that Ms. Walker's care from March of 2003 through June of 2004 would be considered excessive, and had she sustained injuries from the accident, she would have treated earlier.

CHECK APPROPRIATE SPACE : x Verdict for Defense

DATE OF VERDICT: Directed Verdict June 14, 2010

DATE OF JUDGMENT: Final Judgment June 24, 2010

DEFENDANT HAMBEY'S OFFER: \$10,001

DEFENDANT FIRST FLORIDIAN'S OFFER: \$101

PLAINTIFF'S DEMAND: \$67,000

DEFENSE ATTORNEY'S COMMENTS:

Although repeatedly asked to retain counsel by the defense, Ms. Walker appeared pro se. She asked only one question during voir dire, and that was whether the venire had ever received an injury, no matter how minor.

In Ms. Walker's opening statement, she indicated to the jury that Ms. Hambey had received a citation for negligence. Defendants objected and made a contemporaneous Motion for Mistrial and asked the court to withhold ruling pending the outcome of the trial to determine whether there was any harm caused by her comment.

Ms. Walker testified for a total of six minutes and after having done so, stated she had no more testimony or evidence to present. In her testimony, Ms. Walker presented no evidence of negligence, injury or damages. Defendants waived cross-examination of the witness.

Subsequently, the court granted the following four Motions for Directed Verdict:

¹ His video deposition was never played because the Court granted four Motions for Directed Verdict at the conclusion of Ms. Walker's case-in-chief.

(1) Defendant's Motion for Directed Verdict based upon the absence of any testimony regarding negligence on the part of defendant;

(2) Defendant's Motion for Directed Verdict regarding the lack of any evidence of lost wages, either in the past or in the future;

(3) Defendant's Motion for Directed Verdict regarding lack of evidence of medical expenses, either in the past or in the future; and

(4) Defendant's Motion for Directed Verdict regarding intangible damages as there was no testimony in the Plaintiff's case in chief from a health care provider that Ms. Walker had sustained a permanent residual injury.

Defendants submitted a Motion to Tax Costs and Fees on June 28, 2010.

Submitted By: Vance R. Dawson
Alyssa M. Mason, Law Clerk
Jamie A. Cummings, Law Clerk

Date: July 12, 2010

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