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**CASE INFORMATION SHEET
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COUNTY AND COURT:

Brevard County Circuit Court

NAME OF CASE:

LARA MOSEROWITZ,

Plaintiff,

v.

BARBARA SETZER,

Defendant

CASE DOCKET NO.: 05-2008-CA-17509

JUDGE: Honorable Charles
Roberts

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

David Gordon, Esq.
Michael Kirby, Esq.
High, Stack, Conway & Kronick, P.A.
525 E Strawbridge Avenue
Melbourne, FL 32901

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

Bob Jack, Esq.
Adam Wick, Esq.
John Daly, Esq.
Amanda Reher, Esq.
Rissman, Barrett, Hurt, Donahue & McLain, P.A.
201 E. Pine Str., 15th Floor
Orlando, FL

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

Ms. Moserowitz was a 23 year old, single mother at the time of the March 20, 2004 accident. Ms. Moserowitz was employed as a waitress at Perkins and attended college at the University of Central Florida.

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

Not Applicable.

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

This case involved a bodily injury claim arising out of a motor vehicle accident which took place on Northbound A1A at the intersection of Third Avenue in Indialantic, Brevard County, Florida. The accident occurred at approximately 12:27 p.m. on March 20, 2004. Plaintiff, Lara Moserowitz, was driving a 2003 Hyundai sedan. Allstate's insured, Barbara Setzer, was driving a 2000 Dodge Caravan. Plaintiff alleged that Ms. Setzer negligently operated her vehicle while making a left-hand turn so that it collided with her vehicle causing her injuries.

In route to a soccer event, Ms. Setzer, her teenage daughter, and her daughter's friend were traveling northbound on State Road A1A and needed to make a left turn. Ms. Setzer proceeded into a designated turn lane and turned on a left turn signal. The oncoming traffic, going southbound on A1A, was backed up. The inside southbound lane was at a standstill due to the red traffic light.

While waiting to make the left hand turn, Ms. Setzer was able to cross the inside southbound lane as another vehicle signaled her through. She checked to the right before crossing the outside southbound lane and traffic was clear. As she moved across that lane, the front middle of Plaintiff's vehicle struck the passenger-side front fender of Ms. Setzer's vehicle.

In her deposition Plaintiff claimed to have been traveling approximately 40 mph at the time of impact. Ms. Setzer was traveling approximately 1-5 mph at the time of impact.

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

Police and medical personnel were called to the scene. Plaintiff declined medical treatment at the accident scene and refused to be transported to the emergency room in an ambulance. Friends of the Plaintiff arrived at the scene shortly thereafter and transported her to Palm Bay Community Hospital.

The defense argued that Ms. Moserowitz's conduct constituted "careless driving" as provided in Section 316.1925, Florida Statutes (2004). The evidence suggested that Plaintiff may have been speeding at the time of the accident and failed to use reasonable care while driving through the intersection in the presence of backed-up traffic.

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

Following the accident, Plaintiff reported to the emergency room at Palm Bay Community Hospital where she complained of pain in her neck, shoulder and back. A cervical x-ray revealed a slight reversal of the normal cervical lordosis due to a muscle spasm at C3-4. The lumbar x-ray was negative.

On March 25, 2004, she reported to Daniel Hammond, M.D. complaining of difficulty extending and flexing her neck. Dr. Hammond diagnosed Plaintiff with a cervical strain and prescribed physical therapy, Naprosyn and Darvocet. He recommended she return in 3-4 weeks.

Plaintiff next presented to neurologist, Christopher Prusinski, D.O., on April 6, 2004 complaining of neck pain, mid and lower back pain and occipital headaches. His diagnosis was cervical, thoracic and lumbar sprains with occipital neuralgia. He

recommended chiropractic evaluation and treatment and referred Plaintiff to Shawn Egan, D.C.

Contained in Dr. Prusinski's record was a notation that Plaintiff had been involved in a prior motor vehicle accident in 2003. Plaintiff informed Dr. Prusinski that she had sustained no injury as a result of that accident. However, discovery yielded evidence that the Plaintiff had in fact sustained injury to her neck and back and received previous medical treatment from Palm Bay Community Hospital and Dr. Hammond.

Plaintiff first presented to chiropractor, Shaw Egan, D.C. on April 14, 2004 complaining of neck pain, headaches, left shoulder/arm pain, and mid to low back pain. Dr. Egan diagnosed Plaintiff with cervical, thoracic, and lumbar sprains/strains. He recommended traditional chiropractic modalities. Plaintiff treated with Dr. Egan regularly up through January 26, 2005 whereupon he placed her at MMI.

She returned for visits from August 3, 2005 through August 19, 2005 then not again until almost 2 years later on July, 13, 2007. At the July 13, 2007 visit she presented with muscle spasm in the cervical, thoracic and lumbar spines and decreased range of motion in the lumbar region.

Dr. Prusinski ordered MRI studies on July 12, 2004, which revealed bulging discs at C4-5 and L5/S1. Thoracic MRI studies were normal. On August 25, 2004, Dr. Prusinski released Plaintiff from his care and advised her to follow-up with her primary care physician for further treatment.

Dr. Prusinski received a fax from Plaintiff's counsel October 6, 2007 requesting that an appointment be made. On October 17, 2007, Dr. Prusinski placed Plaintiff at MMI from a neurological standpoint with a 13% impairment rating to the body as a whole. Surgery was not recommended.

At trial, Plaintiff testified that her activities of daily living had been limited as a result of the accident. She testified to not being able to participate in physical activities with her friends on account of her neck and back pain. She reported problems interacting with her daughter. She also alleged that her back and neck problems required her to receive accommodations at her work as a teacher in that she was unable to restrain disruptive children by herself. At the time of the trial, Plaintiff had just recently been laid off from her job as a teacher of emotionally-handicapped children.

Plaintiff also testified that she suffered from debilitating headaches emanating from the front of her head. She testified that she was unable to get out of bed or perform certain activities when these headaches occurred.

Plaintiff testified that she had been unable to receive medical care from Dr. Prusinski, Dr. Egan, or to fill prescription medications, since she was without health insurance

since 2006.

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

Christopher Prusinski, M.D. (Neurologist)
1310 West Eau Gallie Boulevard
Suite B
Melbourne, FL 32935

Dr. Prusinski testified that Plaintiff's neck, back and headache problems were most certainly related to the March 20, 2004 motor vehicle accident. Dr. Prusinski regarded the accident as severe enough to warrant his assessment of a 13% permanent impairment rating. When questioned about Plaintiff's prior motor vehicle accident of 2003 and its impact on her condition, Dr. Prusinski simply stated that those problems had resolved well before the March 20, 2004 accident. In fact, Dr. Prusinski testified that Plaintiff told him she did not sustain any injury as a result of that prior accident.

Dr. Prusinski testified that Plaintiff's injuries were permanent in nature. He testified that she would require continued chiropractic treatment for the rest of her life. He estimated this chiropractic treatment to involve 2 to 3 sessions per year consisting of 8 to 12 week intervals with treatment occurring 2 to 3 times per week.

Dr. Prusinski also testified that the Plaintiff would require three different types of anti-inflammatory and pain prescription medications for the rest of her life. He also testified that the Plaintiff could require a narcotic pain medication depending on her condition and symptoms.

Plaintiff's counsel estimated future chiropractic care to total \$200,000 and prescription medications to cost \$180,000. In associated problems with working, Plaintiff's counsel argued that Ms. Moserowitz would sustain \$120,000 in future lost wages.

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

Stephen Rosenberg, M.D. (Neurologist)
Neurology Group
6001 Vineland Road
Suite 116
Orlando, FL 32819

Dr. Rosenberg performed a compulsory medical examination (CME) of Plaintiff prior to trial. At trial, Dr. Rosenberg referenced Plaintiff's MRI scans taken July 12, 2004 which evidenced disc bulges in her cervical and lumbar spines. Dr. Rosenberg testified that he could not specifically say that these bulges were the result of the Plaintiff's March 20, 2004 automobile accident. Furthermore, Dr. Rosenberg testified that he found no

objective symptomology to substantiate Plaintiff's complaints of neck and low back pain some five years after the accident.

Dr. Rosenberg strongly discounted Plaintiff's claims with regard to her continuing headache problems. Initially after the accident, Plaintiff made complaints of sub-occipital headaches, localized in the back of her head. Dr. Rosenberg's impression of Plaintiff's current headaches were common migraine headaches in that they were located in the front of her skull and caused nausea and other problems not associated with sub-occipital headaches. Dr. Rosenberg also remarked that migraine headaches were familial in nature and that the Plaintiff's sister suffered from them.

Dr. Rosenberg consistently testified that the Plaintiff had not sustained a permanent injury as a result of the March 20, 2004 motor vehicle accident.

CHECK APPROPRIATE SPACE: X Verdict

DATE OF VERDICT:

May 20, 2009.

VERDICT

For the Plaintiff in the amount of \$16,900.00 (\$13,500 for past medical expenses and \$3,400.00 for lost earnings). The jury found that Plaintiff had not sustained a permanent injury.

COMPARATIVE NEGLIGENCE [if applicable]:

None.

JUDGMENT:

Judgment has not been entered.

DATE OF JUDGMENT:

N/A.

DEFENDANT'S OFFER:

\$9,000

