

**CASE INFORMATION SHEET
FLORIDA LEGAL PERIODICALS, INC.
P.O. Box 3730, Tallahassee, FL 32315-3730
(904) 224-6649 / (800) 446-2998 * FAX (850) 222-6266**

COUNTY and COURT:

Pinellas County Circuit Court

NAME OF CASE:

Eillis Donaldson Hall v. All American Concrete and Darren Hochstettler

CASE/DOCKET NO.: 08-007647-CI-013 **JUDGE:** Anthony Rondolino

PLAINTIFF(S) ATTORNEY(S)/TRIAL COUNSEL:

Dennis Hernandez, Esquire
Dennis Hernandez & Associates
3339 W. Kennedy Boulevard
Tampa, FL 33609

DEFENDANT(S) ATTORNEY(S)/TRIAL COUNSEL:

J. Greg Giannuzzi, Esquire
Paul B. Fulmer, III, Esquire
Rissman, Barrett, Hurt,
Donahue & McLain, P.A.
1 N. Dale Mabry Highway
11th Floor
Tampa, Florida 33609

AGE/SEX/OCCUPATION OF PLAINTIFF or DECEDENT:

Plaintiff was a 55 year old grandmother. She was employed as a driver for Max'm Services, providing transportation for the handicapped.

For WRONGFUL DEATH cases, please give age and relationship of survivors:

Not applicable.

DATE, TIME and PLACE OF ACCIDENT or OCCURRENCE:

Approximately 11:00 a.m. on March 29, 2006 in the westbound lane of Roosevelt Blvd., in front of the St. Petersburg/Clearwater Airport in Clearwater, Florida.

CAUSE OF INJURY:

Ms. Hall was rear-ended by a 60,000 lb. dump truck driven by Darren Hochstetler. Plaintiff claimed to be either stopping or already stopped at a red light. Hall claimed to have been struck 3 times. The impact occurred at less than 15 mph, causing approximately \$3,400 in damage to Plaintiff's Plymouth Voyager and no damage to the Mack Truck.

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

Ms. Hall alleged injuries to her neck, back, TMJ issues and traumatic brain injury.

She had a C5-6 discectomy and fusion performed by Dr. Gary Moskovitz on April 3, 2007. She had a percutaneous decompression on October 30, 2007 at L2-3, L3-4 and L4-5 by Dr. Robert Nucci.

After a gap in treatment, she had a discography at L2/3, L3/4 and L4/5 on August 3, 2010. Two weeks later, Plaintiff had a spinal fusion at L3 to S1 performed by Dr. Samuel Joseph. During the recovery she developed an infection which caused her to be hospitalized from August 19-23, 2010.

Just prior to trial, on March 24, 2011, Ms. Hall had bilateral TMJ arthroscopes and arthrocentesis performed by Dr. Thomas Boland.

PLAINTIFF'S EXPERT WITNESSES:

1. Dr. Michael Foley, MD
Team Health
Tampa, FL

Dr. Foley is a diagnostic radiologist, board certified in 3 areas and claims to be in the top 1% of his profession. He started as a treating physician, having read a brain spect scan and then became plaintiff's expert. He opined that Ms. Hall had multiple bilateral perfusion defects and related it to the accident. After reading all the cervical and lumbar films he also related the neck and back surgeries to the accident.

2. Dr. Walter Afield, MD
Neuropsychiatric Institute
Tampa, FL

Dr. Afield is board certified in psychology and child psychology. He first treated Ms. Hall in July 2007. He diagnosed her with frontal lobe trauma, depression, suicidal ideation, short and long term memory loss, TMJ and chronic pain syndrome. He testified that Ms. Hall had a mild to moderate brain trauma related to the accident. He opined that the injury was permanent.

3. Dr. Samuel Joseph, MD
Moreno Spine & Scoliosis
Tampa, Florida

Dr. Joseph is a board certified orthopaedic surgeon with a subspecialty in spine surgery. He was initially hired by Plaintiff to perform an IME but ultimately became a treating physician and performed a posterior spinal fusion at L3 to S1 in August 2010. He opined that the injuries were permanent and causally related to the accident.

4. Dr. Gary Moskovitz, M.D.
Spine & Orthopedic Center
Tampa, FL

Dr. Moskovitz is a board certified orthopaedic surgeon. He performed an anterior cervical discectomy and fusion at C5-6 in April 2007. He opined that the injury was permanent and related to the accident.

5. Jairo Libreros, M.D

Dr. Libreros is a neurologist and Plaintiff's first treating physician outside of chiropractic care. He treated her from April 2006 - June 2007 and then again from June 2009 through trial. He opined that her neck, back and TMJ were related to the accident. He opined that Ms. Hall now has Restless Leg Syndrome due to the accident. He testified she was permanently injured and needed future medical treatment.

6. John Murdoch, PE
Gainesville, FL

Murdoch performed an accident investigation 3 years after the accident. After review of the photos and depositions he opined that on the first impact, plaintiff was subject to a g-force of 44 g, moving the vehicle forward 16 feet. At the second impact, she was subject to a g-force of 10 g.

DEFENDANT'S EXPERT WITNESSES:

1. Dr. John Shim, MD
Florida Sports Orthopaedic & Spine Medicine
Tampa, FL

Dr. Shim is a board certified orthopaedic surgeon. He specializes in spine surgery. He opined that the accident did cause the herniation at C5-6 and that Ms. Hall merely had a back strain. He indicated the back surgeries were not related to the accident.

2. Dr. Charles Clark, Bio-MD
University of Iowa

Dr. Clark is a board certified orthopaedic surgeon, with a subspecialty in biomedical engineering. He received his medical degree from the University of Michigan and performed his residency at Yale. He

currently holds positions as a professor in both the medical and engineering schools. He agreed that the forces from the accident caused the herniation in the neck but that the forces were too low to have caused damage to the well protected lumbar region of a restrained driver. The lumbar strain was self limiting.

3. Dr. Jim Ipser, Ph.D
Physics
Gainesville, FL

Dr. Ipser has a Ph.D in astrophysics. He is a Professor Emeritus at the University of Florida where he taught all forms of physics classes including accident reconstruction. Dr. Ipser examined the scene and the plaintiff's vehicle. He testified that the Delta V was 5.5-6 mph. The maximum gravity on the car was on the order of 2 Gs with Ms. Hall sustaining only 2-4 Gs of force.

4. Dr. Reed Murtagh
Imaging Consultants of Florida, Inc.
Tampa, FL

Dr. Murtagh is a board certified neuroradiologist. He reviewed all the films and agreed that there was a new herniation at C5-6. However, the pre and post accident lumbar films were exactly the same. The bulges seen were degenerative and can not be dated, but the accident caused no change in the lumbar spine. He also testified that the Spect Scan was not useful as there had been no CT or MRI of the brain within 6 months of the Spect Scan which is needed for proper clinical correlation.

VERDICT: For Defendants

DATE OF VERDICT: May 23, 2011

JUDGMENT: For Defendants

DATE OF JUDGMENT: May 31, 2011

DEFENDANT'S OFFER: \$600,000 Proposal for Settlement

PLAINTIFF'S DEMAND: \$14 Million in closing argument.

ATTORNEY'S COMMENTS:

The jury was out for 2 hours. Hall simply was not a credible person. She had numerous, glaring inconsistencies. At trial she admitted to prior MVAs and neck and back pain although claiming they had all resolved. At her videotaped deposition, she was asked if she ever had (1) prior neck pain; (2) prior neck problems; (3) prior back pain and (4) prior back problems. She had replied in the negative to all four questions and the video was used during her cross-examination at trial.

Submitted by: Paul B. Fulmer III, Esquire Date: June 10, 2011

Firm: Rissman, Barrett, Hurt,
Donahue & McLain, P.A.

Address: 1 North Dale Mabry Highway, 11th Floor
Tampa, Florida 33609

Phone No.: (813) 221-3114 Fax No.: (813) 221-3033

PBF