

CASE INFORMATION SHEET
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COUNTY AND COURT:

Orange County, Circuit Civil

NAME OF CASE:

MICHAEL L. LOWDER,

Plaintiff,

v.

ADAM M. ROSEN,

Defendant

CASE DOCKET NO.: 2010-CA-025715-0 **JUDGE:** Walter Komanski

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

John Colvin, Esquire
Mooney Colvin, PL
Post Office Box 2569
Orlando, FL 32802-2569

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

Vance R. Dawson, Esquire
Jeremy T. Palma, Esquire
Rissman, Barrett, Hurt,
Donahue & McLain, P.A.
201 E. Pine Street, 15th Floor
Orlando, FL 32801

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:

51-year old male/unemployed truck driver

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

N/A

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

May 10, 2007 at approximately 10:30 p.m., in the west bound lanes of State Road 528 in Orlando, Florida

CAUSE OF INJURY:

Plaintiff, a motorist, claimed that he was injured when the Defendant failed to see Plaintiff's vehicle at a complete stop in the middle lane of the Beachline (S.R. 528) and struck him.

Plaintiff, who was driving a 70,000 pound dump truck, was involved in a road-rage incident with Nestor Santiago, a limousine driver. Mr. Santiago cut-off Mr. Lowder. Mr. Santiago brought his limousine to a complete stop in the middle lane of State Road 528. Mr. Lowder brought the dump truck to a complete stop approximately ten to twelve feet behind Mr. Santiago's vehicle in the middle lane.

Approximately ten seconds after Mr. Lowder brought his vehicle to a stop, Mr. Rosen rear-ended the dump truck. Mr. Rosen was driving at or around 55 mph, the speed limit. Mr. Rosen was looking straight-ahead at the time of the accident. It was dark and the weather was clear.

NATURE OF INJURY:

Plaintiff claimed to have sustained a herniation at C4-5 which required a cervical discectomy and fusion.

PLAINTIFF'S EXPERT WITNESSES:

Plaintiff presented the testimony of his treating orthopaedic surgeon, Robert Roberts, M.D. Dr. Roberts testified that the herniation and need for the surgery were causally related to the May 10, 2007 accident.

DEFENDANT'S EXPERT WITNESSES:

Michael J. Foley, M.D.
Radiographic Consultants, LLC
101 East Kennedy Boulevard
Suite 3900
Tampa, FL 33602

The defense presented the testimony of Dr. Foley, a triple board-certified radiologist, as a witness at trial. Dr. Foley testified that the Plaintiff did not sustain an injury at C4-5 as a result of the subject accident. Dr. Foley had the benefit of reviewing both pre-accident x-rays and MRIs in forming his opinions.

Dr. Foley relied heavily on the pre-accident imaging studies in order to testify that the first post-accident MRI of the cervical spine was unchanged at the C4-5 level, as compared to the prior imaging studies.

CHECK APPROPRIATE SPACE: √ Defense Verdict

DATE OF VERDICT:

February 8, 2013

VERDICT:

Defense verdict

COMPARATIVE NEGLIGENCE:

N/A

JUDGMENT:

For Adam Rosen

DATE OF JUDGMENT:

Not yet entered

DEFENDANT'S OFFER:

October 19, 2012, a Proposal for Settlement was sent to Plaintiff in the amount of \$25,001.

PLAINTIFF'S DEMAND:

Prior to trial, Plaintiff's counsel demanded \$100,000 to settle. Plaintiff's attorney requested \$726,000 during closing.

ATTORNEY'S COMMENTS:

Defense counsel placed the fault for the accident on both Mr. Santiago and Mr. Lowder. Plaintiff conceded at trial that Mr. Santiago was responsible, in part, for causing the accident.

Plaintiff brought suit against Mr. Santiago, his employer, Associated Transportation of Florida, and Mr. Rosen. Plaintiff previously settled with Mr. Santiago and Associated Transportation of Florida. Mr. Santiago was placed on the Verdict Form as a **Fabre** defendant.

Mr. Rosen testified that there were no lights illuminated on the rear of the dump truck prior to the accident. Mr. Rosen did not observe the dump truck until the dump truck was directly in front of Mr. Rosen's vehicle. At that last second, Mr. Rosen veered to the left in an effort to avoid the impact, but was unable to do so.

Plaintiff incurred \$126,000 in medical expenses. The jury deliberated 2 hours, 50 minutes before returning a defense verdict finding no negligence on the part of Mr. Rosen.

Submitted Vance R. Dawson, Esquire **Date: March 8, 2013**
By: Jeremy T. Palma, Esquire

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