

CASE INFORMATION SHEET
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COUNTY AND COURT:

Circuit Court for the Ninth Judicial Circuit Court in and for
Orange County, Florida

NAME OF CASE:

RAYSHELL SMITH,

Plaintiff,

v.

GREGORY SCOTT CAHILL and GREGORY SCOTT CAHILL II,

Defendants.

CASE DOCKET NO.: 2012-CA-14497-0

JUDGE: Keith F. White

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

Mark Cornelius
Mark Cornelius, P.A.
Post Office Box 940816
Maitland, FL 32794

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

Vance R. Dawson
Juan A. Ruiz
Rissman, Barrett, Hurt,
Donahue & McLain, P.A.
Post Office Box 4940
201 E. Pine Street
Suite 1500
Orlando, FL 32801

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:

32 year-old African American female - Taxi Dispatcher.

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

N/A.

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

December 1, 2009 - Orange Avenue and Kaley Boulevard, Orlando, Orange County, Florida

CAUSE OF INJURY:

Plaintiff claimed that as a result of the rear end collision she suffered herniation of her lumbar spine at L5-S1 as well as herniation of her cervical spine at C4-5 and C5-6.

NATURE OF INJURY:

Herniations of intervertebral disc at C4-5, C5-6, L4-5 and L5-S1. Plaintiff underwent a L5-S1 discectomy to her lumbar spine on January 24, 2011, a lumbar fusion on March 31, 2011 and a laminoforaminotomy on October 20, 2011.

Plaintiff also claimed a loss of earning capacity as a result of being disabled following her numerous surgeries.

PLAINTIFF'S EXPERT WITNESSES:

Jason McWhirter, D.C. (Chiropractor)
Orlando, Florida

Dr. McWhirter testified that Ms. Smith suffered a permanent injury following the December 1, 2009 automobile accident. He further opined that while Ms. Smith had suffered similar injuries in an earlier March 24, 2009 automobile accident she had not suffered any herniations to her lumbar or cervical spine. The need for surgery was solely caused by the subject December 1, 2009 accident.

On cross-examination Dr. McWhirter conceded that the physical findings following the December 1, 2009 accident were identical to the findings following the March 24, 2009 accident.

Monica, McPhail-Pruitt, M.D. (Pain Management / Anesthesia)
Orlando, FL

Dr. Pruitt testified that her January 24, 2011 lumbar discectomy was causally related to the automobile accident of December 1, 2009.

On cross-examination Dr. McPhail-Pruitt conceded that she was not aware of the March 24, 2009 automobile accident. She further conceded that in light of a pre-existing automobile accident she could not causally relate the need for Plaintiff's January 24, 2011 surgery to the December 1, 2009 automobile accident.

Jeffrey Oppenheimer M.D. (Neurosurgery)
Fort Pierce, Florida.

Dr. Oppenheimer testified that his October 20, 2011 was more likely than not causally related to the December 1 automobile accident. Dr. Oppenheimer did not believe that the need for this surgery could at all be related to the earlier March 24, 2009 automobile accident

Nam-Kha Pham M.D. (Pain Management)
Orlando Florida

Dr. Pham testified that Ms. Smith was suffering from chronic pain. He testified that as a result of her pain she needed numerous pain management injections to her cervical and lumbar spine.

On cross-examination Dr. Pham testified that he could not causally relate her need for the pain management treatment to the December 1, 2009 automobile accident as he was not previously aware of the March 24, 2009 automobile accident.

Sean Mahan M.D. (Radiology)
Orlando, Florida

Dr. Mahan testified that Ms. Smith suffered a disc herniation at L5-S1 as a result of the December 1, 2009 automobile accident. Dr. Mahan opined that Ms. Smith underwent a MRI of her lumbar spine in April 2009 following the March 24, 2009 automobile accident that did not demonstrate a disc herniation. Thereafter the October 20, 2010 MRI of her lumbar spine which demonstrated disc herniation at L5 S1 was causally related to December 1, 2009 automobile accident. Dr. Mahan also opined that Ms. Smith

suffered herniation of the cervical spine based upon the March 22, 2010 MRI performed after the December 1, 2009 automobile accident.

DEFENDANT'S EXPERT WITNESSES:

John Cassidy M.D. (Neurosurgery)
Venice, Florida

Dr. Cassidy opined that Ms. Smith did not suffer disc herniations following the December 1, 2009 automobile accident. According to Dr. Cassidy Ms. Smith's lumbar and cervical pathology was pre-existing and related to the March 24, 2009 automobile accident.

Dr. Cassidy further opined that Ms. Smith's three lumbar surgeries were not causally related to the December 1, 2009 automobile accident. They were, instead, the product of continuing degenerative process in her lumbar spine.

Michael Foley, M.D. (Radiology)
Tampa, Florida

Dr. Foley opined that Ms. Smith's herniation of her lumbar spine at L5-S1 demonstrated on the October 2010 MRI pre-dated the December 1, 2009 automobile accident. Dr. Foley felt that the herniation was the result of a normal degenerative process and causally related to the March 24, 2009 automobile accident.

CHECK APPROPRIATE SPACE:

Verdict

VERDICT:

Defense verdict.

DATE OF VERDICT: June 8, 2015

COMPARATIVE NEGLIGENCE:

None.

JUDGMENT:

Defendant.

DATE OF JUDGMENT:

August 12, 2015

DEFENDANT'S OFFER:

Defendants served a proposal for settlement on March 19, 2014 in the amount of \$50,000.

PLAINTIFF'S DEMAND:

At trial, plaintiff requested \$440,000 in past medical expenses as well as lost wages in pain and suffering for which a number was not suggested.

Before trial plaintiff served a proposal for settlement on June 30, 2014 in the amount of \$800,000.

ATTORNEY'S COMMENTS:

Plaintiff has filed a motion for new trial. Defendants have filed a motion for entry of final judgment. Both are set to be heard on August 12, 2015. Defendant is entitled to attorney's fees and costs pursuant to their non-accepted proposal for settlement.

Submitted By: Juan A. Ruiz

Date: September 14, 2015

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

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