

CASE INFORMATION SHEET  
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**COUNTY AND COURT:**

Lake County, Circuit Civil

**NAME OF CASE:**

DARLENE ROJAS,

Plaintiff,

v.

EDNA LAMB MACMORRIS and  
JOHN MACMORRIS,

Defendants.

**CASE DOCKET NO.:** 2009-CA-001984

**JUDGE:** Heidi Davis

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

Jeffrey M. Byrd  
Christina E. Bissett  
Jeffrey M. Byrd, P.A.  
2620 E. Robinson Street  
Orlando, FL 32803

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

F. Dean Hewitt  
Jeremy T. Palma  
Rissman, Barrett, Hurt,  
Donahue, McLain & Mangan, P.A.  
201 E. Pine Street  
15th Floor  
Orlando, FL 32801

**AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:**

51-year old female/Unemployed

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

N/A

**DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:**

April 6, 2005 at approximately 3:00 p.m. on U.S. Highway 27 near its intersection with West Boone Court in Lady Lake, Lake County, Florida.

**CAUSE OF INJURY:**

Plaintiff was slowing/stopping for a red light when her vehicle was rear-ended by defendants' vehicle driven by Edna MacMorris.

**NATURE OF INJURY:**

Plaintiff claimed to have sustained herniations at C5-6 and L5-S1. A lumbar percutaneous discectomy at L5-S1 was performed on March 5, 2010 by Dr. Zoltan Bereczki with Laser Spine Institute. On March 11, 2010, Dr. Craig Wolff with Laser Spine Institute performed cervical nerve ablations at C3-4, C4-5 and C5-6 bilaterally. On March 28, 2014, plaintiff underwent an anterior lumbar interbody fusion performed by Dr. Thomas Francavilla at Memorial Hospital in Gulfport, Mississippi.

**PLAINTIFF'S EXPERT WITNESSES:**

Travis Wilemon, D.C.  
Chiropractor  
Pitts Chiropractic Clinic  
801 Northeast 25th Avenue  
Ocala, FL 34470

Plaintiff presented the video deposition testimony of chiropractor Wilemon. He treated the plaintiff from April 8, 2005 to July 5, 2006 and assigned a 5% permanent impairment rating as a result of a sprain/strain injury to the plaintiff's neck and low back which he causally related to the April 6, 2005 accident.

Zoltan Bereczki, D.O.  
Orthopaedic Surgeon  
Laser Spine Institute, LLC.  
5332 Avion Park Dr.  
Tampa, FL 33607

Plaintiff presented the video deposition testimony of Dr. Bereczki. He performed a lumbar percutaneous discectomy at L5-S1 on March 5, 2010 and related the plaintiff's need for said surgery to the April 6, 2005 accident. Additionally, Dr. Bereczki testified that the plaintiff suffered a recurrent herniation at L5-S1 which he causally related to the April 6, 2005 accident.

Craig Wolff, M.D.  
Orthopaedic Surgeon  
Laser Spine Institute, LLC.  
5332 Avion Park Dr.  
Tampa, FL 33607

Plaintiff presented the video deposition testimony of Dr. Wolff. On March 11, 2010, Dr. Wolff performed cervical nerve ablations at C3-4, C4-5 and C5-6 bilaterally. Dr. Wolff related the plaintiff's need for the cervical nerve ablation procedure to the April 6, 2005 accident.

Thomas Francavilla, M.D.  
Neurosurgeon  
Laser Spine Institute, LLC.  
5332 Avion Park Dr.  
Tampa, FL 33607

Plaintiff presented the video deposition testimony of Dr. Francavilla. On March 28, 2014, Dr. Francavilla performed an anterior lumbar interbody fusion at L5-S1 at Memorial Hospital in Gulfport, Mississippi. Dr. Francavilla related the plaintiff's need for the ALIF to the April 6, 2005 accident.

**DEFENDANTS' EXPERT WITNESSES:**

Michael J. Foley, M.D.  
Radiologist  
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 imaging studies of the plaintiff's cervical spine and lumbar spine did not reveal any evidence of acute traumatic injury to any of the structures of the plaintiff's cervical spine and lumbar spine. Instead, it was Dr. Foley's opinion that the findings on the imaging studies were the product of long-standing degenerative wear and tear changes in the plaintiff's cervical spine and lumbar spine.

Craig P. Jones, M.D.  
Orthopaedic Surgeon  
Orlando Orthopaedic Center  
25 West Crystal Lake Street, Suite 200  
Orlando, FL 32806

The defense presented the testimony of Dr. Jones, a board-certified orthopaedic surgeon, as a witness at trial. Dr. Jones testified that based on his CME and review of the plaintiff's medical records and imaging studies, there was no objective evidence of any acute injury to any of the structures in the plaintiff's cervical spine and lumbar spine. Dr. Jones was of the opinion that the plaintiff sustained a cervical strain and lumbar strain which should have resolved within 6-12 weeks. Accordingly, Dr. Jones was of the opinion that the plaintiff's need for the surgeries performed at Laser Spine Institute in March 2010 as well as the surgery performed at Memorial Hospital in March 2014 were not causally related to any trauma the plaintiff sustained in the April 6, 2005 accident.

**CHECK APPROPRIATE SPACE:**      √   Defense Verdict

**DATE OF VERDICT:**

September 2, 2016

**VERDICT:**

\$6,746.70 in past medical expenses for Plaintiff, Darlene Rojas. These past medical expenses were set-off by PIP benefits in the amount of \$9,580.69 previously paid.

**COMPARATIVE NEGLIGENCE:**

N/A

**JUDGMENT:**

After application of the PIP set-off, the "net" verdict was zero. Therefore, judgment was entered for the defendants.

**DATE OF JUDGMENT:**

September 9, 2016

**DEFENDANTS' OFFER:**

On July 23, 2009 a proposal for settlement was served on plaintiff in the amount of \$6,500. On January 7, 2011 a second proposal for settlement in the amount of \$25,000 was served on the plaintiff.

**PLAINTIFF'S DEMAND:**

In closing, plaintiff's counsel requested \$2,119,270.69.

**ATTORNEY'S COMMENTS:**

Defendants admitted negligence prior to trial. Causation and damages were the only issues submitted to the jury. The evidence showed that the plaintiff did not treat for 6 months out of the first 7 months following the accident. The jury deliberated for approximately 3 hours before returning a defense verdict awarding the cost of the ambulance bill, emergency room treatment and chiropractic treatment in the amount of \$6,746.70. Given the "net" verdict of zero, the defendants sought attorney's fees and costs pursuant to their Proposals for Settlement. These claims were dropped in exchange for plaintiff's agreement to waive her right to pursue a Motion for New Trial and/or appeal.

Submitted by: F. Dean Hewitt  
Jeremy T. Palma

Date: September 21, 2016

**Firm:** Rissman, Barrett, Hurt,  
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FDH/JTP/ahl