

CASE INFORMATION SHEET
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COUNTY AND COURT:

Orange County, Circuit Civil

NAME OF CASE:

ANTHONY BOLLO,

Plaintiff,

v.

PHILLIP JOSEPH MATRACEA,

Defendant.

CASE DOCKET NO.: 2013-CA-006879-0 **JUDGE:** John M. Kest

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

Vanessa Lagios
Law Offices of William C. Ruggiero
Museum Plaza, Suite 703
200 South Andrews Avenue
Fort Lauderdale, FL 33301

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

Vance R. Dawson
Michael C. Woodard
Rissman, Barrett, Hurt,
Donahue, McLain & Mangan, P.A.
201 E. Pine Street,
15th Floor
Orlando, FL 32801

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:

45-year old male/self-employed.

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

N/A

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

On October 15, 2011, Donna Jo Matracea was driving northbound in her husband's vehicle on Daniels Road in Winter Garden, Florida. Anthony Bollo was driving his vehicle southbound in the outside lane of Daniels Road approaching the intersection of County Road 535. Ms. Matracea made a left-hand turn at the intersection of Daniels Road and County Road 535 to head east when she violated Mr. Bollo's right-of-way. Mr. Bollo was unable to stop and struck the right front passenger side of the vehicle driven by Ms. Matracea at an unknown speed.

CAUSE OF INJURY:

Plaintiff alleged that as a result of the accident he sustained injuries to his left shoulder and neck.

NATURE OF INJURY:

Plaintiff's alleged injuries included two torn tendons in the left shoulder, a rotator cuff injury and a C6-7 herniated disc in his neck. Plaintiff further alleged that he had no prior injuries to either his neck or his left shoulder before the October 15, 2011 accident. Plaintiff underwent a left shoulder rotator cuff repair surgery performed by Dr. Fernando A. Moya on November 22, 2011.

PLAINTIFF'S EXPERT WITNESSES:

Dr. Fernando Moya
Orthopaedic Surgeon
South Florida Institute
of Sports Medicine
17842 N.W. 2d Street
Pembroke Pines, FL 33029

Dr. Moya was plaintiff's treating orthopedic surgeon and only expert witness. Dr. Moya testified that the subject accident caused plaintiff's rotator cuff tears and C6-7 herniation based on a lack of documented complaints prior to the accident. Dr. Moya further opined that plaintiff would need limited future medical care and treatment, but did not specify what that treatment would cost.

Dr. Kenneth Stein
Radiologist
Pembroke Pines MRI
P.O. Box 5206
Ft. Lauderdale, FL 33310

Dr. Stein was plaintiff's treating radiologist and testified via video for trial. Dr. Stein testified that the left shoulder rotator cuff tear was likely related to the motor vehicle accident within a reasonable degree of medical probability based on clinical correlation of records and shoulder pain complaints. Dr. Stein was not able to provide an opinion that the C6-7 herniation was related to the accident within a reasonable degree of medical probability.

DEFENDANT'S 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 double board-certified radiologist. Dr. Foley testified that plaintiff's cervical herniation was caused by pre-existing degenerative disease and was not related to the subject accident. Dr. Foley also testified that the rotator cuff tear was degenerative in nature, related to abnormal anatomy and not related to the subject accident.

Michael V. Jablonski, M.D.
Orthopaedic Surgeon
Jewett Orthopaedic Clinic, P.A.
1717 S. Orange Avenue
Suite 103
Orlando, FL 32806

Dr. Jablonski is the president of Jewett Orthopaedic and was retained by the defense to perform a CME of Mr. Bollo related to plaintiff's alleged shoulder injury. Dr. Jablonski performed the CME and opined that the rotator cuff tear was not related to the subject accident, but instead related to pre-existing degenerative disease and abnormal anatomy. Dr. Jablonski was prevented from giving opinions on the cost of the surgery performed by Dr. Moya.

Melvyn G. Drucker, M.D.
Orthopaedic Surgeon
2260 NE 123 Street
North Miami, FL 33181

Dr. Drucker was initially retained by plaintiff's PIP carrier to perform a paper review of plaintiff's medical records to give an opinion whether the left shoulder surgery and cervical herniation were related to the subject accident. Defendant played Dr. Drucker's videotaped deposition at trial.

Dr. Drucker opined that neither the left shoulder rotator cuff injury nor the cervical disc herniation were caused by the subject automobile accident. Instead, Dr. Drucker related these injuries to a pre-existing degenerative condition and abnormal anatomy. Further, Dr. Drucker opined that Dr. Moya's charge for the surgery was not reasonable.

CHECK APPROPRIATE SPACE: √ Defense verdict

DATE OF MISTRIAL:

A mistrial was previously declared on July 17, 2015 after the original jury could not reach a unanimous verdict.

VERDICT:

October 28, 2016

COMPARATIVE NEGLIGENCE:

N/A

JUDGMENT:

N/A

DATE OF JUDGMENT:

N/A

DEFENDANT'S OFFER:

Defendant offered \$25,000 in a proposal for settlement served on May 22, 2015.

PLAINTIFF'S DEMAND:

Plaintiff demanded \$62,500 in a proposal for settlement dated May 18, 2015. Plaintiff requested \$64,000 in closing plus an unspecified amount of damages for past and future pain and suffering.

ATTORNEY'S COMMENTS:

This case was originally tried in July of 2015 over the course of 5 days before Judge John Kest in the Ninth Judicial Circuit in and for Orange County Florida.

The jury deliberated 4 1/2 hours over the course of 2 days before advising the parties that they were deadlocked. Overruling defendant's motion for mistrial, the trial court read the **Allen** charge and the jury continued to deliberate for 2 more hours before again declaring they were deadlocked "5-1." At this point, Judge Kest declared a mistrial due to the hung jury. The case was retried in October 2016.

The retrial of this matter began on October 24, 2016 over the course of 5 days before Judge John Kest in the Ninth Judicial Circuit in and for Orange County Florida.

At the close of evidence, defendant's motion for directed verdict regarding future medical expenses was granted by the trial court. The jury deliberated 4 hours over the course of 2 days before returning a verdict in favor of defendant.

Submitted by: Vance R. Dawson Date: December 21, 2016
Michael C. Woodard

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

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