

CASE INFORMATION SHEET
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COUNTY AND COURT:

Seminole County, Circuit Civil

NAME OF CASE:

ROBERT WASIELEWSKI,

Plaintiff,

v.

ALLISON L. WILLIAMS and
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Defendants.

CASE DOCKET NO.: 2016-CA-2158-08-W **JUDGE:** Donna McIntosh

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

Dane Jordan
Morgan & Morgan
20 N. Orange Avenue
16th Floor
Orlando, FL 32801

David B. Moffett
Morgan & Morgan

Jared Wise
Morgan & Morgan

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

F. Dean Hewitt
Rissman, Barrett, Hurt,
Donahue, McLain & Mangan, P.A.
201 E. Pine Street
15th Floor
Orlando, FL 32801
Attorney for Allison L. Williams

Nicholas P. Evangelo
Clark & Partners
2739 Maguire Road
Ocoee, FL 34761
Attorney for State Farm

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:

46-year old male - heavy equipment operator

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

N/A

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

August 23, 2015, at 1:40 p.m. on SR 434 at the I-4 interchange in Longwood, Seminole County, Florida.

CAUSE OF INJURY:

This was a side-swipe accident between a motor vehicle and motorcycle. Specifically, Plaintiff, Robert Wasielewski, claimed that Defendant, Allison Williams, changed lanes into his motorcycle. Williams claimed that Plaintiff rode his motorcycle into her car, striking it with a glancing blow on the right rear door. The left foot peg of the motorcycle struck the bottom of the right rear door causing a crush injury to Plaintiff's left foot/ankle.

NATURE OF INJURY:

Plaintiff claimed an injury/aggravation to his low back as well as an injury to his left foot/ankle. Plaintiff developed Complex Regional Pain Syndrome (CRPS) requiring the need for the

implantation of a spinal cord stimulator. As of the time of trial, the spinal cord stimulator had not yet been installed.

PLAINTIFF'S EXPERT WITNESSES:

Brian C. Dowdell, M.D., M.S.
755 North Hwy A1A
#408
Indialantic, FL 32903

Dr. Dowdell is a pain management specialist retained by Plaintiff's counsel to review the medical records, imaging studies and perform an examination of Plaintiff. The examination was done on January 4, 2018. Dr. Dowdell testified at trial that Plaintiff's left foot contusion developed into CRPS. Dr. Dowdell testified there were a number of diagnostic tests that could help confirm the diagnosis of CRPS. However, none of those tests had been done.

Additionally, Dr. Dowdell testified that Plaintiff was potentially a candidate for a permanent spinal cord stimulator. However, as a prerequisite Plaintiff would be required to use a temporary spinal cord stimulator device and that had not yet been done. Dr. Dowdell testified that the cost of installing the spinal cord stimulator was approximately \$50,000. Then, the cost to maintain the stimulator over Plaintiff's lifetime was \$2,000 per year.

Robert Martinez, M.D.
2010 S. Orange Ave.
Orlando, FL 32806

Plaintiff presented the video deposition testimony of radiologist, Dr. Martinez. Dr. Martinez was the original reading radiologist of the MRIs of Plaintiff's left foot, left ankle and lumbar spine performed on October 8, 2015. Dr. Martinez testified that the MRI of the left foot and left ankle revealed bone contusions at the base of the third and fourth metatarsals and within the cuboid, respectively.

DEFENDANTS' EXPERT WITNESSES:

Kevin Cox, M.D.
596 Ocoee Commerce Parkway
Ocoee, FL 34761

Dr. Cox is a board certified orthopaedic surgeon retained by the defense to perform a CME of Plaintiff on June 13, 2017. Dr. Cox testified that based on his review of Plaintiff's medical records, imaging studies and examination, Plaintiff sustained nothing more than a left foot contusion and left ankle sprain which would have required 6 - 12 weeks of treatment. Based on his physical examination on June 13, 2017, Dr. Cox testified that Plaintiff's left foot was normal and that there was no objective evidence of CRPS.

George A. Stanley, M.D.
111 N. Lakemont Avenue
Winter Park, FL 32792

The defense retained Dr. George Stanley, a board certified radiologist, to review Plaintiff's imaging studies from before and after the August 23, 2015 accident. Dr. Stanley testified based on his review of the October 8, 2015 MRIs of Plaintiff's left foot and left ankle there was no evidence of bone contusions as had been described by Dr. Martinez. Additionally, Dr. Stanley testified that there was no evidence of acute traumatic injury to any of the structures in Plaintiff's left foot or left ankle on the MRI.

CHECK APPROPRIATE SPACE: √ Plaintiff Verdict

DATE OF VERDICT:

January 25, 2019

VERDICT:

The jury deliberated 4 hours and returned a verdict finding Plaintiff and Defendant each 50% at fault for the accident. The jury awarded past medical expenses of \$22,446.29 and past pain and suffering damages of \$12,500. The jury awarded no future medical expenses or future pain and suffering damages. Thus the total verdict before reduction for Plaintiff's comparative negligence was \$34,946.29.

COMPARATIVE NEGLIGENCE:

50% on Plaintiff

JUDGMENT:

Following post-trial set-offs, the judgment will be approximately \$16,002.58 exclusive of Plaintiff's taxable costs.

DATE OF JUDGMENT:

Pending

DEFENDANT'S OFFER:

On November 29, 2016, Defendant Williams served a proposal for settlement in the amount of \$43,800 on Plaintiff.

On February 20, 2017, Defendant State Farm served a proposal for settlement in the amount of \$500 on Plaintiff.

PLAINTIFF'S DEMAND:

On June 29, 2017, Plaintiff served a proposal for settlement in the amount of \$100,000 on Defendant Williams.

On June 29, 2017, Plaintiff served a proposal for settlement in the amount of \$80,000 on Defendant State Farm.

In closing Plaintiff's counsel requested economic damages in the amount of \$152,046.29, past non-economic damages of \$100,000 - \$400,000 and future non-economic damages in the \$1.2 - \$4.2 million range for a total of \$1,452,046 - \$4,752.046.

ATTORNEY'S COMMENTS:

There was no permanency threshold defense because Plaintiff was riding a motorcycle at the time of the accident. Notwithstanding, it appears that the jury found Plaintiff had sustained nothing more than a left foot contusion and left ankle sprain and rejected Plaintiff's claim that he had developed CRPS in the left foot for which he needed a spinal cord stimulator. Both Defendants will move for attorney's fees and costs pursuant to their respective proposals for settlement which will exceed the net judgment awarded to Plaintiff.

Submitted by: F. Dean Hewitt

Date: February 1, 2019

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

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