

**CASE INFORMATION SHEET
FLORIDA LEGAL PERIODICALS, INC.
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COUNTY AND COURT:

Circuit Court, 13th Judicial Circuit, Hillsborough County, Florida

NAME OF CASE:

GEORGE SMITH

Plaintiff,

v.

DIRECT H, LLC; VINCENT STANLEY; and DIRECT AUTOMOTIVE MANAGEMENT
d/b/a KUHN HONDA & KUHN VOLKSWAGEN,

Defendants.

CASE DOCKET NO.: 16-CA-009339

JUDGE: Hon. Gregory Holder

PLAINTIFFS' ATTORNEYS/TRIAL COUNSEL:

Samuel Mehring
Milagros "Milly" Vazquez
Law Office of Samuel L. Mehring, Jr.
Tampa, FL

DEFENDANTS' ATTORNEYS/TRIAL COUNSEL:

Derek J. Bush
Skylar D. Stewart
Rissman, Barrett, Hurt,
Donahue, McLain & Mangan, P.A.
Tampa, FL

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:

George Smith, 51 year old barber.

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

The entrance of the Kuhn Honda & Kuhn Volkswagen, Tampa, Florida, at approximately 10:00 a.m. on March 28, 2014.

CAUSE OF INJURY:

On March 28, 2014, at approximately 10:00 a.m., Mr. Smith was riding his bicycle westbound on the sidewalk of Kennedy Boulevard, travelling against the flow of traffic in Tampa, Florida. As Mr. Smith approached the entrance of Kuhn Honda & Kuhn Volkswagen, Mr. Vincent Stanley was attempting to merge into traffic on Kennedy Boulevard. Mr. Stanley was working as a lot porter for Kuhn Honda & Kuhn Volkswagen at the time of the collision.

The driveway exiting the dealership merged through the sidewalk upon which Mr. Smith was travelling on his bicycle. Mr. Stanley stopped prior to traversing the sidewalk and looked in both directions. After waiting for traffic to clear, Mr. Stanley took his foot off the brake pedal to merge onto Kennedy Boulevard. Mr. Smith saw the vehicle leaving the dealership and made the decision to ride in front of Mr. Stanley's vehicle. As he passed in front of Mr. Stanley's vehicle, Mr. Stanley collided with Mr. Smith's bicycle at idle speed

NATURE OF INJURY:

Following the accident, Mr. Smith presented to Memorial Hospital with complaints of pain in his shoulders, wrists, lower back and left knee. He was discharged the same day with a general diagnosis of sprains/strains. On April 4, 2014, Mr. Smith sought treatment with Dr. Brian Drutman, a chiropractor with Precision Spine & Wellness in Tampa, Florida, who referred Mr. Smith to specialists for treatment of his alleged injuries. Mr. Smith treated with multiple specialists over the following four years for bilateral wrist tendon injuries, L5-S1 disc herniation, cervical sprain/strain, bilateral torn meniscus and bilateral shoulder impingement with torn rotator cuffs.

Mr. Smith underwent multiple procedures prior to trial including a left knee arthroscopy, arthrocentesis, lateral meniscectomy, thermal debridement and sealant for a partial tear to the anterior cruciate ligament in January 2016, a right shoulder arthroscopy, Bankart labral repair, biceps tenotomy, glenohumeral synovectomy and rotator cuff repair in August 2016.

PLAINTIFF'S EXPERT WITNESSES:

Michael Foley, M.D.

Radiologist
Tampa, FL

Dr. Foley provided opinions regarding the radiographic studies from both before and after the subject accident. A lumbar spine MRI from April 5, 2014 showed a disc herniation at L5-S1. MRIs of the wrists indicated bilateral posterior subluxation of the ulna at the distal radioulnar

joint. The right wrist MRI also indicated a widening of the scapholunate interval which Dr. Foley suggested could reflect a ligamentous injury.

Dr. Foley testified that the left knee MRI from July 28, 2014 showed a partial tear of the mid ACL and a complex tear of the anterior horn of the lateral meniscus. MRIs of right/left shoulder taken on September 15, 2015 indicated partial thickness tears of the supraspinatus tendons bilaterally, AC joint arthritis bilaterally and bilateral partial labral tears.

Dr. Foley also reviewed an MRI of Mr. Smith's right knee from September 15, 2015 which indicated partial ACL tearing, an oblique tear of the anterior horn of the lateral meniscus, undersurface tearing of the posterior horn of the medial meniscus, joint effusion and cartilaginous erosions of the lateral tibial plateau.

Dr. Foley did not testify as to causation of these alleged injuries.

Christopher MacLaren, M.D.

Orthopedic Surgeon
Tampa, FL

Dr. MacLaren was retained as an expert witness but was also a treating physician. Dr. MacLaren performed the surgeries on Mr. Smith's right shoulder and left knee. It was Dr. MacLaren's opinion that Mr. Smith's injuries were traumatic and did not exhibit signs of degeneration. However, Dr. MacLaren also testified that he does not treat degenerative injuries in his practice and admitted that the MRIs exhibited signs of degenerative changes in Mr. Smith's shoulders and knees.

Dr. MacLaren also testified that he treated Mr. Smith under a letter of protection and his bills were outstanding at trial.

Dr. Ronald Williams

Orthopedic Surgeon
Tampa, FL

Dr. Williams testified that Mr. Smith had pre-existing arthritic injuries to his wrists, but the motor vehicle accident likely aggravated these injuries. Dr. Williams recommended surgical intervention to Mr. Smith's right wrist. However, Dr. Williams also testified that Mr. Smith gave an inaccurate medical history during his first presentation by failing to inform Dr. Williams that surgery had been recommended on his right wrist following a prior motor vehicle accident which was never performed.

Dr. Williams also testified that he was treating Mr. Smith under a letter of protection.

Dr. Gary Moskovitz

Orthopedic Surgeon
Tampa, FL

Dr. Moskowitz treated Mr. Smith solely for his lower back pain. Dr. Moskowitz reviewed the MRI studies of Mr. Smith's lumbar spine and testified that Mr. Smith suffered from a herniation at L5-S1. Dr. Moskowitz's opinion that the L5-S1 herniation was caused by the motor vehicle accident was based entirely on Mr. Smith's statement that he was not experiencing back pain prior to the accident. On cross examination, Dr. Moskowitz admitted that Mr. Smith provided an inaccurate medical history at the time of his presentation because he failed to inform Dr. Moskowitz of his 2009 motor vehicle accident.

Dr. Moskowitz also testified that he was treating Mr. Smith under a letter of protection.

DEFENDANTS' EXPERT WITNESS:

Defendants decided not to call an expert witness at trial.

DATE OF VERDICT:

April 11, 2019

VERDICT:

Defense Verdict

JUDGMENT:

For Defendants

DATE OF JUDGMENT:

April 15, 2019

DEFENDANTS' OFFER:

\$225,000 the week prior to trial.

PLAINTIFF'S DEMAND:

Plaintiff's counsel did not ask the jury for a specific amount of damages in closing. However, past medical bills and recommendations for future medical treatment totaled approximately \$450,000.

ATTORNEY'S COMMENTS:

The jury deliberated for one hour following receipt of the evidence.

Submitted By: Skylar D. Stewart

Date: April 29, 2019

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

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