

**CASE INFORMATION SHEET**  
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**COUNTY AND COURT:**

Ninth Judicial Circuit in and for Orange County

**NAME OF CASE:**

ROSELY M. ARAUJO,

Plaintiff,

v.

CAROL ANN PLATT and JUSTIN SHANE PLATT,

Defendants.

**CASE DOCKET NO.:** 2015-CA-010605

**JUDGE:** Renee Roche

**PLAINTIFF'S ATTORNEYS / TRIAL COUNSEL:**

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**DEFENDANT'S ATTORNEYS / TRIAL COUNSEL:**

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

Plaintiff was a 53-year-old female at the time of the May 2, 2015 accident and was 57 years old at the time of trial.

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

The subject motor vehicle accident occurred on May 2, 2015 on westbound State Road 408 in Orlando, Orange County, Florida.

**CAUSE OF INJURY:**

During the May 2, 2015 subject accident, Plaintiff was a restrained front seat passenger when her vehicle was rear ended by Defendant, Justin Shane Platt. Plaintiff claimed that as a result of the impact, she sustained an acute injury and an aggravation of a pre-existing condition to her right knee that eventually resulted in the need for surgery.

**NATURE OF INJURY:**

Plaintiff claimed that the subject collision caused a tear of the medial meniscus in her right knee. Plaintiff did not receive any medical attention at the accident scene and began to complain of right knee pain and stiffness approximately thirty-eight (38) days after the May 2, 2015 accident. Plaintiff also received post-accident treatment for temporary neck and back pain but only claimed damages for her right knee injury at trial.

Plaintiff eventually began treating with Dr. Richard Smith of the Florida Center for Orthopedics. Dr. Smith diagnosed a meniscal tear of the right medial meniscus and performed a right knee arthroscopy on August 12, 2015 at Millennia Surgery Center under a letter of protection. Plaintiff returned to Dr. Smith for a second surgery in February 2016 consisting of a partial knee replacement which addressed an additional tear of the lateral meniscus of the right knee.

At trial, Dr. Smith related the need for Plaintiff's August 2015 arthroscopy and February 2016 partial knee replacement surgery to the subject accident. Dr. Smith testified that Plaintiff would

require a future total knee replacement as a result of injuries sustained in the accident. Dr. Smith testified that the future knee replacement would cost approximately \$100,000.

**PLAINTIFF'S EXPERT WITNESSES:**

**Dr. Richard Smith:** Dr. Smith was plaintiff's treating orthopedic surgeon and testified that during his initial surgery in August 2015, he identified tearing of the medial meniscus of Plaintiff's right knee. Dr. Smith opined that the medial meniscal tear was caused by the May 2015 subject accident. Dr. Smith testified that the absence of any documented treatment for right knee pain in Plaintiff's medical history was supportive of the medial meniscal tear being acutely caused by the accident rather than the result of chronic wear and tear because a chronic condition would manifest in both knees

Dr. Smith performed a second surgery in February of 2016 and related the need for both surgeries to the May 2015 subject accident caused by Justin Shane Platt. Dr. Smith testified that as a result of her accident injuries, Plaintiff would require a future total knee replacement at the cost of approximately \$100,000.

**Edward Williams, P.A.:** Physician's assistant Williams treated and examined Plaintiff in the weeks following the subject accident and documented Plaintiff's initial complaints of right knee pain and stiffness. Mr. Williams testified that Plaintiff's post-accident right knee treatment was causally related to the May 2015 accident.

**Dr. Robert Stoltz:** Dr. Stoltz provided chiropractic treatment to Plaintiff and documented Plaintiff's right knee pain post-accident. Dr. Stoltz suspected a meniscal tear and ordered a right knee MRI before eventually referring Plaintiff to Dr. Smith for orthopedic care. Dr. Stoltz causally related Plaintiff's right knee injury and treatment to the subject accident.

**DEFENDANT'S EXPERT WITNESSES:**

**Dr. Marc Kaye:** Dr. Kaye testified on behalf of the defense as an expert radiologist. Dr. Kaye opined that there was no radiographic evidence of Plaintiff having sustained an acute injury or an aggravation of a pre-existing injury in the May 2015 subject accident. Dr. Kaye also opined that the meniscal tear addressed by Dr. Smith was degenerative in appearance and exhibited signs of maceration.

**Dr. Richard Konsens:** Dr. Konsens was an orthopedic knee surgeon retained by the defense as an expert witness. At trial, Dr. Konsens testified that meniscal tears typically involve downward weight on the knee combined with a twisting motion; therefore, there would be no clear mechanism of injury to the medial meniscus for a restrained, seated passenger in a non-weight bearing position during a rear-end collision. Dr. Konsens also testified that injuries to the medial meniscus typically cause immediate onset of pain and discomfort, and it would be unlikely for Plaintiff to have no reported right knee pain for thirty-eight days post-injury. Dr. Konsens opined that none of the treatment provided to Plaintiff by Dr. Richard Smith was causally related to the May 2015 accident.

**CHECK APPROPRIATE SPACE:**     X   Verdict

**DATE OF VERDICT:**

October 31, 2019.

**VERDICT:**

The jury returned a verdict finding that the negligence of Shane Platt was not a cause of any injury to Plaintiff.

**COMPARATIVE NEGLIGENCE:**

None. Plaintiff was a passenger in her vehicle at the time of the accident and was wearing her seatbelt.

Prior to trial, the defense stipulated that Justin Shane Platt was negligent in causing the accident, and that Carol Ann Platt was vicariously liable for Justin Shane Platt's negligence as the registered owner of the vehicle.

**JUDGMENT:**

Defense judgment for Carol Ann Platt and Justin Shane Platt – December 18, 2019.

**DEFENDANT'S OFFER:**

On December 12, 2017, Defendants served a \$35,000 proposal for settlement to Plaintiff.

**PLAINTIFF'S DEMAND:**

On July 3, 2019, Plaintiff served a \$250,000 to Defendant's proposal for settlement.

During closing arguments, Plaintiff suggested that the jury award a total of \$800,000 in damages.

**ATTORNEY'S COMMENTS:**

Plaintiff did not seek any medical treatment on the day of the accident, which occurred when Justin Shane Platt rear-ended Plaintiff's vehicle in stop-and-go traffic following a soccer game. Plaintiff was able to stand and walk at the accident scene.

During trial, Plaintiff's counsel argued that Ms. Araujo did not have any documented right knee pain complaints for approximately thirty-eight days after the accident because she had taken time off from work and was taking prescription pain medication for her post-accident neck and back

pain which effectively masked the knee pain. Plaintiff argued that Ms. Araujo began to notice the right knee pain after the neck and back pain subsided.

Evidence was presented at trial showing that Plaintiff had received a single right knee injection approximately fifteen (15) years prior to the May 2015 accident but had no other right knee treatment or symptoms prior to the accident. The defense argued that Dr. Smith's operative note was unreliable and that there was no clear mechanism of injury for Plaintiff's medial meniscal tear. The defense also argued that Plaintiff would have experienced immediate onset of right knee pain and swelling if the meniscal tear was traumatically caused by the subject accident.

**Submitted By:**            **Juan A. Ruiz/Aaron E. Eagan**            **Date: January 23, 2020**

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