



(Publication page references are not available for this document.)

Copyright (c) 2006 JAS Publications, Inc.

Superior Court of Massachusetts.
DONALD L. DELMOLINO, ET AL. v. JOSEPH DOYLE
BECV 2004-00070

DATE OF VERDICT/SETTLEMENT: June 29, 2005

TOPIC: MOTOR VEHICLE AUTO/PEDESTRIAN ACCIDENT - PARKING LOT - FRACTURE - DEFENSE
VERDICT

SUMMARY:

Result: Verdict: Defense verdict

EXPERT WITNESSES:

Defendant's: Richard J. Hawkins, M.D. - Orthopedist - Fitchburg, MA

ATTORNEY:

Plaintiff's: Withheld

Defendant's: **John B. Stewart**, Springfield

JUDGE: Mary-Lou Rup

RANGE AMOUNT: \$0

STATE: Massachusetts

COUNTY: Berkshire County, MA

ALLEGED INJURY: Avulsion fracture to the wrist, bruises on the hip and leg, torn meniscus requiring surgical excision, and soft tissue neck and back injuries. Plaintiff claimed a 5% to 8% whole body impairment. He claimed \$5,300 in lost wages from missing one summer as a deputy sheriff who directed traffic at \$30 an hour, and \$20,000 in medicals. Plaintiff's wife sought damages for loss of consortium.

SUMMARY:

Plaintiff Information:

Age: 60

Sex: M

Occupation: Guidance counselor

Jury Deliberations: 20 minutes

FACTS:

A middle school guidance counselor claimed he sustained multiple injuries when he was struck by a vehicle driven by the middle school principal. The jury deliberated 20 minutes before rendering a defense verdict. Plaintiff's motion for a new trial was denied.

Plaintiff Donald DelMolino and Defendant Joseph Doyle had attended an after-school basketball game. Defendant was in his vehicle and backing out of a parking space when he felt the car strike plaintiff, who fell to the ground. He stopped immediately to help plaintiff, who reportedly denied being injured. The next day, plaintiff consulted with the school nurse and went to the emergency room with complaints of wrist pain. An X-ray revealed an avulsion fracture and plaintiff was given a splint. He saw an orthopedist one week later. Two weeks after the accident,

(Publication page references are not available for this document.)

plaintiff knelt down at his home and felt a pop in his knee. An emergency room physician diagnosed him with a torn meniscus and he had surgery six weeks later. Six months after the accident, plaintiff sought chiropractic treatment for his neck and back. The chiropractor gave him a 5% to 8% permanent impairment rating. Plaintiff's wife sought damages for loss of consortium.

Plaintiff alleged defendant was negligent in failing to maintain a proper lookout and assure there were no pedestrians in his path. He asserted that all of his injuries were a direct result of defendant hitting him with his car. He claimed that he looked before walking into the parking lot, but did not see defendant's car until it was too late. Plaintiff conceded that defendant may not have been able to see him.

Defendant contended plaintiff's wrist injury was related to the parking lot accident, but his other injuries were not. Defendant argued that plaintiff did not complain of a knee injury until the incident at his home. He presented medical records that showed plaintiff suffered from chronic knee pain since 1979 as well as low back pain. Defendant maintained that an X-ray taken before the meniscus surgery showed a degenerative condition in plaintiff's cervical spine at C3-C7. Defendant's independent medical examiner determined the wrist avulsion fracture was related to the accident, but the other injuries were unrelated.

JAS Publications, Inc.

Superior Court

PUBLISHED IN: Vol. 17, No. 4

2005 WL 4134803 (Mass.Super.), JAS MA Ref. No. 218021WL

END OF DOCUMENT