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XV/8-11 MOTOR VEHICLE — REAR END — LIABILITY CONCEDED — HERNIATED LUMBAR DISC REQUIRING SURGERY

Cynthia Manning and James Bartley v. Robert and Carol Perretto and Steven Zassman 19211/91 5-day trial Verdict 6/27/97 Kings Supreme

Judge: Laura L. Jacobson

Verdict: \$3,153,750 for Manning (6/0). Breakdown: \$630,000 for past pain and suffering; \$33,750 for past lost earnings; \$2,250,000 for future pain and suffering; \$240,000 for future lost earnings. Bartley settled for \$19,500.

Liability: Perretto 50%; Zassman 50% negligent (stipulated). Jury: 3 male, 3 female. A post-trial motion is pending. The result will be published in a future issue.

Pltf. Atty: Harry I. Katz of Harry I. Katz, P.C., Fresh Meadows

Def. Atty: David Greene of Frank A. Composto, Brooklyn
Charles M. Goldstein of Paganini & Herling, Manhattan

Facts: Pltfs. claimed that on 10/4/90 at approximately 5:30 PM their vehicle was struck in the rear by Def. Perretto's vehicle (50% liable) as it stopped for a traffic signal on South Conduit in Queens at the intersection of Hook Creek. Pltfs. claimed that their vehicle, which was being driven by Pltf. Bartley, was struck twice by Def. Perretto. Def. Perretto claimed that after hitting Pltfs.' vehicle, his vehicle was struck in the rear by Def. Zassman's vehicle (50% liable), which pushed him forward again. Defs. conceded liability prior to damages and stipulated that 50% liability be apportioned to each Def.

Injuries: Manning (58-year-old hospital clerk — \$3,153,750 verdict) SPONDYLOLISTHESIS; HERNIATED DISC at L4-5 requiring fusion. Pltf. also had a lumbar laminectomy due to injuries related to a previous accident in 1981. Def. contended that all of Pltf.'s injuries pre-existed the 1990 accident. Defs. also claimed that Pltf. could not have suffered spondylolisthesis without also suffering a spinal fracture. Pltf. was out of work for a total of 15 months since the time of the 1990 accident. Bartley (49-year-old conductor for NYCTA — \$19,500 settlement) soft tissue injuries to the back and neck. Demonstrative evidence: X-rays; MRIs, CAT scans. Offer: \$75,000 before trial; \$500,000 during trial. Jury deliberation: 2 days. Carriers: Allstate for Perretto; Commercial Union for Zassman. Settlement apportionment: Zassman paid \$10,000 of Bartley's \$19,500 settlement before trial; Perretto paid \$9,500 during trial.

Pltf. Experts: Dr. Leon Bernstein, orth. surg., Forest Hills; Dr. Philip Taylor, orth. surg., Brooklyn; Dr. Ralph Marcove, orth. surg., Manhattan; Dr. Marc Weidenbaum, orth. surg., West Haverstraw.

Def. Experts: Dr. Leon Sultan, orth. surg., Franklin Square; Dr. David Milbauer, neuroradiologist, Manhattan.