

DONNA ELSER vs. EDDIE RODRIGUEZ and FLOR D. VALLE-KAPLAN

Docket No.: 05-CA-6336; FJVR Reference No. 07:8-51

Verdict Date: **January** 18, 2007; Publication Date: **August** 2007

TOPIC: Motor Vehicle Accident - Rear-end Collision - Phantom Vehicle

RESULT: \$ 62,500 for Plaintiff. (verdict)

(\$ 22,500 - past pain and suffering; \$ 40,000 - future pain and suffering).

Plaintiff's Negligence: 0%; Defendant Rodriguez's Negligence: 100%; Fabre
Defendant's Negligence: 0%

JUDGMENT: \$ 62,500 for Plaintiff on March 23, 2007.

STATE: Florida

COUNTY: Orange

JUDGE: Reginald K. Whitehead

PLAINTIFF PROFILE: Age: 48

Sex: Female

PLAINTIFF ATTORNEY: Michael J. Smith and Todd Meyer of Morgan & Morgan,
P.A., Orlando

DEFENDANT ATTORNEY: Paul S. Jones of **Luks, Santaniello**, et al., Orlando

CAUSE OF INJURY: On August 15, 2004, Plaintiff was traveling west on the Beach Line Expressway (SR 528) when her vehicle was rear-ended by a vehicle operated by Defendant Rodriguez and owned by Defendant Valle-Kaplan. Defendants alleged that an unidentified vehicle cut in front of Defendants' vehicle forcing Rodriguez to attempt to take evasive action and collide with Plaintiff's vehicle. Prior to trial, the court granted Defendants' Motion to Amend their affirmative defenses to assert the unidentified vehicle as a Fabre Defendant.

NATURE OF INJURY: Herniated discs; injuries to neck, mid-back, and low-back; permanent post-traumatic headaches. Defendants alleged that Plaintiff's headaches were caused by stressors in Plaintiff's life and that Plaintiff had not undergone medical treatment in almost two years following this accident.

PLAINTIFF EXPERT WITNESSES: Christopher Reckseidler, D.C., Chiropractic,
Orlando
Christian Kovats, D.O., Osteopathy, Orlando (video depo)

DEFENDANT EXPERT WITNESSES: John R. McCormick, M.D., Neurology, (I.M.E.),
Orlando

EDITOR'S NOTE: The jury found that Plaintiff sustained a permanent injury within a reasonable degree of medical probability as a result of this accident. Defendants filed a Motion for New Trial. Plaintiff filed a Motion for Attorney's Fees and Costs.