

MILDREY GARCIA vs. VILMA MORAN

Docket No.: 06-7914 CA 11; FJVR Reference No. 09:10-20

Verdict Date: **August** 19, 2009; Publication Date: **October** 2009

TOPIC: Motor Vehicles - Motor Vehicle Accident - Intersection Collision

RESULT: \$ 12,011 for Plaintiff. (verdict)

(past medical expenses).

STATE: Florida

COUNTY: Miami-Dade

JUDGE: Barbara Areces

PLAINTIFF PROFILE: Age: 25

Sex: Female

Occupation: Secretary

PLAINTIFF ATTORNEY: William C. Ruggiero, Ft. Lauderdale

DEFENDANT ATTORNEY: Howard W. Holden and Julie M. Congress of **Luks, Santaniello**, et al., Ft. Lauderdale

Cause Of Injury: Plaintiff alleged that on June 4, 2005, at approximately 7:30 p.m., at the intersection of N.W. Flagler Drive and N.W. 21st Avenue in Miami, a collision occurred with Defendant's vehicle. Defendant alleged that she was traveling west on N.W. Flagler Drive when she came to a complete stop at the stop sign at N.W. 21st Avenue. Defendant alleged that her vision of the southbound traffic on N.W. 21st Avenue was partially blocked because there were several vehicles parked along the street to her right. Defendant alleged that as she pulled forward from the stop line into the intersection to see if any traffic was approaching from her right, she suddenly saw Plaintiff's vehicle approaching at what appeared to her to be a fast rate of speed, and was unable to apply her brakes in time to avoid colliding with Plaintiff's vehicle.

Nature Of Injury: Plaintiff claimed that as a result of the subject accident, she sustained permanent injuries to her neck, back, left shoulder, left elbow, and left knee. Plaintiff's chief complaint was the alleged injury to her left knee that was diagnosed as a subluxation of the patella. Plaintiff underwent an MRI of the left knee approximately one month post-accident that was read as showing an anterior cruciate ligament tear, as well as a bone contusion. Plaintiff was treated with injection therapy and manipulation treatments. Plaintiff's treating physician, Dr. Patrick Barry, testified that, as a result of the forced inactivity due to her left knee injury, Plaintiff also developed a subluxation to her right knee that he treated with the same regimen. Plaintiff's total medical expenses were approximately \$ 23,000. Dr. Barry opined that Plaintiff was permanently injured as a result of the subject

accident and that Plaintiff was a surgical candidate for the bilateral knee injuries, which he causally related to the subject accident.

Plaintiff asked the jury for the cost of her past medicals, for future surgery and related medical treatment of approximately \$ 20,000, and unspecified past and future pain and suffering damages.

Defendant presented evidence that Plaintiff's past medical treatment was not necessary and/or related to the alleged injuries she sustained in the accident.

PLAINTIFF EXPERT WITNESSES: Patrick Barry, M.D., Orthopedic Surgery, Miami

DEFENDANT EXPERT WITNESSES: Salvador Ramirez, M.D., Orthopedic Surgery, Miami

Peter A. Livingston, M.D., Radiology, Hollywood

Editor's Note: This was a three-day trial. The jury was composed of two males and four females. The jury deliberated for three hours and thirty minutes. The jury found that Defendant's negligence was the legal cause of loss, injury or damage to Plaintiff and found Defendant 100% at fault. However, the jury did not find that Plaintiff sustained a permanent injury within a reasonable degree of medical probability and awarded her only past medicals. Plaintiff stipulated to a personal injury protection set-off of \$ 10,000 of the verdict at the commencement of trial. Final judgment has been submitted to the Court in favor of Plaintiff in the amount of \$ 2,011. Defendant served a Proposal of Settlement to Plaintiff for a total amount of \$ 2,001. Plaintiff demanded \$ 10,000 from Defendant prior to trial.