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FLORIDA JURY VERDICT REPORTER (FJVR)

FIDEL HERNANDEZ vs. THE COCA-COLA CO.

Docket No.: 05-5708 11; FJVR Reference No. 07:9-11

Verdict Date: **April 3, 2007**; Publication Date: **September 2007**

TOPIC: Defense Verdicts - Motor Vehicles - Motor Vehicle Accident - Canisters
Rolling into Truck Cab

RESULT: For the Defendant. (verdict)

STATE: Florida

COUNTY: Broward

JUDGE: Eli Breger

PLAINTIFF PROFILE: Age: 42

Sex: Male

Occupation: Truck Driver

PLAINTIFF ATTORNEY: Deborah Gander of Colson, Hicks, et al., Coral Gables

DEFENDANT ATTORNEY: Orestes Perez of **Luks, Santaniello**, et al., Ft.
Lauderdale

CAUSE OF INJURY: On May 3, 2001, Plaintiff went to Defendant's shipping plant in Atlanta, Georgia to pick up a load of canisters which contained syrup. The canisters, which weighed over 1,000 pounds each, were loaded into his truck by Defendant's employees. While en route to the destination where he was to drop off the shipment of canisters, Plaintiff had a tire blowout which caused him to lose control of the truck and forced him to stop to avoid wrecking or rolling over. The canisters allegedly had been loaded in a manner that caused them to roll forward with such force as to come through the front of the trailer and slam into the tractor cab where Plaintiff was seated. Plaintiff claimed Defendant's employees improperly loaded and secured the canisters. Defendant contended that Plaintiff came to a controlled stop; he pumped his brakes before stopping. Defendant alleged that the manner in which Plaintiff described the incident and the physical evidence of the canisters were not consistent.

NATURE OF INJURY: Large herniated disc at L4-L5 for which surgery was performed (microdiscectomy and laminectomy); continuing symptoms after surgery, including radicular complaints down right leg, with a possible second surgery; cervical herniations at two levels with surgery recommended.

PLAINTIFF EXPERT WITNESSES:

Gary Lustgarten, M.D., Neurosurgery, N. Miami Beach

Al Haglethorn, Trucking, Detroit, MI

Aizik Wolf, M.D., Neurosurgery, Coral Gables

DEFENDANT EXPERT WITNESSES: Toby Wilson Hayes, Biomechanics, Corvallis,
OR

EDITOR'S NOTE: The jury found that there was no negligence on the part of Defendant which was a legal cause of loss, injury or damage to Plaintiff. No post-trial motions are pending.