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FLORIDA JURY VERDICT REPORTER (FJVR)

ELEANOR NAPPER, as personal representative of the estate of RICHARD NAPPER,
deceased vs. MIGUEL H. HERNANDEZ and LABORATORY CORP. OF AMERICA
HOLDINGS

Docket No.: 01-13733 CA 22; FJVR Reference No. 05:12-32

Verdict Date: **August** 25, 2005; Publication Date: **December** 2005

TOPIC: Defense Verdicts - Motor Vehicle Accident - Pedestrian Struck - Failure to Yield - Pedestrian Injury

RESULT: For the Defendants. (verdict)

STATE: Florida

COUNTY: Miami-Dade

JUDGE: Roberto Piniero

PLAINTIFF PROFILE: Age: 58

Sex: Male

Occupation: Disabled

PLAINTIFF ATTORNEY: Joshua D. Medvin and Cullen J. Lane of Medvin, Tropp & Assoc., Coral Gables

DEFENDANT ATTORNEY: Daniel J. **Santaniello** and Robin B. Levine of **Luks, Santaniello**, et al., Ft. Lauderdale

CAUSE OF INJURY: On April 17, 1999, Plaintiff Richard was a pedestrian crossing at the intersection of S.R. 9 and N.W. 22nd Avenue in Opa Locka when he alleged he was negligently struck by a vehicle operated by Defendant Hernandez, who was acting in the course and scope of his employment with Defendant Laboratory Corp. of America Holdings. Plaintiffs claimed that Hernandez carelessly failed to yield to Richard and had sufficient time to avoid striking him. Defendants alleged that Plaintiff was the sole cause of this accident through his own negligence by being intoxicated, entering the intersection against a red light for his direction of travel, failing to yield the right of way to Defendants' vehicle, failing to walk in the designated crosswalk, and by walking into the side of Defendants' vehicle causing his own injuries.

NATURE OF INJURY: Laceration to head and soft tissue injuries to neck and back; comminuted displaced left ankle fracture and dislocation which required surgery. Plaintiffs further claimed that Richard developed an ulcer on his left ankle which required further hospitalization, skin grafts, and his ultimate death three weeks later.

PLAINTIFF EXPERT WITNESSES: Mario Nanes, M.D., Neurosurgery, Miami
Ed Jones, M.D., General Practice, Fitzgerald, GA

DEFENDANT EXPERT WITNESSES: Teri Stockham, Ph.D., Toxicology, Ft. Lauderdale

EDITOR'S NOTE: The jury found that there was no negligence on the part of Defendants which was a legal cause of the damage to Plaintiff Richard. Defendant offered \$ 10,001; Plaintiff demanded \$ 450,000 in a Proposal for Settlement. Motion for Directed Verdict was denied by the trial judge.

DEFENDANT'S ATTORNEY'S COMMENTS: Plaintiff originally brought this lawsuit as a wrongful death action claiming that this accident caused Napper's death two months later. Defendants argued that this accident did not cause Napper's death, but that he died as a result of blood clots and heart failure. Plaintiffs voluntarily dismissed their wrongful death claims against Laboratory Corp. and Miguel Hernandez without prejudice on September 7, 2004. Thereafter, Plaintiff amended her complaint to bring a general negligence claim against Defendants.