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FLORIDA JURY VERDICT REPORTER (FJVR)

JOSE RIVERA, individually and as father and natural guardian of NATIVIDAD RIVERA,
a minor vs. LARISSA NAISHA DURAND

Docket No.: 03-29740 CA 31; FJVR Reference No. 05:3-33

Verdict Date: **December** 29, 2004; Publication Date: **March** 2005

TOPIC: Motor Vehicle Accident - Rear-end Collision - Passenger Injury

RESULT: \$ 6,000 for minor Plaintiff. (verdict)

STATE: Florida

COUNTY: Miami-Dade

JUDGE: Peter Lopez

PLAINTIFF PROFILE: Age: 16
Sex: Female

PLAINTIFF ATTORNEY: Richard E. Doherty, Miami

DEFENDANT ATTORNEY: Daniel J. **Santaniello** and Scott E. Danner of **Luks, Santaniello**, et al., Ft. Lauderdale

CAUSE OF INJURY: On June 12, 2002, at approximately 2:48 p.m., minor Plaintiff Natividad alleged that she was stopped at a red light on N.E. 8th Street in Homestead when Defendant's vehicle rear-ended her vehicle. Natividad alleged that Defendant had been following too closely and because of the rain slick highway she negligently failed to stop, striking Natividad's vehicle. Natividad stated that she had been sitting sideways in the passenger seat, and the impact caused her to violently slam her shoulder into the seat and twist her neck and back. Defendant's vehicle was deemed a total loss and was not repaired. Defendant admitted liability, and the case was tried solely on the issues of causation and damages.

NATURE OF INJURY: Left shoulder and neck sprain/strain; possible annular tear and bulges at L4-L5 and L5-S1 for which discogram and nucleoplasty surgery were recommended.

PLAINTIFF EXPERT WITNESSES: Nicholas Suite, M.D., Neurology, Miami

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

DEFENDANT'S ATTORNEY'S COMMENTS: Scott Danner: The jury determined that Defendant's negligence was the legal cause of injury, loss, or damage to Plaintiff. They also determined that Jose Rivera was not entitled to any recovery for the filial consortium claim or for the loss of his daughter's services. The net verdict awarded to minor Plaintiff was \$ 6,000. Minor Plaintiff asked the jury for her medical bills of \$

22,000, future medical expenses, future loss of earning capacity, past and future pain and suffering, and loss of support and services for her father; nevertheless the jury awarded minor Plaintiff less than her medical bills (\$ 16,000). The jury also determined that Plaintiff was not entitled to any future medical bills and that she did not sustain a permanent injury. The jury was also asked to make a determination as to whether Defendant was entitled to a \$ 10,000 set-off for the payable PIP benefits and awarded Defendant the \$ 10,000 set-off at trial.