

TANYA MARIE WINDECKER vs. FRANCO MIGUEL HIDALGO

Docket No.: 2005CA002471AE; FJVR Reference No. 07:5-52

Verdict Date: **February** 15, 2007; Publication Date: **May** 2007

TOPIC: Defense Verdicts - Motor Vehicle Accident - Rear-end Collision

RESULT: For the Defendant. (verdict)

STATE: Florida

COUNTY: Palm Beach

JUDGE: Kenneth Stern

PLAINTIFF PROFILE: Age: 30
Sex: Female
Occupation: Accountant

PLAINTIFF ATTORNEY: David J. Chestnut, Stuart; Peggy Underbrink of Schwartz, Zweben & Slingbaum, L.L.P., Stuart

DEFENDANT ATTORNEY: Daniel J. **Santaniello** and Marc M. Greenberg of **Luks, Santaniello**, et al., Boca Raton

CAUSE OF INJURY: On April 30, 2001, in the early afternoon hours, Plaintiff alleged that Defendant, traveling at a moderate speed, rear-ended her vehicle on Okeechobee Boulevard in W. Palm Beach. Defendant admitted liability prior to trial, but asserted that the accident was not the legal cause of loss, injury or damage to Plaintiff.

NATURE OF INJURY: Plaintiff claimed that as a result of the accident, she sustained permanent injuries to her neck, in particular her cervical spine. Plaintiff denied experiencing any prior injuries to her cervical spine region. Plaintiff maintained that the injury to her neck was permanent and left her unable to enjoy life, affecting her ability to engage in physical activities and maintain relationships with co-workers, friends, and family. Plaintiff claimed approximately \$ 19,000 in past medical expenses; \$ 96,000 in future medical expenses; and \$ 90,000 for pain and suffering.

Plaintiff was first treated by Dr. Lust on the date of the accident. Plaintiff presented to Dr. Lust approximately one hundred and fifty times, over the next six years. Dr. Lust assessed Plaintiff with a 10% whole body impairment rating as a result of injuries sustained to her neck as a result of the accident. Dr. Lust based her opinion regarding permanency on the AMA Guidelines and Plaintiff's continued abnormal physical exams in conjunction with continued problems conveyed to her by Plaintiff.

Plaintiff also presented to Dr. Calas following an MRI of her cervical spine on May 18, 2001, approximately three weeks post-accident. Although the MRI report showed disc herniations at four levels (C3-C4; C4-C5; C5-C6; C6-C7), Dr. Raskin believed

that although the herniations were present, there was no clinical correlation between injuries sustained in the accident and the MRI findings. Dr. Raskin opined that the herniations were pre-existing, degenerative in nature, and longstanding.

PLAINTIFF EXPERT WITNESSES: Henry Calas, M.D., Neurology, Stuart
Lisa Lust, D.C., Chiropractic, Stuart
Andrew Walker, M.D., Neuroradiology, Stuart

DEFENDANT EXPERT WITNESSES: David Buchalter, M.D., Orthopedic Surgery,
Delray Beach
Michael Raskin, M.D., Neuroradiology, Stuart

EDITOR'S NOTE: The jury found that there was no negligence on the part of Defendant which was the legal cause of damages to Plaintiff. Defendant served a Proposal for Settlement on September 20, 2006, which now entitles him to Attorney's Fees and Costs. Plaintiff demanded policy limits prior to trial.