

# AUTO & FLEET LIABILITY

*English, Michael v. William Buczinsky and Dryoutpro Plus, Inc.*

## Defense Verdict on Causation



**LUKS, SANTANIELLO**  
— PETRILLO & COHEN —

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Junior Partner | Stuart

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***Admitted Liability; \$173,000 2-level Cervical Disk Replacement; \$618,000 Life Care Plan; Jury Defense Verdict on December 3, 2020.***

Partners Chris Moore, Esq., (Stuart) and Jim Sparkman, Esq., (Boca Raton) tried a Post-Covid case, *English, Michael v. William Buczinsky and Dryoutpro Plus, Inc.*, to defense verdict in a rear-end accident case. The trial represented the first Post-Covid civil trial in the 19th Judicial Circuit. Before trial, we admitted liability on behalf of the defendants and vigorously defended causation.

Plaintiff called 3 treating medical providers (Dr. Stuart Krost, Dr. Harold Bach and Dr. Michael Hennings) and retained and called a neuro-radiologist (Dr. Eric Pfeiffer) to testify the accident was the cause of plaintiff's injuries and surgery. Plaintiff incurred over \$173,000 in medical bills, stemming primarily from a 2 level cervical disk replacement. In addition, the Plaintiff obtained a life care plan by Dr. Stuart Krost for future medicals in excess of \$618,000. Plaintiff contended that he essentially never had prior neck problems and that the few prior medical visits he had with neck pain years prior were temporary, far less severe and he had not treated for more than 2 years prior to the subject DOA.

The defense focused on the property damage photographs and used a mechanical engineer to explain to the jury the low forces involved in the subject incident. In addition, the defense used board certified surgeon Dr. Gaetano Scuderi to opine that image studies did not support any recent injury to the spine from the subject accident, but showed long standing, chronic degenerative changes. The defense expert explained to the jury how the prior disc problems would not heal themselves, but would grow worse over time and lead to the need for the actual disc replacement surgery that occurred in this case. The defense also vigorously challenged plaintiff's treating physicians on their billing and ownership interest in Ambulatory Surgery Center of Boca Raton, which was allegedly not disclosed to the plaintiff in violation of Florida Law. The defense was able to get a special instruction on Section 456.052, Florida Statutes, which requires surgeons to disclose financial interests that they may have in facilities, such as a surgery center.

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