

AUTO LIABILITY MOTORCYCLE ACCIDENT

Plaintiffs v. Abby Tingjing Lu

Net Verdict of \$590,751 | April 1, 2022



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Tender of \$1M Policy Limits Rejected - \$13,023,932 Jury Demand - 2-Week Trial Miami – Net Verdict \$590,751.

Senior Partner Luis Menendez-Aponte, Esq., and Managing Partner Daniel Santaniello, Esq., obtained a favorable result in a motorcycle accident matter that occurred on northbound Turnpike just north of Florida City. Plaintiffs jointly asked for \$13.1 Million dollars. The \$1M policy limits had been tendered and rejected well in advance of trial. The jury apportioned liability 50% to the Plaintiff(s), 10% to the fabre driver, and 40% to the Defendant Abby Tingjing Lu resulting in a net verdict of \$590,751.

The case styled *Plaintiffs v. Abby Tingjing Lu* was tried over the course of two weeks before Judge Charles Johnson in Miami-Dade County. Our client insured was a Chinese resident living in New York City and was visiting the Florida Keys. She had rented a vehicle from Hertz and was heading back to Fort Lauderdale when the accident happened. Plaintiff was a Cuban-American and Miami resident. His wife, a registered trauma nurse with the Jackson Memorial Health Care System, was on the back of a motorcycle at the time of the accident. Coincidentally they were both airlifted to Jackson from this accident. The jury was comprised of five Cuban Americans and one African American.

Our Client encountered some debris on the turnpike and attempted to swerve to avoid it. Nine witnesses testified regarding the accident. There was a dispute over the existence and extent of the debris and a dispute over the actions of our client.

The Plaintiffs alleged that the Defendant improperly failed to avoid the debris like other cars that had successfully maneuvered around it according to witnesses. They suggested she was looking at her phone using it for GPS navigation. They claimed that the Event Data Recorder supported that our client moved into the shoulder and then abruptly moved back into the travel lane at only 5.6 mph, striking the motorcycle. They called expert engineer Ralph Aronberg, P.E. who testified the defendant was totally at fault for the accident.

The Defense disputed liability. We called motorcycle expert and engineer Alan Moore to the stand to testify that the plaintiff was following too closely. The Court did not allow us to present evidence that the plaintiff did not have a motorcycle endorsement.

The injuries to both plaintiffs were significant. Plaintiff, the motorcycle operator, was catapulted at 65 mph into the median and sustained significant lower right extremity injuries involving degloving injuries, a shattered femur, shattered ankle. He can no longer walk without pain and severe limp and needs to undergo at least two further surgeries, including an ankle fusion which was not disputed by the defense medical experts. He required four surgeries to save the leg. He did not have health insurance so his **specials totaled \$906,214**.

Plaintiff, his girlfriend-passenger and now wife, also was catapulted onto the left lane, where she sustained a fractured femur and required emergency surgery to align and fixate it. She continues to suffer from pain and limitations due to her leg. Her **medical bills were \$100,003**. It is significant to note both plaintiffs are very young — in their late twenties when the accident happened.

Opposing counsel, Jose Menendez, a renowned Miami tobacco trial lawyer, asked the jury for \$9,000,000 in pain and suffering for Plaintiff and \$3,020,715 in pain and suffering for Plaintiff passenger. The total damages requested in closing argument were \$9,906,214 for Plaintiff and \$3,117,718 for Plaintiff passenger, both totaling **\$13,023,932.00**.

More than 20 witnesses were called to this trial, including eight plaintiff medical experts. The defense employed two key strategies to deal with the sympathy/prejudice associated with a Miami trial involving a Cuban-American plaintiff versus a Chinese resident of New York; and a reasonable pain and suffering award in light of the facts. These strategies were employed in jury selection and closing arguments and helped deliver a verdict wherein the jury gave less than the defense even suggested for non-economic damages. Please feel free to reach out directly to Dan Santaniello to discuss this result further.

About Luks, Santaniello, Petrillo, Cohen & Peterfriend

Our verdicts tell the story.TM Luks Santaniello Petrillo Cohen & Peterfriend is a Florida & Massachusetts Corporate and Insurance Defense Litigation firm committed to securing equal justice in the courtroom for business owners. We defend professionals, corporations and their insurance companies from both Liability and Workers' Comp claims out of eleven Florida offices: Key West, Miami, Fort Lauderdale, Boca Raton, Stuart, Fort Myers, Tampa, Orlando, Jacksonville, Tallahassee, Pensacola, and Boston. The Law Firm is Peer Review Rated by Martindale-Hubbell.

The firm has a diversified team of over 130+ litigators. Members have tried over 200 cases in Florida State and Federal Courts. We have a strong reputation in defending complicated general liability bodily injury claims involving over treatment, high medicals, letter of protection(s) and questionable surgeries. The firm also has a full-service Appellate team in South, Central and Northern Florida to assist with summary judgments, motions in limine, discovery objectives, trial strategy and post trial positions.

The Daily Business Review selected Luks & Santaniello as finalists for the Most Effective Lawyers for its innovation in filing a Declaratory Judgment Action in a multiple Wrongful Death claim. Luks & Santaniello is a member of The Gavel.net LLC. Nationwide Claims Defense Network.

For questions or assistance with your Florida matters, please contact the Managing Partner, Client Relations or your Luks & Santaniello contact.