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Motor Vehicle

Car crash caused shoulder injuries, plaintiff claimed

Verdict: (P) \$35,000.00

Case Type: No-Fault Case, Motor Vehicle - Rear-ender, Motor Vehicle - Center Line, Motor Vehicle - Multiple Impact, Motor Vehicle - Multiple Vehicle

Case: James J. Googas & Mary Googas v. Charles E. Jeffrey & Marian L. Jeffrey, No. 7511/05

Venue: Albany Supreme, NY

Judge: Thomas J. McNamara

Date: 01-13-2009

PLAINTIFF(S)

Attorney:

- Charles A. Sarris; Kouray & Kouray; Schenectady, NY, for James J. Googas

Expert:

- Richard Alfred M.D.; Orthopedic Surgery; Albany, NY called by: Charles Sarris

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DEFENDANT(S)

Attorney:

- Paul A. Hurley; Boeggeman, George & Corde, P.C.; Albany, NY, for Charles E. Jeffrey, Marian L. Jeffrey

Expert:

- Thomas Eagan M.D.; Orthopedic Surgery; Gloversville, NY called by: Paul Hurley

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Insurer:

- New York Central Mutual Fire Insurance Co. for both defendants

Facts:

On July 11, 2005, plaintiff James Googas, 50, a government liaison, was driving on Route 202, in Yorktown. In that location, Route 202 is a three-lane road with two lanes proceeding up a hill and one lane heading in the opposite direction, downhill. Googas was traveling in the right lane of the uphill side of the road. An oncoming motorist, Marian Jeffrey, struck the rear end of a preceding vehicle. Jeffrey's vehicle swerved onto Googas' side of the road and struck a vehicle that was being driven by Weiming Cai, who occupied the left lane. Cai's vehicle struck Googas' vehicle, and Googas claimed

that he sustained injuries of a shoulder.

Googas sued Jeffrey and the owner of Jeffrey's vehicle, Charles Jeffrey. Googas alleged that Marian Jeffrey was negligent in the operation of her vehicle. He further alleged that Charles Jeffrey was vicariously liable for Marian Jeffrey's actions.

In a separate action, Cai sued the Jeffreys. Cai alleged that Marian Jeffrey was negligent in the operation of her vehicle. He further alleged that Charles Jeffrey was vicariously liable for Marian Jeffrey's actions.

The cases were consolidated, but Cai's claims were resolved via a pretrial settlement. Terms were not disclosed. Googas' claims proceeded to a trial.

Googas claimed that Marian Jeffrey failed to maintain a proper lookout and failed to avoid any of the accidents.

Defense counsel conceded liability. The matter proceeded to a summary jury trial that addressed damages.

Injury:

Googas claimed that he sustained a nondisplaced fracture of his left shoulder's clavicle. He also claimed that he sustained a partial tear of his left shoulder's rotator cuff. He continued home after the accident and presented to an orthopedic surgeon the next day.

The orthopedic surgeon's reports indicated that he recommended arthroscopic surgery to treat Googas' injuries, but that Googas elected to treat his injuries conservatively, via about three months of physical therapy. Googas contended that he suffers residual pain that emerges when he raises his left arm above the level of his shoulder. He also contended that his doctor still recommends surgery.

Googas sought recovery of damages for his past and future pain and suffering. His wife presented a derivative claim.

Defense counsel contended that Mr. Googas' injuries were minor, given that he did not undergo surgery or miss work. Thus, he argued that Googas did not sustain a serious injury, as defined by the no-fault law, Insurance Law § 5102(d). He suggested that Googas was entitled to a fair and just award for his past pain and suffering but nothing for future pain and suffering.

Prior to the trial, the parties negotiated a \$150,000/\$20,000 high/low agreement.

Verdict Information The jury found that Googas sustained a serious injury. It determined that his damages totaled \$35,000, all for his past pain and suffering.

Editor's Comments This report is based on information that was provided by plaintiffs' and defense counsel.