

VIRGINIA LAWYERS WEEKLY

Vol. 26, No. 12

August 22, 2011

valawyersweekly.com

VERDICTS & SETTLEMENTS

Defense alleges degenerative disk disease in 19-year-old

\$125,000 Verdict

The 19-year-old plaintiff was injured in a motor vehicle accident on March 23, 2009. The defendant ran a stop sign and struck the plaintiff's car on the right side, causing it to

flip over approximately three times.

Liability was not an issue in the case. In regard to damages, the plaintiff had soft tissue injuries and an annular tear at L5-S1. The radiologist testified as to this finding and also opined that plaintiff had no degenerative disc disease in her spine at any other levels.

The plaintiff's primary care physician testified that the plaintiff was consistent with her complaints about her low-back and that she believed that the low-back issue was caused by the accident. This testimony was complemented by the testimony of plaintiff's physiatrist, who opined that the history of a violent accident and the plaintiff's youth was consistent with the annular tear being caused by the accident.

The defense questioned plaintiff's extended medical treatment for her lower back. The defense argued that the lower back complaints were not made initially and that there was a gap of several months after the accident before the lower back complaints began.

Dr. Kennedy Daniels, a local orthopedist, was retained by the defense for a record review. He was

called at trial and opined that reasonable treatment for the plaintiff for soft tissue injuries to her right knee and possibly her head were from the date of the accident through June 1, 2009. He further opined that there was no neck or back injury related to the accident. He based his opinion on the fact that

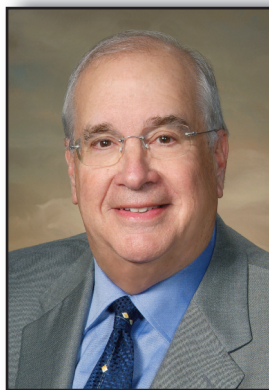
plaintiff's neck and back symptoms were not reported until May 18, 2009. He further stated that the MRI performed on June 16, 2009 showed degenerative disc disease, not trauma, and that the plaintiff did not have an annular tear.

Based on Daniel's testimony and the gap in treatment, the defense argued that all the plaintiff had was degenerative disc disease

unrelated to the accident and that her soft-tissue injuries were limited to approximately two-and-a-half months. The defense further argued that the plaintiff had completely resolved from the soft-tissue injuries.

Plaintiff's counsel requested the jury award \$125,000 and the jury returned in approximately one hour with that amount.

[11-T-107]



TRONFELD

Type of case: Personal injury - auto accident

Injuries alleged: Annular tear at L5-S1

Name of case: Johnson v. Doe

Court: Richmond Circuit Court

Tried before: Jury

Judge: Margaret P. Spencer

Date: Feb. 23, 2011

Special damages: Medical bills - \$29,023; lost wages - \$203

Offer: \$25,300

Demand: \$100,000 (policy limits)

Verdict or settlement: Verdict

Amount: \$125,000

Attorney for plaintiff: Jay Tronfeld, Richmond

Insurance carrier: Liberty Mutual