

**GABRIEL GARCIA vs. WENDY RODRIGUEZ**

Docket No.: 04-015453 05; FJVR Reference No. 07:1-4

**Verdict Date: November 16, 2006;** Publication Date: January 2007

**TOPIC:** Defense Verdicts - Motor Vehicle Accident - Running Red Light - Driving Under Influence

**RESULT:** For the Defendant. Plaintiff's Negligence: 75%; Defendant's Negligence: 25%

**STATE:** Florida

**COUNTY:** Broward

**JUDGE:** Robert Rosenberg

**PLAINTIFF PROFILE:** Age: 21  
Sex: Male

**PLAINTIFF ATTORNEY:** Travis Greene of Law Offices of William Ruggiero, P.A., Ft. Lauderdale

**DEFENDANT ATTORNEY:** Paul S. Jones and William J. Peterfriend of Luks, Santaniello, et al., Ft. Lauderdale

**CAUSE OF INJURY:** On January 25, 2004, Plaintiff alleged that Defendant ran the red light signal while exiting the Florida Turnpike at Red Road in Miramar. Defendant contended that Plaintiff ran the red light and that Plaintiff was driving with alcohol on his breath after partying on South Beach the night prior to the accident. Defendant, a hospital employee, informed the emergency room physician, Dr. Guzman, that she thought she smelled alcohol on Plaintiff's breath. Dr. Guzman noted in his ER report that Plaintiff was positive for alcohol on his breath at the hospital; however, two eyewitnesses testified that Plaintiff had nothing to drink that night. Following the accident, the investigating officer did not charge Plaintiff with any alcohol related offense.

**NATURE OF INJURY:** Permanent scarring and permanent injuries to neck. Allegedly, the impact from the crash was so severe that Plaintiff was thrown into his windshield despite wearing his seat belt and his airbag deploying. Plaintiff's vehicle was declared a total loss. Plaintiff suffered a laceration above his right eye from striking the windshield that required seven staples to close. Plaintiff complained of experiencing ongoing pain and swelling at the scar site and testified that the scar on his face was unsightly and caused him embarrassment as a young single male. Plaintiff's treating physician, Dr. Cintron, opined that Plaintiff had a 5% impairment rating due to continued symptoms of pain and loss of range of motion in his neck. A CT scan of Plaintiff's cervical spine revealed a bulging disc at C3-C4. Dr. Cintron testified that the impact with the windshield and Plaintiff's corresponding symptoms were consistent with the findings on the CT scan. Dr. Cintron also opined that there were no signs of degeneration in Plaintiff's cervical spine; therefore he could not relate the disc bulge to anything else but the trauma due to the accident. Dr. Troiano disagreed that the CT scan showed a disc bulge and concluded that while Plaintiff may have sustained a sprain/strain injury to his cervical spine, he did not sustain a permanent injury. Plaintiff's medical expenses totaled \$ 12,700. Plaintiff

stipulated to a \$ 10,000 PIP set-off. Plaintiff requested \$ 20,000 for past medical expenses, future medical expenses, as well as pain and suffering.

**PLAINTIFF EXPERT WITNESSES:** Alex Cintron, D.C., Chiropractic, Davie

**DEFENDANT EXPERT WITNESSES:** Christopher Troiano, M.D., Orthopedic Surgery, Lauderdale Lakes

EDITOR'S NOTE: The jury awarded \$ 0 for past and future medical expenses and \$ 0 for past lost wages. The jury found that Plaintiff was not permanently injured and also found that Plaintiff was not entitled to recover for the scarring he sustained. Plaintiff served a \$ 10,000 Proposal for Settlement. Defendant served a \$ 1,501 Proposal for Settlement.