

MERCEDES PILOTO vs. ALBA REYES

Docket No.: 06-14707 CA 06; FJVR Reference No. 08:7-40

Verdict Date: **February** 27, 2008; Publication Date: **July** 2008

TOPIC: Defense Verdicts - Motor Vehicles - Motor Vehicle Accident - Intersection Collision

RESULT: For the Defendant. (verdict)

STATE: Florida

COUNTY: Miami-Dade

JUDGE: Scott Silverman

PLAINTIFF PROFILE: Age: 51
Sex: Female

PLAINTIFF ATTORNEY: Travis Greene of Law Offices of William C. 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 May 21, 2005, Plaintiff was a front-seat passenger in a vehicle being driven by non-party Defendant Kirenia Piloto and traveling behind Defendant Reyes' vehicle at the intersection of SW 1st Avenue and 10th Street in Miami. Defendant alleged that she put on her turn signal to move into the left-hand lane when Plaintiff's vehicle grew impatient, sped up, and attempted to overtake Defendant's vehicle in the left-hand lane. The front driver's side of Defendant's vehicle subsequently collided with the front passenger side of Plaintiff's vehicle.

NATURE OF INJURY: Plaintiff claimed that as a result of the subject accident, she sustained injuries to her neck, right shoulder, back, and left knee. Plaintiff maintained that the injury in her knee left her unable to ambulate up and down stairs and perform daily household chores. Plaintiff admitted to treating with Florida Institute of Pain for neck, right shoulder, and back problems stemming from a 2002 motor vehicle accident. She testified that her injuries as a result thereof were minor. However, her treating physician from the 2002 accident opined that she had an 8% permanent impairment rating as a result.

Plaintiff's treating physician, Dr. Barry, opined that Plaintiff had a dislocated patella as a result of this accident. He further testified that, despite a normal knee x-ray and examination performed at Mercy Hospital immediately following the accident, the emergency room physicians were not qualified to render an opinion regarding patella dislocation. Plaintiff also treated at Florida Institute of Pain for this accident. She was again assigned an 8% permanent impairment rating by Dr. Raymond Ruskowski, a chiropractic physician. Dr. Ruskowski's final diagnosis of Plaintiff made no mention

of her knee injury. Plaintiff underwent an MRI for both the 2002 and 2005 accidents. The MRI showed bulging at C5-C6. Plaintiff requested payment for past pain and suffering, future pain and suffering, and future medical care and treatment. Plaintiff did not submit a number for the aforementioned to the jury. Dr. Ramirez testified that: (1) Plaintiff had no objective findings to substantiate his subjective complaints; (2) her hospital bills and treatment provided by Florida Institute of Pain were reasonable and related to the 2005 accident; and (3) Plaintiff did not suffer a permanent injury.

PLAINTIFF EXPERT WITNESSES: Patrick J. Barry, M.D., Orthopedic Surgery, Miami

DEFENDANT EXPERT WITNESSES: Salvador M. Ramirez, M.D., Orthopedic Surgery, Miami

EDITOR'S NOTE: The jury found that there was no negligence on the part of Defendant which was a legal cause of loss, injury, or damage to Plaintiff. Defendant served a Proposal for Settlement to Plaintiff for a total amount of \$ 1,501. Plaintiff demanded \$ 10,000 immediately prior to trial, and served a Proposal for Settlement to Defendant in the amount of \$ 10,000.