

NEW YORK CITY

BRONX COUNTY

MOTOR VEHICLE

Pedestrian — Question of Lights

Woman hit by taxi, cabbie claimed she ran onto street

SETTLEMENT **\$20,000**

CASE Gladys Guerrero v. Argolik Transit Inc., & Mbaye Bouso, No. 20896/05

COURT Bronx Supreme

JUDGE Howard R. Silver

DATE 4/3/2009

PLAINTIFF ATTORNEY(S) Gregory S. Gastman, Gorayeb & Associates, P.C., New York, NY

DEFENSE ATTORNEY(S) Robert A. Glick, Brand, Glick & Brand, Garden City, NY

FACTS & ALLEGATIONS On May 20, 2005, plaintiff Gladys Guerrero, 60, a factory's seamstress, was struck by a taxi. The incident occurred on East 125th Street, alongside its intersection at Lexington Avenue, in Manhattan. She claimed that she sustained injuries of an ankle and a knee.

Guerrero sued the taxi's driver, Mbaye Bouso, and the taxi's owner, Argolik Transit Inc. Guerrero alleged that Bouso was negligent in the operation of his vehicle. She further alleged that Argolik Transit was vicariously liable for Bouso's actions.

Guerrero claimed that the impact occurred within one of East 125th Street's crosswalks. She also claimed that a green pedestrian-traffic signal permitted her entrance to the intersection.

Bouso contended that Guerrero darted onto the road from between two parked vehicles. He claimed that he completely stopped his taxi, but that Guerrero continued running and initiated a collision with his vehicle. An independent eyewitness agreed that Guerrero ran onto the street from between two parked vehicles.

Bouso also contended that the collision did not occur within a crosswalk, that there was no traffic-control device in the area in which Guerrero was crossing and that a green traffic signal governed his approach to the next intersection.

Defense counsel claimed that the police department's report of the accident included Guerrero's acknowledgment that the accident occurred while she was running to board a bus.

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INJURIES/DAMAGES *decreased range of motion; medial collateral ligament, tear; meniscectomy; physical therapy; torn ankle ligament; torn medial meniscus; torn talofibular ligament*

Guerrero did not seek immediate medical attention. Later that day, she presented to Jamaica Hospital Medical Center, in Queens. She underwent minor treatment.

Guerrero ultimately claimed that she sustained tears of her left knee's medial meniscus and medial collateral ligament. She also claimed that she sustained tears of her left ankle's deltoid and talofibular ligaments. In October 2006, she underwent a medial meniscectomy—excision of a meniscus. She also underwent extensive physical therapy.

Guerrero contended that she suffers residual pain and residual reductions of the mobility of her left ankle and knee. She claimed that she may have to undergo surgery that would address her left ankle. She also claimed that her injuries prevent her resumption of work.

Guerrero sought recovery of about \$18,000 for her unpaid past medical expenses, an unreported amount for her future medical expenses, her past and future lost earnings, and damages for her past and future pain and suffering.

The defense's medical experts agreed that Guerrero merely suffered degenerative contusions and sprains, that the injuries have resolved, that further surgery is not necessary, and that Guerrero can work in her full capacity.

RESULT During the selection of a jury, the parties negotiated a \$20,000 settlement.

DEMAND \$75,000

OFFER \$10,000

INSURER(S) American Transit Insurance Co. for both defendants

PLAINTIFF EXPERT(S) Jeffrey S. Kaplan, M.D., orthopedic surgery, New York, NY (treating physician; did not testify)

DEFENSE EXPERT(S) Marc Brown, M.D., diagnostic radiology, New York, NY (did not testify)
Philip M. Rafiy, M.D., orthopedic surgery, Hicksville, NY (did not testify)
Edward M. Weiland, M.D., neurology, Hampton Bays, NY (did not testify)

EDITOR'S NOTE This report is based on information that was provided by plaintiff's and defense counsel.

—Tim Heinz