

Buckley v. Elrac, Inc.

Rear-ended-Red Light-Multiple Impact-No-Fault Case

Kings County

VERDICT Defense
ACTUAL \$116,000

CASE James Buckley v. Elrac Inc., d/b/a Enterprise Rent-a-Car & Trung Huu Tran, No. 30480/98

COURT Kings Supreme
JUDGE Lawrence Knipel
DATE 2/2/2004

PLANTIFF
ATTORNEY(S) Neal B. Forman, Brooklyn, NY

DEFENSE
ATTORNEY(S) David W. Brand, Brand Glick & Brand P.C., Garden City, NY

FACTS & ALLEGATIONS On June 1, 1998, plaintiff James Buckley, 28, a United States Postal Services letter carrier, was injured in a motor-vehicle accident on the Concord Street ramp on the Brooklyn side of the Manhattan Bridge. Buckley claimed that his vehicle was stopped at a red traffic signal when it was struck from behind by a rented vehicle driven by Trung Huu, Tran. Buckley added that the impact caused his vehicle to strike the rear of a preceding vehicle.

Buckley sued Tran and the owner of Tran's vehicle, Elrac Inc. The defendants conceded liability, and the trial proceeded on the damages.

INJURIES/DAMAGES *bulging disc, cervical; herniated disc, lumbar; radiculopathy*

Buckley claimed to have sustained a herniated disc at L5-S1 and a bulging cervical disc with radiculopathy. Buckley's expert radiologist and expert orthopedist confirmed his injuries and contended that he would have to undergo surgery to relieve his pain.

Buckley claimed that he was unable to work for four months after the accident. He

contended that he was involved in a work-place accident two days after he resumed work, and that the accident exacerbated his injuries and forced him to miss another eight months of work during the ensuing five years.

The defendants contended that Buckley resumed work two months after the instant accident, and that his injuries stemmed from a subsequent work-related accident.

During cross-examination, Buckley's expert orthopedist admitted that his records indicated that Buckley did not complain of lower-back pain until he resumed work. The defendants presented a chiropractor, who performed an independent medical examination of Buckley. The chiropractor testified that Buckley had told him that he hurt his lower back while pushing a mail cart, and that the injury was sustained after the instant accident.

The defendants' expert orthopedist, Dr. Salvarore Sclafani, examined Buckley and testified that he detected no objective signs of any lingering back or neck injuries. Based on the chiropractor's testimony and the records of Buckley's expert orthopedist, Sclafani opined that Buckley's injuries were not related to the instant accident.

The defendants' expert radiologist opined that Buckley did not sustain a herniated disc. He contended that Buckley exhibited evidence of a long-standing, degenerative disc disease.

RESULTS The jury found that Buckley had not sustained a serious injury, as defined by the no-fault law, Insurance Law 5102 (d). It found that Buckley had not sustained a permanent consequential limitation of use of a body organ or member, and that he had not been disabled from performing his usual and customary activities for at least 90 of the first 180 days following the accident.

DEMAND \$350,000
OFFER none

TRIAL DETAILS Trial Length: 7 days
Jury Deliberations: 1.5
Minutes
Jury Poll: 6-0
Jury Composition: 3
male, 3 female

**PLANTIFF
EXPERT(S)** **Leonard R. Harrison,**
Orthopedics, New York
NY

Stephen Hershowitz,
Radiology, Brooklyn, NY
(did not testify)

**DEFENSE
EXPERT(S)** **Dr. Robert Tantleff,**
Radiology, Seaford, NY
Salvatore Sclafani, M.D.,
Orthopedic surgery,
Brooklyn, NY

POST-TRIAL The court denied the
plaintiff's motion to set aside the verdict.