



Car crash caused injuries of back and neck, plaintiff claimed

Type: Verdict-Plaintiff

Amount: \$355,000

Actual Award: \$100,000

State: New York

Venue: Bronx County

Court: Bronx Supreme, NY

Injury Type(s):

- *back* - herniated disc, lumbar; herniated disc at L3-4; herniated disc, lumbar; herniated disc at L4-5; herniated disc, lumbar; herniated disc at L5-S1
- *neck* - herniated disc, cervical; herniated disc at C3-4; herniated disc, cervical; herniated disc at C4-5; herniated disc, cervical; herniated disc at C5-6; herniated disc, cervical; herniated disc at C6-7; herniated disc, cervical; herniated disc at C7-T1
- *other* - chiropractic; physical therapy; epidural injections; decreased range of motion
- *neurological* - radiculopathy

Case Type:

- *Motor Vehicle* - Broadside; Red Light; Intersection; No-Fault Case; Multiple Vehicle

Case Name: Jones Kwarteng v. Zumbach Sports Cars, Ltd. & Philip Carter Lyster, No. 309629/08

Date: January 08, 2013

Plaintiff(s):

- Jones Kwarteng (Male, 50 Years)

Plaintiff Attorney(s):

- Keith A. Gilman; Simon & Gilman LLP; Forest Hills NY for Jones Kwarteng

- Plaintiff Expert(s):**
- Aric Hausknecht M.D.; Neurology; New York, NY called by: Keith A. Gilman
 - Abiola Familusi M.D.; Physical Medicine; Bronx, NY called by: Keith A. Gilman
 - Mitchell Zeren D.C.; Chiropractic; Bronx, NY called by: Keith A. Gilman
- Defendant(s):**
- Philip Carter Lyster
 - Zumbach Sports Cars Ltd.
- Defense Attorney(s):**
- David Neil; The Law Office of Karen L. Lawrence; Tarrytown, NY for Zumbach Sports Cars Ltd., Philip Carter Lyster
- Defendant Expert(s):**
- Arnold T. Berman M.D.; Orthopedics; Marlton, NJ called by: for David Neil
 - Daniel J. Feuer M.D.; Neurology; New York, NY called by: for David Neil
- Insurers:**
- Allstate Insurance Co.

Facts: On Jan. 2, 2007, plaintiff Jones Kwarteng, 50, a forklift operator and a taxi driver, was driving on Lexington Avenue, near its intersection at East 81st Street, in Manhattan. While he was proceeding through the intersection, his car's left side was struck by a vehicle that was being driven by Philip Lyster, who was traveling on East 81st Street. Kwarteng claimed that he sustained injuries of his back and neck.

Kwarteng sued Lyster and the owner of Lyster's vehicle, Zumbach Sports Cars Ltd. Kwarteng alleged that Lyster was negligent in the operation of his vehicle. Kwarteng further alleged that Zumbach Sports Cars was vicariously liable for Lyster's actions.

Kwarteng claimed that Lyster ignored a red traffic signal that should have prevented his entrance to the intersection.

Defense counsel conceded liability. The matter proceeded to a summary jury trial that addressed damages.

Injury:

Kwarteng was placed in an ambulance, and he was transported to New York-Presbyterian Hospital, in Manhattan. He underwent minor treatment.

Kwarteng ultimately claimed that he sustained herniations of his C3-4, C4-5, C5-6, C6-7, C7-T1, L3-4, L4-5 and L5-S1 intervertebral discs. He also claimed that he developed radiculopathy that stemmed from his spine's C5 and C6 levels.

Kwarteng underwent about 24 months of conservative treatment that included chiropractic manipulation and physical therapy. The treatment was typically rendered several times a week. He also underwent three epidural injections of steroid-based painkillers.

Kwarteng contended that he suffers residual pain and a residual diminution of his range of motion. He claimed that his residual effects prevent his resumption of work and hinder his performance of many of his everyday activities, such as his household chores. He contended that he requires additional treatment.

Kwarteng sought recovery of future medical expenses, past and future lost earnings, and damages for past and future pain and suffering.

Defense counsel contended that Kwarteng did not sustain a serious injury, as defined by the no-fault law, Insurance Law § 5102(d).

The defense's expert orthopedist submitted a report in which he opined that Kwarteng's injuries predated the accident. The expert also opined that Kwarteng can resume work and any other activity that he had previously performed.

The defense's expert neurologist submitted a report in which he opined that Kwarteng experiences a merely mild diminution of his range of motion. The expert also opined that Kwarteng does not suffer a permanent limitation related to the accident.

The parties stipulated that Kwarteng's damages could not exceed \$100,000, which represented the limit of the defendants' insurance coverage.

Result:

The jury found that Kwarteng sustained a serious injury. It determined that his damages totaled \$355,000, but Kwarteng recovered the stipulated limit: \$100,000.

Jones Kwarteng

\$85,000 Personal Injury: Past Pain And Suffering

\$270,000 Personal Injury: Future Pain And Suffering

Trial Information:

Judge: Ben R. Barbato

Trial Length: 1 days

**Trial
Deliberations:** 1 hours

Jury Vote: 6-0

**Jury
Composition:** 4 male, 2 female

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls.

Writer Max Mitchell