



VERDICTSEARCH

NEW YORK

RICHMOND COUNTY

MOTOR VEHICLE

Rear-ender — Parked Car — Multiple Vehicle

Mail truck struck while parked on street

SETTLEMENT **\$3,100,000**

CASE Steven Watson v. Jacqueline
Feminella & Ford Credit Titling
Trust, No. 12770/02

COURT Richmond Supreme

JUDGE Judith N. McMahon

DATE 5/1/2006

PLAINTIFF

ATTORNEY(S) **Anthony Bisignano**, Bosco,
Bisignano & Mascolo, L.L.P.,
Staten Island, NY

DEFENSE

ATTORNEY(S) **John P. Connors Jr.**, Connors &
Connors, P.C., Staten Island, NY
(Jacqueline Feminella)
Sylvere M. Hyacinthe, Wilson, Elser,
Moskowitz, Edelman & Dicker LLP,
White Plains, NY (Ford Credit Titling
Trust)

FACTS & ALLEGATIONS On Jan. 28, 2002, plaintiff Michael Watson, 23, a letter carrier employed by the U.S. Postal Service, was engaged in the normal course of his work duties. Watson's mail truck was parked on Four Corners Road, near its intersection at Richmond Road, in the Dongan Hills section of

Richmond County. The truck's rear area was struck by a sport utility vehicle that was being driven by Jacqueline Feminella, who was traveling on Richmond Road. Watson claimed that he sustained a back injury.

Watson sued Feminella and the lessor of her vehicle, Ford Credit Titling Trust. He alleged that Feminella was negligent in the operation of her vehicle and that Ford Credit Titling Trust was vicariously liable for Feminella's actions.

Watson's counsel moved for summary judgment of liability, and the motion was granted. The trial addressed damages.

INJURIES/DAMAGES *herniated disc at L5-S1; physical therapy; prosthesis*

Watson refused immediate medical attention. He returned to his workplace, but he was subsequently driven to Staten Island [N.Y.] University Hospital, where he reported that he was suffering a head injury.

Watson claimed that he subsequently developed lower-back pain. He underwent physical therapy and steroid-based injections of painkillers. He contended that the treatment did not alleviate his pain. Ten weeks after the accident, he underwent an MRI that revealed that he was suffering a disc herniation at L5-S1 and degenerative disc disease.

In March 2004, Watson underwent experimental

surgery that included the removal of his L5-S1 disc and the insertion of a titanium prosthetic disc. The procedure was an alternative to a typical spinal fusion that includes the application of a bone graft. It was subsequently approved by the Food and Drug Administration.

Watson subsequently commenced a weekly course of physical therapy, which is ongoing. He claimed that his prosthetic disc will eventually degenerate and require replacement.

Watson contended that she suffers residual lower-back pain. He claimed that he cannot walk easily and that he cannot perform daily activities, such as trash removal and playing with his son. He also claimed that his injury prevents his resumption of work.

Watson sought recovery of his past and future medical expenses and damages for his past and future pain and suffering.

Defense counsel contended that Watson's injuries preexisted the accident and that they were a product of degenerative disc disease. The defense's expert neuroradiologist opined that Watson merely suffered a disc bulge and that the MRI results indicated that the injury was not a product of the accident.

In response, plaintiff's counsel contended that Watson's preexisting back problems were not an advanced condition and that his back was essentially normal prior to the accident.

Defense counsel also contended that Watson's ongoing problems were partially caused by the surgery that he underwent and that traditional fusion surgery would not have caused such problems.

Defense counsel further contended that Watson could perform some type of work. The defense produced surveillance videotapes that showed Watson shopping with his wife and engaging in daily activities.

RESULT After jury selection, but prior to the scheduled start of opening statements, the parties agreed to a \$3.1 million settlement. Ford Credit Titling Trust agreed to contribute \$3 million, and Feminella's insurer tendered its \$100,000 policy.

INSURER(S) Government Employees Insurance Co. for Feminella

PLAINTIFF

EXPERT(S) Frank Camissa, M.D., surgery, New York, NY (did not testify)

Chandra Sharma, M.D.,
neuroradiology, New York, NY
(did not testify)

David Stein, Ph.D., vocational
rehabilitation, Springfield, NJ
(did not testify)

Frank D. Tinari, Ph.D., economics,
Livingston, NJ (did not testify)

Krishne Urs, M.D., orthopedics,
Staten Island, NY (did not testify)

DEFENSE

EXPERT(S) Robert Brower, vocational
rehabilitation, Medford, NY
(did not testify)

Vincent DiGiacinto, M.D.,
neurosurgery, New York, NY
(did not testify)

EDITOR'S NOTE Defense counsel did not respond to a faxed draft of this report and a phone call.

—*Jacqueline Linger*