

had been created. The surrounding tissue degraded and became infected. Lightbourne required administration of an antibiotic. He ultimately recovered, but he retains extensive scars of his abdomen.

Lightbourne sued Drew, Forest Hills Hospital and the hospital's operator, North Shore-Long Island Jewish Health System. The lawsuit alleged that Drew failed to properly perform the laparotomy, that Drew's failure constituted malpractice, and that the remaining defendants were vicariously liable for Drew's actions.

Lightbourne's counsel contended that Lightbourne's recovery was impeded by Drew's extension of the enterotomy that was created during the laparotomy. He contended that the enterotomy should have been closed without having been extended. He argued that Drew departed from an accepted standard of medical care.

Defense counsel contended that Drew appropriately responded to the accidental creation of the enterotomy. She argued that a surgeon's actions are guided by his or her judgment, and she contended that the enterotomy's extension was an exercise of that judgment.

INJURIES/DAMAGES *abdomen; bowel/colon/intestine, perforation; fistula; infection; scar and/or disfigurement*

Lightbourne suffered an enterotomy. He developed an enterocutaneous fistula, and he experienced resultant, extensive drainage of intestinal matter. He required placement of a bag that collected the discharge. He subsequently developed inflammation of the area in which the enterotomy had been created. The surrounding tissue degraded and became infected. Lightbourne required administration of an antibiotic, and he endured a hospitalization that lasted 22 days. He ultimately recovered, but he retains extensive scars of his abdomen.

Lightbourne sought recovery of damages for past and future pain and suffering. His wife presented a derivative claim.

RESULT The jury rendered a defense verdict.

DEMAND	\$1,300,000 (total, by both plaintiffs, from all defendants)
OFFER	None
INSURER(S)	Physicians' Reciprocal Insurers for both defendants
TRIAL DETAILS	Trial Length: 2 weeks Trial Deliberations: 2.5 hours Jury Vote: 6-0 Jury Composition: 2 male, 4 female
PLAINTIFF EXPERT(S)	Elliot R. Goodman, M.D., general surgery, New York, NY
DEFENSE EXPERT(S)	Howard L. Beaton, M.D., general surgery, New York, NY

EDITOR'S NOTE This report is based on information that was provided by defense counsel. Additional information was gleaned from court documents. Plaintiffs' counsel did not respond to the reporter's phone calls.

—Erik Halberg

RICHMOND COUNTY

CONSTRUCTION

Labor Law — Workplace — Workplace Safety — Slips, Trips & Falls

Worker fell from roof, claimed injuries of wrist and shoulder

VERDICT **\$1,962,636**
ACTUAL **\$2,136,612**

CASE Roberto Ortega v. Opus Development Group Ltd. and Bell Building Corp., No. 151100/15
COURT Richmond Supreme
JUDGE Alan C. Marin
DATE 12/11/2018

PLAINTIFF ATTORNEY(S) Adam M. Orlow, The Orlow Firm, Flushing, NY

DEFENSE ATTORNEY(S) James Deegan, Gallo Vitucci Klar LLP, Woodbury, NY

FACTS & ALLEGATIONS On Oct. 16, 2015, plaintiff Roberto Ortega, 37, a laborer, worked at a construction site that was located at 52 Butler Terrace, in the New Brighton section of Richmond County. During the course of the day, Ortega and a co-worker attempted to transport a scaffold to a building's roof, from the ground. Ortega was lifting the scaffold while standing on the roof, and the other worker was elevating the scaffold from the ground below. The other worker accidentally released the scaffold, and the scaffold's resultant descent disoriented Ortega. Ortega fell off of the roof, plummeted a distance of some 10 feet and landed on the ground. He claimed that he suffered injuries of a shoulder and a wrist.

Ortega sued the premises' owner, Opus Development Group Ltd., and the construction project's general contractor, Bell Building Corp. The lawsuit alleged that the defendants negligently failed to provide a safe workplace. The lawsuit further alleged that the defendants' failure constituted a violation of the New York State Labor Law.

Ortega's counsel contended that the accident stemmed from an elevation-related hazard, as defined by Labor Law § 240(1), and that Ortega was not provided the proper, safe equipment that is a requirement of the statute. He moved for summary

judgment of liability, and the motion was granted. The trial addressed damages.

INJURIES/DAMAGES *arthritis; arthroscopy; comminuted fracture; debridement; fracture, radius; fracture, wrist; glenoid labrum, tear; internal fixation; open reduction; physical therapy; pins/rods/screws; plate; rotator cuff, injury (tear); sutures*

Ortega presented to a hospital, where an X-ray revealed that he suffered a comminuted fracture of his right wrist. The injury involved the distal region of the right arm’s radius. Ortega claimed that he also suffered a tear of his right shoulder’s rotator cuff and a tear of the same shoulder’s glenoid labrum.

After two days had passed, Ortega’s right wrist’s fracture was addressed via open reduction and the internal fixation of a plate and screws. Ortega’s hospitalization lasted three days, and it was followed by a course of physical therapy. On Aug. 20, 2016, he underwent arthroscopic surgery that addressed his right shoulder. The procedure included debridement of damaged tissue and the internal application of sutures.

Ortega claimed that his right wrist’s fractured components healed but did not properly align, that the wrist has developed residual arthritic pain, that the wrist has not regained full utility, and that his residual effects prevent his resumption of work. He has not worked since the accident. Ortega also claimed that he requires further treatment.

Ortega sought recovery of past and future medical expenses, damages for past and future loss of earnings, and damages for past and future pain and suffering.

Defense counsel contended that Ortega’s right shoulder’s injuries predated the accident, that Ortega’s right wrist’s fracture healed well, and that Ortega can resume work.

RESULT The jury found that Ortega’s damages totaled \$1,962,636, which included awards for past and future medical expenses, past and future loss of earnings, and past and future pain and suffering.

ROBERTO ORTEGA	\$75,000 past medical cost \$94,303 past lost earnings \$225,000 past pain and suffering \$1,148,333 future medical cost (40 years) \$170,000 future lost earnings (five years) \$250,000 future pain and suffering (seven years) \$1,962,636
DEMAND OFFER	\$650,000 \$450,000
INSURER(S)	ProSight Inc. for both defendants
PLAINTIFF EXPERT(S)	Conrad Berenson, Ph.D., economics, Woodbury, NY Joseph Carfi, physical rehabilitation, New Hyde Park, NY

Cary B. Chapman, M.D., orthopedic surgery, Staten Island, NY (treating doctor)
Mark Ramnauth, M.A., C.R.C., vocational rehabilitation, New York, NY

DEFENSE EXPERT(S)
Richard Lechtenberg, M.D., neurology, Brooklyn, NY
Jonathan S. Luchs, M.D., radiology, Garden City, NY
Mark Sherman, M.D., orthopedic surgery, Staten Island, NY
Daniel Wolstein, vocational assessment, Hackensack, NJ

POST-TRIAL The parties stipulated that the past-medical-expenses award would be reduced to \$25,788.45, from \$75,000. Ortega also recovered prejudgment interest in the amount of \$223,187.28. The post-trial activity produced a net recovery of \$2,136,611.73.

EDITOR’S NOTE This report is based on information that was provided by plaintiff’s and defense counsel. Additional information was gleaned from court documents.

–Erik Halberg

GREATER METRO AREA
SUFFOLK COUNTY

MOTOR VEHICLE

Passenger — Rear-ender — Multiple Vehicle

Taxi’s fare claimed accident caused injuries of shoulder, neck

VERDICT ACTUAL	\$175,000 \$75,000
CASE	Summer Gomez-Lowery v. Robert Allen Melissa Allen, No. 4998/16
COURT JUDGE	Suffolk Supreme William B. Rebolini
DATE	2/25/2019
PLAINTIFF ATTORNEY(S)	Robert Purzak, Garden City, NY
DEFENSE ATTORNEY(S)	James A. Schondebare, Schondebare & Korz, Bohemia, NY

FACTS & ALLEGATIONS On Feb. 27, 2014, plaintiff Summer Gomez-Lowery, 35, a home health aide, was a passenger of