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VerdictSearch New York Reporter

Dwight Flower v. Consolidated Edison Company, Michael Iovino and Co-Star
Construction; No. 20647/94

Verdict Date: 01/15/1997

Topic: Motorcycle Accidents (Not involving a car); Insufficient Warning of Traffic Cones in Travel Lane at
Excavation Area

Result: This case settled during jury selection for a total of \$ 1,600,000 (of which \$ 850,000 was structured). Pltf.,
age 27 and unemployed at the time, brought this action for injuries that he suffered on 6/16/94 at the intersection of
North Conduit Ave. and 125th St

Disbursement: Award Total: \$ 1,600,000

Injury: Anterior dislocation of the right leg with deformity; dislocation of the right anterior patella; right popliteal
artery thrombosis with a large open wound on the right lower extremity; comminuted fracture of the right tibial
plateau with fragmentation; severe ligamentous rupture in the right leg; internal derangement of the right knee. Pltf.
underwent several debridement procedures, several split thickness skin grafts, and a free flap procedure from the
back to the right foot, as well as ankle fusion with a drain insertion at the iliac crest. As a result of his injuries, Pltf.
suffers from a drop foot.

State: New York

Court: Kings Supreme

Plaintiff Attorney: Mark M. Basicas; Sherman& Basicas; Manhattan, NY (Dwight Flower)

Facts: Pltf., age 27 and unemployed at the time, brought this action for injuries that he suffered on 6/16/94 at the
intersection of North Conduit Ave. and 125th St. in Queens. Pltf. was operating a motorcycle on N. Conduit Ave., a
one-way street with three lanes of traffic. North Conduit serves as a service road to the Belt Pkwy. and has a posted
speed limit of 50 mph. Pltf. was traveling in the middle lane until about 126 St., when he attempted to switch into the
right lane. He testified that almost immediately upon switching lanes, he encountered several traffic cones in the right
lane blocking further travel in that lane. As a result, Pltf. attempted to mount the sidewalk. The back of the
motorcycle skidded to the left, causing it to slide out from underneath him, and he was propelled forward and came
to rest several feet away in a prone position.

The cones were placed by Deft. Co-Star Construction, subcontracted by Deft. Con Edison to excavate the right
lane on North Conduit Ave. between 124 and 125 Sts. Pltf. claimed that the area was not properly safeguarded, that
the warning devices placed in the area of excavation were insufficient, and that they were in violation of applicable
statutes and ordinances, and in violation of Deft.'s own rules. Pltf. contended that the failure to properly safeguard
the excavation site and post appropriate warning devices was the cause of his accident. Deft. claimed that Pltf. was
operating the motorcycle at an excessive rate of speed, was driving without a license, and failed to keep a proper
lookout. Deft. further contended that the area was properly safeguarded and appropriate signs were posted.

Other Demonstrative Evidence: photographs

Plaintiff Experts: Dr. Jay Meisner; Plastic& Reconstructive Surgery
Dr. Kenneth Koval; Orthopedics
David Bunin; Economic Analysis
Nicholas Bellizzi; Engineering
Richard Schuster; Vocational Rehabilitation