

AS PUBLISHED IN

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NEW YORK COUNTY – SUPREME COURT

XI/23-2 MOTOR VEHICLE – LEFT TURN – HERNIATED LUMBAR DISC
Sabah v. O’Connell 5997/91 1-week trial Verdict 4/29/93 Judge Bruce
McM. Wright, New York Supreme

VERDICT: \$750,000 (6/0), subsequently settled for \$300,000. Breakdown: \$250,000
for past pain and suffering; \$500,000 for future pain and suffering. Jury: 2
male, 4 female

Pltf. Atty: **Andrew L. Libo of Gersowitz, Libo & Korek, Manhattan**

Deft. Atty: Joseph J. Gullino of Francis W. Turner, Manhattan

Facts: Pltf., a 35-year-old cab driver, contended that he was injured on
9/30/90 when Deft.’s vehicle collided with his while making a left
turn. The accident occurred at the intersection of Park Ave. and 57th
St. in Manhattan. Pltf. claimed that Deft. had a red light. Deft.
testified that he had stopped and was waiting for traffic and
pedestrians to clear the intersection even though he had the light.
Pltf. maintained that the light turned red while Deft. was still behind
it, and therefore he had a duty to yield the right-of-way.

Injuries: herniated disc at L3-4. Pltf. claimed that he has
radiating back pain from the area of the herniation and that he cannot
stand or sit for extended periods, thereby disabling him from his
profession as a cab driver. He testified that he had been a taxi driver
since he emigrated to the U.S. from Egypt. Deft. contended that Pltf.
did not make any claim for lost earnings prior to the accident. Deft.
also contended that Pltf. never filed income taxes, indicating that
there was no loss of wages. Expert testimony differed as to
interpretation of MRI and radiological evidence of Pltf.’s injury.
Demonstrative evidence: MRIs: photographs of the accident scene.
Offer: \$50,000; demand: \$200,000; amount asked of jury: \$450,000.
Jury deliberation: 2½ hours, Carrier: Fireman’s Fund. Pltf. Experts:
Dr. Leonard Harrison, orth. surg., Manhattan; Dr. David Milbauer,
radiologist, Manhattan. Deft. Experts: Dr. Ralph Olson,
neurosurgeon, Manhattan; Dr. Mortimer Shapiro, neuropsychiatrist,
Manhattan.