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An ALM Publication

NEW YORK

QUEENS COUNTY

MOTOR VEHICLE

Sideswipe; Lane Change; Multiple Vehicle

Bus driver's hasty turn caused crash, plaintiff claimed

Amount **\$875,000****CASE** Irving Duran v. New York City Transit Authority, Metropolitan Transportation Authority, Manhattan and Bronx Surface Transit Operating Authority and Charles King, No. 12619/14**COURT** Queens Supreme, NY**DATE** 04/25/2017**PLAINTIFF****ATTORNEY(S)** Alfred L. Odom; of counsel, Wellerstein & Associates, P.C.; Maspeth NY for Irving Duran**DEFENSE****ATTORNEY(S)** Michael Seltzer; New York City Transit Authority; Brooklyn, NY for New York City Transit Authority, Metropolitan Transportation Authority, Manhattan and Bronx Surface Transit Operating Authority, Charles King

FACTS & ALLEGATIONS On May 14, 2014, plaintiff Irving Duran, 24, was driving on Fresh Pond Road, near its intersection at Metropolitan Avenue, in the Ridgewood section of Queens. His vehicle was involved in a sideswipe collision with a transit bus that was being driven by Charles King, who was traveling on the same side of Fresh Pond Road. Duran claimed that he suffered injuries of his neck and a shoulder.

Duran sued King; the bus's owner, the New York City Transit Authority; and two related entities, the Metropolitan Transportation Authority and the Manhattan and Bronx Surface Transit Operating Authority. Duran alleged that King was negligent in his operation of the bus. Duran further alleged that the remaining defendants were vicariously liable for King's actions.

Duran claimed that he occupied Fresh Pond Road's rightmost lane. He claimed that King initiated a sideswipe collision while executing a right turn from the leftmost lane.

King claimed that he also had been traveling in the rightmost lane but had to enter the left lane when he encountered a truck that was stopped in the rightmost lane. He claimed that he was

returning to the rightmost lane when the collision occurred.

INJURY Duran was placed in an ambulance, and he was transported to Elmhurst Hospital Center, in Queens. He underwent minor treatment.

Duran ultimately claimed that he suffered herniations of his C3-4 and C4-5 intervertebral discs, a partial-thickness tear of his left, nondominant shoulder's supraspinatus tendon, which is a component of the rotator cuff, and a tear of the same shoulder's glenoid labrum.

Duran underwent a percutaneous discectomy, a minimally invasive procedure that involved excision of one of his herniated discs. He later underwent a more invasive procedure that included a discectomy, which involved excision of the remainder of the same disc; a vertebrectomy, which involved excision of a portion of an adjacent vertebra; and fusion of one level of his spine's cervical region. His left shoulder's injury was addressed via arthroscopic surgery.

Duran claimed that his neck and his left shoulder remain painful. He claimed that his left shoulder's pain hinders his ability to lift heavy objects and thereby prevents his performance of some household chores and other tasks. He also claimed that he previously enjoyed playing baseball, football and handball, but that his residual effects prevent his resumption of those activities. He sought recovery of damages for past and future pain and suffering.

Defense counsel contested the extent of Duran's injuries.

RESULT The parties negotiated a pretrial settlement. The New York City Transit Authority agreed to pay \$875,000.

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.