

Jury Sides With Family of Woman With Crash-Related Brain Injury



J. ALBERT DIAZ

"She went from praying every single day of her life before she went to bed to not praying at all," said Jack Hickey, above, of the Hickey Law Firm in Miami. "She went from listening to the radio all day every day to not wanting to hear any of it. She went from happy to sad." Hickey was assisted by colleague Bjorg Eikeland.

by Celia Ampel

Maria Deposada's doctors might have thought she was recovering well from a car crash that happened when she was 89, but her family told a different story.

The Miami woman went from walking cobblestone streets on a European vacation to not wanting to leave the house, said her family's lawyer, Jack Hickey of the Hickey Law Firm in Miami. The 2008 crash caused lasting pain throughout her body and a brain injury that changed her personality, he said.

"She went from praying every single day of her life before she went to bed to not praying at all," Hickey said. "She went from listening to the radio all day every day to not wanting to hear any of it. She went from happy to sad."

Deposada died in 2013 from causes unrelated to the crash: she suffered from blood and bone marrow cancer and then contracted pneumonia. But the crash caused pain and suffering during the last years of her life that warranted payment to her family, Hickey and colleague Bjorg Eikeland argued in a survivor action filed in Miami-Dade Circuit Court.

A jury agreed, awarding \$4.5 million to Deposada's estate on Sept. 16.

Deposada was riding in the passenger's seat of her daughter's car when an intern for the liquor company Pernod Ricard USA LLC ran a red light at 35 mph in a company-leased Ford Taurus. He hit the passenger's side of the Deposadas' BMW and catapulted it into another lane. There was no evidence the Taurus ever braked, Hickey said.

Deposada was taken to Mount Sinai Medical Center, where blood was found pooling in her brain. Doctors temporarily removed part of her skull to relieve pressure on her brain, and while the surgery was successful, she was left with a serious and permanent brain injury, according to her estate's lawyers. She also had several orthopedic injuries, including five fractured ribs, a fractured ankle, a torn meniscus, two torn shoulder ligaments, and herniated discs in her neck and back, Hickey said.

Pernod Ricard admitted liability for the crash before trial, but argued Deposada's injuries were not permanent.

"One of their experts, a neurologist, testified that the lesions on her brain were 'like a nick in a car door—it really means

Defense lawyers Gregg Weiser and Mitch Katler of the Law Offices of James W. Kehoe III did not respond to a request for comment by deadline. Weiser works in West Palm Beach and Katler works in Fort Lauderdale.

The defense also pointed out that Deposada's doctors had written "glowing reviews of her," Hickey said. For example, her blood doctor wrote during one visit that she seemed to have recovered nicely.

But Hickey urged the jury not to listen to the opinions of doctors who were not examining Deposada for crash-related injuries.

"How does he know?" Hickey said of the blood doctor. "He didn't give her any tests. He's not an orthopedic surgeon. He's not a neurologist."

Deposada put on a good show in public, Hickey said. But doctors don't always listen to the complaints of older people, he argued, and they failed to see that their patient was in dire pain and that her whole personality had changed.

MRIs of Deposada's brain, along with bone scans, showed objectively that her injuries were permanent and severe, he said. Family and friends also testified "briefly but powerfully" at the five-day trial before Miami-Dade Circuit Judge Michael Hanzman about changes to the once-talkative woman's personality.

"I think the jury got that this woman was severely affected and did not buy the arguments of the defense based on these scattered comments by doctors who weren't really looking at the whole person," Hickey said.

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Case: Ana Watson v. Pernod Ricard USA

Case no.: 12-22050-CA-22

Description: Survivor action

Filing date: June 7, 2012

Verdict date: Sept. 16, 2016

Judge: Miami-Dade Circuit Judge Michael Hanzman

Plaintiffs attorneys: Jack Hickey and Bjorg Eikeland, Hickey Law Firm, Miami

Defense attorneys: Law Offices of James W. Kehoe III attorneys Gregg Weiser in West Palm Beach and Mitch Katler in Fort Lauderdale

Verdict amount: \$4.5 million