

## SETTLEMENT AND VERDICT

IN THE STATE COURT OF COBB COUNTY  
STATE OF GEORGIA  
CIVIL ACTION FILE NO: 99A-7048-6

MELISSA ANN MILO

v

MITCHELL DAVID MURPHY

Attorneys for Plaintiff: John S. Morgan and Matthew C. Flournoy, Flournoy, Morgan & Schnatmeier, LLP

Attorneys for Defendant: Curtis Anderson; Downey & Cleveland, LLP.

**FACTS:** On 31 March 1998, Defendant was driving his Ford F 100 pick up truck at night in Cobb County, Georgia, under the influence of Alcohol. He caused a head on collision with a small passenger car driven by Melissa Milo. The head on collision caused serious and permanent injury to the ankle of Melissa Milo, a waitress at Shoney's Restaurant. Plaintiff did not ask the jury for compensation for any of her medical bills or lost wages. She was in the hospital for 11 days. She missed one years work. Plaintiff did not call any of her doctors, nurses or other medical personnel as witnesses. Plaintiff called only three witnesses: 1) the arresting police officer, 2) the Defendant and 3) the Plaintiff.

**Plaintiff's Injuries:**

Plaintiff suffered a right ankle fracture, requiring surgery with pins, screws, and a rod in her right lower leg bone.

**Offer/Demand:**

State Farm offered \$7,445.50 to Plaintiff to settle Plaintiff's claim. Plaintiff rejected this offer.

**Verdict:**

Two day jury trial. Verdict on the 19th of August, 2003, for \$532,000 for pain and suffering damages only.

**Plaintiff's Special Damages:**

Approximately \$27,000 for medical expenses

**Lost Income:**

1 year's worth

**Defendant's Insurance Company:**

State Farm Mutual Automobile Insurance

**Date of Verdict:**

August 19, 2003

**Verdict Amount:**

\$532,000 for pain and suffering damages of Plaintiff.

**Plaintiff's Lawyer Used Damages Chart in Closing Argument.**

We spoke to two of the jurors by phone after the verdict. The jury used as guides the suggested dollar amounts from the Plaintiff's Damages Chart to come to its verdict. Plaintiff was age 37 at the time of the jury trial. She has a life expectancy of 42.97 years. There are 16 awake hours in each day. Plaintiff's used a unit of time formula, \$1 per hour for 282,384 awake hours for \$282,384 as the low end of the range and \$3 per hour for 282,384 awake hours for \$847,152 for the high end of the range.

The verdict was in the middle range of \$532,000.

The two jurors did say that if the Plaintiff's Lawyer had not presented the Damages Chart during closing arguments that they would not have known where to begin on putting a dollar amount on the pain and suffering damages of Melissa Milo.

**Jury Selection . 8 strikes for cause were granted by Trial Judge**

During jury selection the Plaintiff's Lawyer and Defendant's Lawyer were granted eight strikes for cause out of a pool of 32 jurors. Then 6 peremptory strikes were made from the 24 jurors by each side to get a jury of 12.

**Judgment is Non Dischargeable in Bankruptcy**

The jury did not award any punitive damages.

The jury did make a special finding of fact that the Defendant caused personal injury by his operation of a motor vehicle because he was intoxicated from using alcohol. Under 11 USC section 523 (a) (9) this judgment cannot be discharged in Bankruptcy.

**Experts:**

None.