

## KINGS COUNTY

## MOTOR VEHICLE

Intersection — Broadside — No-Fault Case

## Ambulance struck car while responding to call

VERDICT (P) **\$185,000**

CASE Anthony Marullo v. Howard Berry Jr. &amp; Alpro Service Co., No. 8935/02

COURT Kings Supreme  
JUDGE Abraham G. Gerges  
DATE 1/26/2005PLAINTIFF  
ATTORNEY(S) Patrick F. Bisogno, Bisogno & Meyerson  
L.L.P., Brooklyn, NYDEFENSE  
ATTORNEY(S) Graham J. Dixon, Robert P. Tusa,  
Brooklyn, NY

**FACTS & ALLEGATIONS** On Aug. 14, 2000, plaintiff Anthony Marullo, 34, an emergency medical technician, was a passenger in an on-call ambulance that was traveling on Flushing Avenue, near its intersection with Wilson Avenue, in Brooklyn. As Marullo's ambulance proceeded through the intersection, it struck the side of a vehicle that was being operated by Howard Berry Jr. Marullo sustained an injury to his right wrist.

Marullo sued Berry and the owner of Berry's vehicle, Alpro Service Co. He alleged that Berry was negligent in the operation of his vehicle.

Marullo claimed that his ambulance had its flashing lights and siren activated as it entered the intersection and that Berry failed to yield the right of way. He testified that the ambulance was traveling approximately 5 to 10 mph at the moment of impact.

Berry acknowledged that he saw the ambulance's flashing lights and heard its siren, but he claimed that he was already in the intersection at the moment of impact.

**INJURIES/DAMAGES** *carpal tunnel syndrome; physical therapy*

Marullo claimed that he sustained an injury that resulted in carpal tunnel syndrome. The injury affected his right (dominant) hand. In April 2001, he underwent carpal tunnel release surgery, which was followed by physical therapy.

Marullo's treating orthopedist testified that Marullo's injuries were causally related to the accident. He opined that even a low-

Marullo asked the jury to award \$500,000.

The defendants contended that Marullo did not sustain a serious injury, as defined by the no-fault law, Insurance Law § 5102(d). They argued that the collision's force was not sufficient to produce Marullo's injury.

**RESULT** The jury rendered a plaintiff's verdict. It found that Berry was liable for the collision and that Marullo experiences permanent loss of use of a body organ, member, function or system; permanent, consequential limitation of use of a body organ or member; and significant limitation of use of a body function or system. Marullo was awarded \$185,000.

**ANTHONY MARULLO** \$80,000 past pain and suffering  
\$105,000 future pain and suffering  
\$185,000

**DEMAND OFFER** \$80,000  
\$30,000

**INSURER(S)** Allstate Insurance Co. for both defendants

**TRIAL DETAILS** Trial Length: 3 days  
Jury Deliberations: 6 hours  
Jury Vote: 5-1  
Jury Composition: 3 male, 3 female

**PLAINTIFF EXPERT(S)** Enrique H. Monsanto, orthopedic surgery,  
Brooklyn, NY (treating surgeon)

**DEFENSE EXPERT(S)** None reported

**POST-TRIAL** Judge Abraham Gerges denied the defendants' motion to set aside the verdict.

**EDITOR'S NOTE** Defense counsel did not respond to a faxed draft of this report or a phone call.