

# Louisiana



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## Defense Verdict Obtained in a Rear-end Motor Vehicle Accident

New Orleans Partner, Stephen C. Resor, Esq. and his associate, Stephanie M. England obtained a defense verdict in a rear-end motor vehicle accident in the matter entitled Orozco Guerrero v Martin Vuljoin and State Farm Mutual Automobile Ins.

In what was likely the last jury trial before the COVID – 19 shut down of Louisiana courts, the plaintiff, a then 45- year old man alleged significant low back injuries when his 2006 Kia Sorrento was rear-ended by Mr. Martin Vuljoin operating a 2006 GMC Sierra 3500. Mr. Vujoin was insured by State Farm.

The accident occurred on Mardi Gras Day, February 28, 2017 in Jefferson Parish. Mr. Vuljoin attempted to change lanes in traffic, when he tapped the rear of the Kia Sorrento, causing minimal damages. The plaintiff, Mr. Guerrero was driving the vehicle and he also had four guest passengers and none of the guest passengers claimed bodily injury. The plaintiff denied injury on the scene and did not commence medical treatment until his attorney referred him to a chiropractic clinic which was ironically located in the same strip shopping mall as the attorney's office. This treatment did not commence until April 24, 2017, nearly 2 months post-accident. The plaintiff ran up \$5,478.00 in chiropractic bills until he was discharged on January 3, 2018. At this point, he was referred to a pain specialist wherein he underwent transforaminal epidural steroid injections at L4 and L3. In addition, he underwent bilateral lumbar facet injections at L4/5 and L5/S1. The pain specialist and a neurologist related the need for this treatment to the Mardi Gras accident. The plaintiff's total medical bills were approximately \$26,000.00.

**Following a full 2-day jury trial, the jury returned a defense verdict awarding the plaintiff zero damages. Specifically, the defense stipulated liability. The first Jury Interrogatory asked the following:**

Do you find that Alejandro Orozco Guerrero sustained personal injuries as a result of an automobile accident of February 28, 2017? The jury answered NO to this question and then dated and signed the verdict form.

Defendant's counsel was able to demonstrate to the jury that the plaintiff could not have possibly been injured in this minor impact accident as evidenced by the fact that he waited two months before he saw a healthcare professional and then, it was chiropractor that exclusively treated patients who are involved in personal injury accidents. In addition, the chiropractor acknowledged on cross-examination that he gets a significant amount of referral business from Mr. Alejandro Guerrero's attorney and he further testified that he does not accept payment for his charges until the case either settles or if there is a judgment that is favorable to the plaintiff. This testimony educated the jury that the chiropractor literally had a financial interest in the outcome of the case.

In addition, the plaintiff testified that he was a construction worker and did not miss a single day of work between the date of the accident and his first visit to the chiropractor. In fact, he testified that he usually works 10 hours per day, 6 days per week, building houses. It should be noted that in addition to the defense driver and the police officer, the defense called a medical expert witness who did not examine the plaintiff until after he had undergone all his injections. The defense orthopedic surgeon testified that the 45-year-old plaintiff had multi-level degenerative lumbar disc disease at every single level of his lumbar spine which, in his opinion, was even unusual for a 45-year-old man. He also indicated that is not likely that the plaintiff's condition was caused or aggravated by the incident in question and he further testified that any injections, which had already have been performed were, in his opinion, not medically reasonable or necessary. Specifically, he testified that any need for injections, one-year post-accident was not related to the accident.

It should be noted that in addition to reviewing all the plaintiff's medical records, the IME physician also reviewed photographs of the rear of the plaintiff's Kia Sorrento which showed minimal damage, literally scratches to the rear bumper.

Prior to trial, defendants submitted an Offer of Judgment to the plaintiff in the amount of \$25,000.00 inclusive of any interests and costs. Since the jury verdict was zero, under Louisiana law, the plaintiff will have to pay all court costs and expert fees including the expert fees of both of its doctors, as well as the expert fee of defendant's orthopedic surgeon.

The Judgment in this matter was officially signed on March 10, 2020 and the court closed on March 16, 2020 due to the COVID – 19 pandemic. The court is not scheduled to reopen until June 8, 2020. Consequently, the delays for filing a Motion for a New Trial and/or appeal have not yet expired.