

MOTOR VEHICLE

Passenger: Car Hit Tree When Driver Fell Asleep

Settlement: \$300,000

Batyehudah v. Breland, 17565/09 (5/24/10)

Kings Supreme: Justice Leon A. Ruchelsman

Plaintiff Attorney: Lawrence B. Saftler of the Saftler Law Firm

Defense Attorney: Jeffrey D. Present of Montfort, Healy, McGuire & Salley in Garden City

Facts & Allegations: On June 14, 2009, plaintiff Emunah Batyehudah, an unemployed woman in her 20s, was a passenger in a vehicle driven by Victor Breland in the Hollis section of Queens. Breland lost control of the vehicle, and it mounted a sidewalk and struck a tree. Batyehudah sustained injuries of an arm, a leg and her nose. She sued Breland and his vehicle's owner, Maximilla Watkins. Batyehudah alleged that Breland was negligent in the operation of his vehicle. She further alleged Watkins was vicariously liable for Breland's actions. Batyehudah claimed Breland fell asleep while driving, and that claim was also noted in a police report.

Breland denied having fallen asleep while driving. He contended that Batyehudah grabbed the steering wheel while the two were arguing, causing him to lose control.

Injuries/Damages: Batyehudah sustained a fracture of her nose, a spiral fracture of her left arm's ulna and a fracture of her left leg's femur. Her leg fracture was addressed via open reduction and internal fixation. She also underwent about 16 weeks of physical therapy. She claimed her physical activities were limited during the 12 months following the accident. She also contended she suffers a residual reduction of her left leg's range of motion. She sought recovery of damages for her past and future pain and suffering.

Result: The parties negotiated a pretrial settlement. Defendants' insurer agreed to tender its policy, which provided \$300,000 of coverage.