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And The Defense Wins

Mark Yagerman



Mark Yagerman, a longtime DRI member and equity owner of **Smith Mazure Director Wilkins Young & Yagerman, P.C.** in Manhattan, recently received a defense verdict in a jury case in Kings County before Judge Rivera. In *Miller v. NYCTA*, the plaintiff claimed that she slipped and fell on the stairway at Gates Avenue station. The plaintiff was taken from the scene of the accident to Wyckoff Hospital, and was

treated, released and therein commenced treatment at Greater Metropolitan for left knee, right knee, left shoulder, left elbow, low back and cervical injuries.

The plaintiff underwent two arthroscopic surgeries to the left knee, ultimately leading to a full knee replacement. She then experienced problems relating to deep vein thrombosis in the left leg, was hospitalized for same, and had a regimen of Coumadin to date. She further claimed continuing low back nerve impingement related to the accident. The plaintiff is currently on high powered pain medication, such as Oxy-Contin and Neurotin. Plaintiff's expert economist, Dr. Leiken, testified that future medical care from the itemized medical care presented by Dr. Richter would amount to \$1.2 million. The plaintiff contended that the defendant NYCTA's cleaner poured water on the steps, causing a slippery defective condition. NYCTA proved that the plaintiff stated at the scene that she misstepped, which caused the accident.

The jury found the defendant negligent but its negligence was not the proximate cause of the accident.

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