

XV/23-12 FALLDOWN STAIRS BUILDING INSPECTOR FALLS EMPLOYEE STATUS AT  
ISSUE KNEE AND BACK INJURIES, DEPRESSION

Ivan and Sylvia Cotto v. City of New York 14311/92 3-day trial on liability Verdict 7/29/97; 1-week  
trial on damages Verdict 11/5/97 Kings Supreme

Judge: Martin Schneier on liability; Melvin S. Barasch on damages

Verdict: \$3,164,750 for Ivan C. (6/0). Breakdown: \$ 300,000 for past pain and suffering; \$275,000 for  
past lost earnings; \$ 29,750 for past medical expenses; \$900,000 for future pain and suffering; \$1,400,000 for future  
lost earnings; \$260,000 for future medical expenses.

\$300,000 for Sylvia C. for loss of services. Jury: 2 male, 4 female.

The court reduced the verdict as follows: future lost wages reduced to \$950,000; future medical expenses  
reduced to \$150,000; loss of services reduced to \$200,000. It found that the remaining awards were reasonable and  
supported by the evidence. The case subsequently settled for \$1,835,000.

Pltf. Atty: Richard N. **Slater** of Cardali & Cardali, Manhattan  
Def. Atty: Steven M. Koulisch, Asst. Corp. Counsel

Facts: Pltf., a 38-year-old building maintenance worker, was injured on 2/20/91 when a step in a  
building he was working in at 123 West 133rd St., owned by the City of New York, collapsed and he fell several  
steps. Pltf.'s co-worker, who was present at the time of the accident, testified that the accident occurred as Pltf.  
claimed. Def. claimed that it could not be held liable because Pltf. was a special employee. The jury found Def.  
was negligent and that Pltf. was not a special employee of the City of New York.

Injuries: torn lateral and medial meniscus with arthroscopic surgery; herniated disc at L4-5; major  
depressive disorder. Pltf. contended that he still requires the use of a knee brace, cane, and lumbosacral supporter.  
Pltf. claimed that he is totally disabled and unable to work. He contended that he is not able to care for his family  
and that he is taking medication for pain and depression. Pltf.'s co-worker testified that Pltf. did not have any  
physical or emotional problems prior to the accident. Def. contended that Pltf.'s back injuries were not a severe as  
he claimed since he did not undergo any major back surgery. Demonstrative evidence: report of Dr. Norman  
Petigrow (stipulated); Pltf.'s orthopedic devices. Offer: \$300,000; demand: \$1,400,000; amount asked of jury:  
\$3,464,750. Jury deliberation: 2 hours on liability; 1 hour on damages.

Pltf. Experts: Dr. Fred Montes, orth. surg., Brooklyn; Dr. Harvey Alan Barash, psychiatrist, Manhattan;  
Dr. Tatjana Visner, treating psychiatrist; Brooklyn.

Def. Experts: Report by Dr. Norman Petigrow, orth. surg., Bethpage (deceased), was admitted into  
evidence by consent. Dr. Allan Meyer, orth. surg., Brooklyn, who examined Pltf. 2 months prior to trial (was not  
called).