

XIII/26-2 LABOR LAW CARPENTER INJURED WHILE CARRYING 200-LB DOOR ON HIS BACK
FAILURE TO KEEP HALLWAY CLEAR HERNIATED LUMBAR DISC AND SHOULDER IMPINGEMENT

Josef and Joselina Siladji v. 1211 Acquisition Corp. and Rockefeller Center Corp. 717/88 6-day trial Verdict
12/8/95 Judge Charles E. Ramos, New York Supreme

VERDICT: \$1,748,760 for Josef S., reduced to \$437,190 for 75% comparative negligence of Pltf. (6/0).
Breakdown: \$175,000 for past pain and suffering; \$47,860 for past medical expenses; \$315,800 for past lost
earnings; \$300,000 for future pain and suffering; \$116,100 for future medical expenses; \$794,000 for future lost
earnings.

\$400,000 for Joselina S. for loss of services, reduced to \$100,000 for 75% comparative negligence of Pltf.
Breakdown: \$85,000 for past loss of services; \$315,000 for future loss of services. Jury: 2 male, 4 female.

Post-trial motions were denied and the case settled for \$300,000 in April 1996.

Pltf. Atty: Richard N. **Slater** of Cardali & Cardali, Manhattan

Def. Atty: Thomas J. Maroney of Hawkins, White, Feretic, Daly, O'Neill & Maroney, Manhattan

Facts: Pltf., a 42-year-old carpenter, claimed that on 12/21/88 he was injured while carrying a 200-lb. door on
his back down a hallway in a building managed by Def. Rockefeller Center. Pltf. claimed that he turned a corner to
enter a freight elevator area when the door became caught on boxes in the hallway, causing him to twist his back.
Pltf. argued that Def. was negligent for allowing the boxes to remain in the hall and for failing to keep the area clear
of obstructions. Pltf. argued that Defs. violated Labor Law § 241(6).

Def. argued that the boxes in the hall did not constitute a negligent condition. Def. contended that Pltf. had an
assistant earlier that morning, but Pltf. sent him on an errand before the incident occurred. Def. contended that Pltf.
should have waited for his assistant to return before attempting to carry the door. Def. denied that it violated Labor
Law § 241(6). The jury found Pltf. 75% negligent.

Injuries: herniated disc at L5-S1 requiring discectomy; impingement of the left (dominant) shoulder requiring
surgery. Pltf. claimed that he developed nerve root irritation at C-8, which was not diagnosed by EMG until 2½
years later and he underwent surgery. He was out of work for 2 weeks, and returned to work for only 3 weeks. Pltf.
claimed that he has not been able to work since then. He testified that he has muscle spasms in his neck and back
and experiences numbness in his fingers, and that he intermittently uses a TENS unit and lumbosacral corset. Def.
contested the injuries, arguing that they were degenerative in nature and pre-dated the accident.

Demonstrative evidence: MRI films; hospital records, including the operative procedure. Offer: \$120,000 plus
waiver of a \$100,000 Workers' Compensation lien; demand: \$200,000 plus waiver of a Workers' Compensation lien;
amount asked of jury: \$2,700,000. Jury deliberation: 1 day. Carrier: Home Insurance. Pltf. Experts: Dr. Leon
Sultan, orth. surg., Franklin Square; Dr. Leon Bernstein, orth. surg., Forest Hills; Dr. Mitchell Tannenbaum,
radiologist, Valley Stream. Def. Expert: Dr. Bruce Reitberg, orth. surg., Manhattan.