

**X/20-14 MOTOR VEHICLE CENTER LINE POOR ROAD CONDITIONS
DEFENSE VERDICT ON LIABILITY**

**Melissa and Mary DiDonato v. SYSCO Frosted Foods, Inc. and Neal Russell 7576/91 3-day trial Verdict 10/26/92
Judge Joseph G. Owen, Orange Supreme**

VERDICT: Defense verdict on liability (6/0). Jury: all female.

Pltf. Atty: Eric M. Appel of Stephen M. Cohen, Lake Success

Def. Atty: Michael J. Mahon of Michael G. Donnelly, Middletown

Facts:

Pltf., a 20-year-old student, claimed that on 12/30/89 at 1 PM she was driving eastbound on Rte. 17A in Tuxedo towards New Jersey. Pltf. claimed that as she was approaching the ramp for Rte. 17, she skidded on the icy road and slid over the double yellow line into the path of Deft.'s truck in the westbound lane. Pltf. claimed that Deft. had a clear view of her vehicle 5 seconds before the accident and that the driver failed to take evasive action to avoid hitting her vehicle as it slid over the center line. Pltf.'s expert testified that she was driving at 30 mph. Deft. contended that Pltf.'s rate of speed was higher than what the expert testified, and the speed caused her to lose control of the car. Deft. argued that this limited the driver's time to react upon seeing Pltf.'s car cross the yellow line. Deft. produced two eyewitnesses who testified that Pltf. was traveling at 40-45 mph. Deft. argued that the road conditions were poor and that the driver was operating the truck safely and was in the right lane when the accident occurred. On cross-examination, Pltf.'s expert testified that he did not investigate the accident nor spoke with the witnesses or the investigating police officer.

Injuries: (not before the jury) fracture of the right (dominant) elbow; lung damage, including 20-30% reduction in function, fibrosis with associated reactive airway disease, and chronic inflammation; loss of three ribs; splenectomy; fractured hip; ruptured diaphragm; tracheotomy scar and laparotomy scar, running from her sternum to pubic bone. Demonstrative evidence: diagram and chart of accident scene; photographs of the scene and vehicles. Jury deliberation: 1 hour. Carrier: Wausau.

Pltf. Expert: William Burrill, accident reconstruction, Albany.

Def. Expert: Richard Hermance, accident reconstruction, Tillson