

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D33012  
H/prt

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Argued - October 31, 2011

REINALDO E. RIVERA, J.P.  
THOMAS A. DICKERSON  
RANDALL T. ENG  
SHERI S. ROMAN, JJ.

2010-08645

DECISION & ORDER

Hazel Purkiss-Riddle, respondent, v New York  
City Transit Authority, appellant.

(Index No. 730/07)

Wallace D. Gossett, Brooklyn, N.Y. (Anita Isola of counsel), for appellant.

David Horowitz, P.C., New York, N.Y. (Steven J. Horowitz of counsel), for  
respondent.

In an action to recover damages for personal injuries, the defendant appeals, as limited by its brief, from so much of a judgment of the Supreme Court, Queens County (Flug, J.), entered July 29, 2010, as, upon a jury verdict on the issue of damages awarding the plaintiff, *inter alia*, the sums of \$225,000 for past pain and suffering and \$500,000 for future pain and suffering, and upon an order of the same court dated February 24, 2010, granting that branch of the defendant's motion which was pursuant to CPLR 4404(a) to set aside the jury verdict on the issue of damages as excessive only to the extent of reducing the award of damages for future pain and suffering from the sum of \$500,000 to the sum of \$200,000, is in favor of the plaintiff and against it in the principal sums of \$225,000 for past pain and suffering and \$200,000 for future pain and suffering.

ORDERED that the judgment is affirmed insofar as appealed from, with costs.

On April 29, 2006, the 69-year-old plaintiff injured her left knee and left shoulder when she fell on an escalator in the defendant's subway station. After receiving physical therapy for several months, on June 5, 2007, the plaintiff had arthroscopic surgery to repair a torn lateral meniscus. The doctor who performed the surgery testified at trial that the plaintiff also suffered

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traumatically-induced grade four chondromalacia and synovitis in her knee. After a brief period during which her knee began to feel better, the pain eventually returned. The plaintiff was treated with cortisone injections and viscoelastic supplementation in her knee. The doctor testified that the plaintiff's injuries were the result of the subject accident and were permanent and progressive. The doctor indicated that, in the future, the plaintiff would have to undergo a total knee replacement and three weeks of physical therapy in a nursing facility. In addition, the plaintiff would have to undergo arthroscopic surgery to repair a torn supraspinatus tendon of the left shoulder. Under these circumstances, the damages award for past pain and suffering, and the award for future pain and suffering, as reduced by the Supreme Court, do not deviate materially from what would be reasonable compensation (*see* CPLR 5501[c]; *Harris v City of N.Y. Health & Hosps. Corp.*, 49 AD3d 321; *Lopez v Consolidated Edison Co. of N.Y., Inc.*, 40 AD3d 221; *Van Ness v New York City Tr. Auth.*, 288 AD2d 374).

RIVERA, J.P., DICKERSON, ENG and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan  
Clerk of the Court