

Singleton v New CityOne, Inc.

2024 NY Slip Op 32746(U)

August 6, 2024

Supreme Court, New York County

Docket Number: Index No. 160081/2021

Judge: Lisa S. Headley

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LISA S. HEADLEY

PART 28M

Justice

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ROBERT SINGLETON,

INDEX NO. 160081/2021

Plaintiff,

- v -

**DECISION/ORDER AFTER
INQUEST**

NEW CITYONE, INC. D/B/A CITY ONE CHINESE
RESTAURANT, JOHN DOE (NAME FICTITIOUS ACTUAL
NAME UNKNOWN TO PLAINTIFF)

Defendant.

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On June 22, 2022, the Court granted plaintiff Robert Singleton’s (“plaintiff”) motion for a default judgment against defendant New CityOne, Inc. d/b/a City One Chinese Restaurant (“New CityOne”) on the issue of liability, only, in the Decision and Order issued by Justice David Cohen. (*NYSCEF Doc No 13*). The defendant was served with the Notice of Entry of the Order dated June 22, 2022, which granted the plaintiff a default judgment against defendant. (*NYSCEF Doc No 15*).

On March 12, 2024, this Court held an inquest for the assessment of plaintiff’s damages caused by the defendant, New CityOne. In this case, plaintiff’s counsel demonstrated that reasonable efforts were made to notify defendant New CityOne of the inquest date. Defendant New City One was served with the Court’s Notices of Inquest dated August 11, 2023, and February 25, 2024. (*See, NYSCEF Doc. No. 20 and 21*). The Court also notified the defendant, New CityOne, of the scheduled inquest date. The defendant failed to appear at the scheduled inquest held on March 12, 2024.

At the inquest, the plaintiff was the sole witness to testify before this Court. Plaintiff submitted into evidence as Plaintiff’s Exhibit 1, collectively, Exhibit A - Montefiore Medical Center Report; Exhibit B - Star Physical Therapy Report; Exhibit C - Brooklyn Premier Orthopedics; and Exhibit D - photographs.

This Court had the opportunity to observe the plaintiff’s demeanor and assess his testimony. Plaintiff testified that on May 11, 2018, at approximately 11:00 am in the morning, adjacent to his building of employment, located at 2722 Frederick Douglas Blvd, New York, New

York, the accident occurred. The plaintiff testified that at the time of the accident, he was employed as a superintendent for a company called Arkiar Corporation. The plaintiff testified that “his duties included coverage of everything that needed to be done in the building, whatever it was maintenance or repairs.”

The plaintiff testified that he was bringing down a refrigerator from an apartment, and he normally slides it into the basement by opening up the heavy doors outside on the sidewalk. Plaintiff testified that the doors were adjacent to the Asian restaurant next door named New CityOne, and that both doors weigh about 600 pounds. Plaintiff testified that when he started sliding the refrigerator down, he “had one hand as a brace on one of the doors and the other he had a cord from the refrigerator.” The plaintiff testified that “as he was holding [the refrigerator], and sliding it down, he heard a noise and when he looked up he saw an Asian delivery guy getting ready to get on his bike to make a delivery.” Plaintiff testified that he yelled to the delivery guy “do not back up on this door, because it will come down.” The plaintiff testified that the delivery guy backed up and “that’s when that 600 pounds slammed onto my fingers.” When asked if he was able to get his hand out, the plaintiff testified that his hand was pinned down on the heavy metal gate and he was yelling up for help. Plaintiff further testified that a gentleman that works across the street at the supermarket heard his cry and helped him. Plaintiff testified the gentleman lifted up the refrigerator, and then the plaintiff returned upstairs, and he looked directly at the restaurant to see where the delivery guy went, and he observed the delivery guy run back into the restaurant. The plaintiff also testified that he lost his glasses because they got stepped on.

As to his injuries, the plaintiff testified that he is right-handed, and his right hand was injured, bleeding heavily and his pinky finger was practically torn off, and the fourth finger on his right hand was crushed. The plaintiff further testified he was taken to Montefiore Hospital Emergency by an ambulance, and he was told by the doctors that his ring finger was broken and that his pinky finger was possibly fractured. Plaintiff testified that he was injected with needles in both fingers, and the doctors then stitched his pinky finger and they sewed whatever skin was left to attach the skin back to his broken ring finger. The plaintiff testified that upon discharge from the emergency room, he was given antibiotics, and returned to the hospital two days later for a follow-up on May 13, 2018.

As to his recovery, the plaintiff testified that during the following two days it was difficult for him because as a superintendent, he is responsible for maintaining the building, however it was

very difficult to work with his left hand because he uses his right hand for everything. Plaintiff testified that his mobility was limited in working in the building and he basically just made sure that the garbage was covered. Plaintiff testified that he did not do any mopping and sweeping because he could not hold the broom and mop in his hands. As to his pain level, the plaintiff testified that he tossed and turned at night and he had to lay with his whole arm extended out because he could not lay on his stomach because his injured hand was hurting a lot. In addition, plaintiff testified that he lived alone, and he did not cook for himself due to his injuries.

When the plaintiff returned to the hospital on May 13, 2018, plaintiff testified that his fingers were swollen and the stitches were still in place. Plaintiff testified that he was still in pain and the doctors advised him that more work had to be done on his fingers. The plaintiff returned to the hospital on May 16, 2018, for an appointment with an orthopedic plastic surgeon, and x-rays were taken. The plaintiff testified that he was told that his ring finger appeared to be broken, and the doctor bandaged his finger. The doctor recommended that he follow-up with physical therapy at Star Physical Therapy.

The plaintiff testified that he went to Star Physical Therapy for a total of two to three times between May 24, 2018, and June 14, 2018. The plaintiff testified that on the first visit, that salve was placed on his hand, and on the following visit, it was suggested that he do the exercises from therapy. The plaintiff further testified that when asked whether he had sensation or feeling in his fingers when touched, he responded, "No, I don't have any sensation, I don't feel it." Plaintiff also testified that he told the doctor, "both fingers had a bump at the tip." When asked by the doctor if he could take his hand and push it down, maybe it will go away, the plaintiff replied, "I don't think so, this looks like a permanent thing." At his final physical therapy visit, plaintiff testified that he was told to make a fist, however when he attempted to do so, he was unable to go further because he felt pain. He could not make a fist as tight as he could on his left hand. At physical therapy, the plaintiff was told to continue massaging his hand and to try to flex it, and the plaintiff testified that he did the recommended exercises, but it was not working. Plaintiff testified he still has the bump on both of his fingers.

The plaintiff testified that in July or August of 2022, he was treated by Dr. Winiarski in Brooklyn, New York. Plaintiff testified that Dr. Winiarski told him that his ring finger was broken and recommended that he should continue to try to exercise it and move it around. The plaintiff testified that since the accident, the skin on his fingers have healed and "he has no sensation from

the end quarter from the tip down [to] about a quarter on his right ring finger, and on his pinky, he has no sensation from two quarters down because half of it is gone.” The plaintiff testified that due to his injuries he is unable to sleep as much because it bothers him, and he continues to take pain medication. The plaintiff testified that he feels pain in his right ring finger and pinky three to four times a week, and when he returns home from work he takes the pain medication, Naprosyn, although he does not like taking it. The plaintiff further testified that his “pinky finger causes him more pain because half of it was torn off and he can’t do nothing with it.” Plaintiff testified that he was told by his doctor “that it is something he is going to have to try to work with.”

The plaintiff testified that that as a superintendent he attempted to continue his functions at his job on a normal basis, however, he could not because of the pain in his right hand. The plaintiff testified that he has to think about lifting things, like a garbage can, and a broom because he has to hold it in a certain way. The plaintiff testified that prior to the accident, he used to be a typesetter, a printer, however he can no longer do those tasks because of the injury to his fingers. Plaintiff also testified that he was a gardener, and now he can no longer use the gardening tools because of his injury. The plaintiff testified that he used to referee basketball games, however he needs to “ball his fist to make a call,” which he can no longer do because of his injury. Plaintiff also testified he attempts to hold things in his hand with his three fingers, but he has limitations because he needs the support of all of his fingers. The plaintiff testified that he wished he still had more ability to function with his right hand, in order to do what he normally did, but he is very limited.

In summation, plaintiff requests this Court to consider the plaintiff’s past pain and suffering, future pain and suffering and his permanent disfigurement. Plaintiff submits his medical record, including Dr. Winiarski’s report, which opines that the plaintiff is going to need a lifetime of medication. Plaintiff requests this Court to consider the plaintiff’s testimony in its entirety, including, that his ring finger feels numb and has a big lump on the tip, and his pinky finger is half gone and also feels numb. Plaintiff, who is right-handed, testified that his right pinky has been deformed since 2018. Plaintiff seeks an award for damages in the amount of \$400,000.00 against defendant New CityOne, Inc. d/b/a City One Chinese Restaurant.

The Court finds the plaintiff’s testimony to be credible. Based on the evidence presented, the Court finds that the plaintiff has demonstrated that he has suffered an injury as a result of the subject accident that took place on May 11, 2018, and that he has suffered pain and continues to

suffer pain, including permanent disfigurement to his ring and pinky fingers. Therefore, the Court finds that the plaintiff is entitled to a judgment for damages in his favor and as against defendant New CityOne, Inc. d/b/a City One Chinese Restaurant in the total amount of \$400,000.00, which represents \$250,000.00 for past pain and suffering, \$100,000.00 for future pain and suffering, and \$50,000.00 for permanent disfigurement.

Accordingly, it is hereby

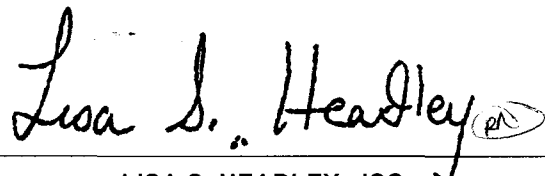
ORDERED that after the inquest held on March 12, 2024, the Court awards plaintiff, Robert Singleton, \$400,000.00 in damages as against defendant New CityOne, Inc. d/b/a City One Chines Restaurant; and it is further

ORDERED that the Clerk of the Court shall enter judgment in favor of plaintiff, Robert Singleton, as against defendant New CityOne, Inc. d/b/a City One Chinese Restaurant in the amount of \$400,000.00; and it is further

ORDERED that within 30 days of entry, counsel for plaintiff shall serve of a copy of this Decision and Order, with notice of entry, upon defendant; and it is further

ORDERED that the Clerk of the Court is directed to enter judgment accordingly.

This constitutes the Decision and Order of the Court after Inquest.

Lisa S. Headley 

LISA S. HEADLEY, JSC

DATE: 8/6/2024

Check One:

Case Disposed

Non-Final Disposition

Check if Appropriate:

Other (Specify _____)