Grech v DeBellis
2026 NY Slip Op 31251(U)
March 24, 2026
Supreme Court, New York County
Docket Number: Index No. 152041/15
Judge: Emily Morales-Minerva
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT HON. EMILY MORALES-MINERVA PART 42
Justice

----------X

RUSSEL GRECH, JR.

INDEX NO. 152041/15

Plaintiff,

- v -

CHARLES DEBELLIS,

Defendant.

----------X

DECISION AFTER INQUEST ON DAMAGES

APPEARANCES:

Sacks and Sacks, LLP, New York, NY (Danielle M. Ottino, Esq., of counsel), for plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this personal injury action, the Court held an inquest on damages, in Part 42, 111 Centre Street, New York, NY, on December 05, 2024, at 10:00 A.M. At the call of the calendar plaintiff RUSSEL GRECH, JR. appeared with his counsel of record. Defendant did not appear and did not contact the court with an excuse or request for an adjournment.

At the inquest, plaintiff testified, under oath, on his own behalf and called no other witnesses. By way of background, plaintiff testified that, at or around twelve years ago, when he was 58 years old, defendant CHARLES DEBELLIS "[p]unched

[plaintiff] in the mouth and kicked [plaintiff] in the leg and broke it" (New York State Court Electronic Filing System [NYSCEF] Doc. No. 37, Inquest Transcript, p 8, line 16 to 17).

The incident occurred when defendant was stopped at a red light, yielding to pedestrians crossing the street; plaintiff notes that, at the time, defendant was "playing loud music" and, for undisclosed reasons, "[plaintiff] tossed an empty banana peel at [defendant's] vehicle" (id., at p 8, line 09 to 14). Plaintiff did not testify that any words were exchanged between the parties. However, defendant is said to have "parked his car" and struck plaintiff with his fist and kicked him in the leg before leaving the scene (id., at p 8, line 15 to 19).

Plaintiff testified that, as a result, he suffered a broken leg for which he required surgery to place a plate in the area (id., at p 17, line 11 to 15). As a result of his injury, plaintiff wore a cast for three months and had two physical therapy sessions (id., at p 18, line 16 to 22). "A year and several months later," plaintiff developed an infection in his leg, which required surgery to remove the plate (id., at p 20, line 11 to 22). He no longer has a plate and there was no testimony as to permanency or injury and/or scarring, if any.

Plaintiff's counsel inquired of him on direct: "Were you able to partake in any type of activities [during the months you

had a cast] besides going to the doctor or getting food?" (id., at p 17, line 19 to 20). Plaintiff replied without hesitation:

> "Yeah. Yeah. I still -- My good leg, my unaffected leg I would exercise on that, like one legged squats, sit-ups, push-ups, yes, except that I had to keep my affected leg, the knee, keep weight off of it. Immobilize"

(id., at p 17, line 21 to 25).

Later in his testimony, plaintiff added that he was "kind of dumbfounded" on the day that the cast was removed (id., at p 18, line 24 to 26). He explained that, during that office visit, he received "reassurance that [he] could put full weight" on his treated leg (id., at p 18, line 24 to 26). "[H]e [left] with the crutches, but they weren't necessary" (id., at p 19, line 2 to 4). In fact, plaintiff said that "[a]s soon as [he] got [back] to [his] apartment [from having his cast removed], [he] exercised with both legs" (id., at p 19, line 4 to 6).

As to his current condition, plaintiff, now at or around 71 years of age, generally states that he does not take long walks as he used to, that he does not hit tennis balls off of concrete or brick walls as he used to, that he is trepidatious about his balance, and that he is "very trepidatious about squatting deeply" (id., at p 24, line 4 to 9). However, he "still exercise[s] like calisthenics, stretch bands, kettle balls, the

monkey bars, like pull-ups and push-ups (id., at p 24, line 10 to 12).

Asked whether there was "anything that [plaintiff] would like the Court to know about how this [injury] has affected [him] or what [he's] experienced that we have not yet covered," plaintiff answered, "I can't think of anything. No." (id., at p 28, line 8 to 12).

The Court entered into evidence the following exhibits: plaintiff's exhibit 1, Judicial Subpoena Duces Tecum addressed to non-party Bellevue Hospital and certified medical records from said hospital; plaintiff's exhibit 2, Judicial Subpoena Duces Tecum addressed to non-party NYU Langone Health and certified medical records from the same; and plaintiff's exhibit 3, Judicial Subpoena Duces Tecum addressed to non-party NYU Langone Orthopedic Hospital and certified medical records from said hospital.

Following plaintiff's testimony and admission of such records, the Court inquired whether plaintiff required an adjournment for further proof or to call any other witness(es) (id., at p 28, line 24 to 26; see also id., at p 31, line 14 to 16 ["So you would like to rest knowing that you are seeking pain and suffering and coverage of the lien with what you presented? Or would you like to return this afternoon? . . . or later this

morning"). Plaintiff answered in the negative, and rested (id., at p 29, line 2; p 31, line 26; and p 32, line 2 to 11).

In closing, plaintiff asked for an award of damages in the amount of $2,000,000.00 for pain and suffering, and at or around $14,000.00 for the lien for medical costs. Plaintiff explained:

> "I've performed verdict searches. Several cases that sustained a verdict, seven figure verdicts for pain and suffering, for tibia, fibula fractures which resulted in an open reduction internal fixation surgery such as the one Mr. Grech had"

(id., at p 33, line 11 to 15). However, plaintiff provided no citations or otherwise identified such cases.

Further, there was no testimony offered to assist the Court in making any conclusion concerning the relationship, if any, between plaintiff's current limitations in exercise or movement, and the broken leg he suffered in 2015. Plaintiff pointed out no particular place in the three sets of medical records that the court should review to support the request for $2,000.000.00 in damages.

Finally, plaintiff's counsel stated -- "we were put on notice of two different medical liens related to this incident," which total $14,235.53 (id., at p 24, line 19 to 26, and at p 25, line 01 to 03). However, there was no admissible evidence presented in this regard. Plaintiff presented no proof of the medical liens or of such liens being connected to the treatment

of plaintiff's broken leg. There was also no testimony or other proof submitted in support of counsel's general statement that defendant "pled guilty to [what they described only as] this crime" (id., at p 4, line 7 to 11; p 32, line 18 to 19 ["Mr. Debellis [defendant] so much as pled guilty to an assault"]), and there was no testimony or proof that defendant pled to any crime.

Essentially, the Court is left with only plaintiff's testimony and three sets of medical records. Medical records (1) presented without any pinpoint identification of the findings upon which plaintiff relies to establish the extent of past, present and future pain, of permanency of injury, if any, fullness of recovery, or long-term effects of the injury; and (2) presented without any accompanying interpretation of any diagnosis therein. Given the slim offer of proof, the Court finds no support for ordering a judgment of damages against defendant in the sum of $2,000,000.00 as just and fair compensation for plaintiff's pain and suffering and alleged medical liens (see generally NY PJI 2:280).

Notably, awards for pain and suffering are "'not subject to precise quantification' and require 'an examination of comparable cases and such factors as the nature, extent and permanency of the injuries, the extent of past, present and future pain and the long-term effects of the injury'" (Bradley-

Chernis v Zalocki, 221 AD3d 1095, 1097 [3d Dept 2023], quoting Serrano v State of New York, 179 AD3d 1357, 1358 [3d Dept 2020], lv denied 35 NY3d 914 [2020]; see also Nolan v Union Coll. Trust of Schenectady, N.Y., 51 AD3d 1253, 1256 [3d Dept 2008], lv denied 11 NY3d 705 [2008] [stating the same]).

"Although not binding upon the courts, recent awards for similar or comparable injuries may service to guide and enlighten the court in determining whether an award [for damages] is reasonable" including, as requested here, damages for pain and suffering (Rozmarin v Sookhoo, 172 AD3d 1415, 1418 [2d Dept 2019], citing Miller v Weisel, 15 AD3d 458, 459 [2d Dept 2005], and Senko v Fonda, 53 AD2d 638, 639 [2d Dept 1976]). Indeed, the governing First Department has reaffirmed that courts are required to look to similar verdicts to determine whether a material deviation from reasonable compensation exists in an award for such damages (Matter of 91st St. Crane Collapse Litig., 154 AD3d 139, 153 [1st Dept 2017], citing Donlon v City of New York, 284 AD2d 13, 14 [1st Dept 2001] ["we are supposed to compare analogous verdicts" in contrast to a jury who cannot determine the issue of material deviation]).

Of course, "[c]ase comparison cannot be expected to depend upon perfect factual identity. More often, analogous cases will be useful as benchmarks" and not controlling (Donlon, 284 AD2d at 16; see also Couteller v Mamakos, 244 AD3d 556, 558 [1st Dept

2025] [the First Department citing as authority Donlon v City of New York in deciding that an award of compensatory damages did not deviate materially from what would be reasonable compensation]).

Here, plaintiff asserts that, upon performing verdict searches, "[s]everal cases [exist] that sustained a verdict, seven figure verdicts for pain and suffering, for tibia, fibula fractures which resulted in an open reduction internal fixation surgery such as the one [plaintiff] Mr. Grech had" (see NYSCEF Doc. No. 37, Inquest Transcript, p 33, line 11 to 15). However, plaintiff offered no citation or other identifiers for verdicts in cases with similar or comparable injuries as guidance or support for this contention.

There was no medical evidence to quantify loss of range of motion, if any, and plaintiff's testimony did not include any statement that he has any limitation that prevents him from working in any capacity, exercising and/or performing any activities of daily life. There was also no medical evidence or testimony that plaintiff is expected to develop arthritic changes as a result of his injury, that plaintiff is expected to undergo related surgeries, and/or that plaintiff experiences any remarkable pain or needs regular pain management.

Plaintiff states that his muscle on the leg that defendant injured "hasn't grown back. It's still significantly smaller

than my left leg" after wearing the cast (id., p 19, line 13 to 20). However, there was no corroborating evidence in this regard -- no images, demonstration or medical testimony. There was no medical evidence that the weakness would not improve after cast removal or after the plate was removed.

Yet, plaintiff testified to doing one-legged squats and otherwise exercising his unaffected leg during the time that he wore a cast. He also testified that he exercised both of his legs on the very day his cast was removed and that he continues -- since such removal to the present -- performing calisthenics, although he is "very trepidatious about squatting deeply" (id., p 24, lines 8 to 9). The record neither defines what deep squatting means to plaintiff nor provides detail for the Court to assess the nature or extent of plaintiff's reported apprehension in performing that movement.

In Brandwein v New York City Transit Authority, the First Department upwardly modified an award for past pain and suffering from $30,000.00 to increase the amount to $60,000.00 and left undisturbed a $0.00 award for future pain and suffering (14 AD3d 396, 353 [1st Dept 2005]). The Appellate Division found as to the $30,000.00 verdict a material deviation of reasonable compensation given that the plaintiff sustained a fractured ankle, requiring her "to wear a cast for a month and use crutches for at least six weeks" (id., 14 AD3d at 353). The

decision listed no other factors as key in determining past pain and suffering, explicitly noting that "plaintiff did not produce her treating physician, and . . . the expert she did produce was not provided with the reports of her treating physician and was unaware of pertinent aspects of [plaintiff's] history" (id.).

It is this lack of medical proof that this court finds most impactful here. The finding of $60,000.00 in past pain and suffering on the basis of a fracture, a cast and temporary walking limitation, alone, appears to require a finding that plaintiff, here, is similarly entitled to at or around the same amount. The court recognizes that plaintiff additionally endured surgery for placement and then removal of hardware.

Accordingly, it is

ORDERED that plaintiff RUSSEL GRECH, JR., shall have a judgment against defendant CHARLES DEBELLIS in the amount of $75,000.00 for past pain and suffering and $0.00 for future pain and suffering; it is further

ORDERED that the Clerk of the Court is directed to enter judgment in favor of plaintiff RUSSEL GRECH, JR. and against defendant CHARLES DEBELLIS in the amount of $75,000.00; it is further

ORDERED that, within ten days from the date of this decision and order, plaintiff shall serve a copy of this order,

with notice of entry, on defendant, as well as on the Clerk of the Court, who shall enter said judgment; and it is further

ORDERED that the Clerk of Court shall mark the file accordingly.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.[1]

Date: March 24, 2026

Emily Morales-Minerva, J.S.C.

[1] The undersigned apologizes for the inadvertent delay in issuing this decision and regrets that it occurred.