

New York Injury Cases Blog

Posted at 10:21 AM on December 17, 2008 by John Hochfelder

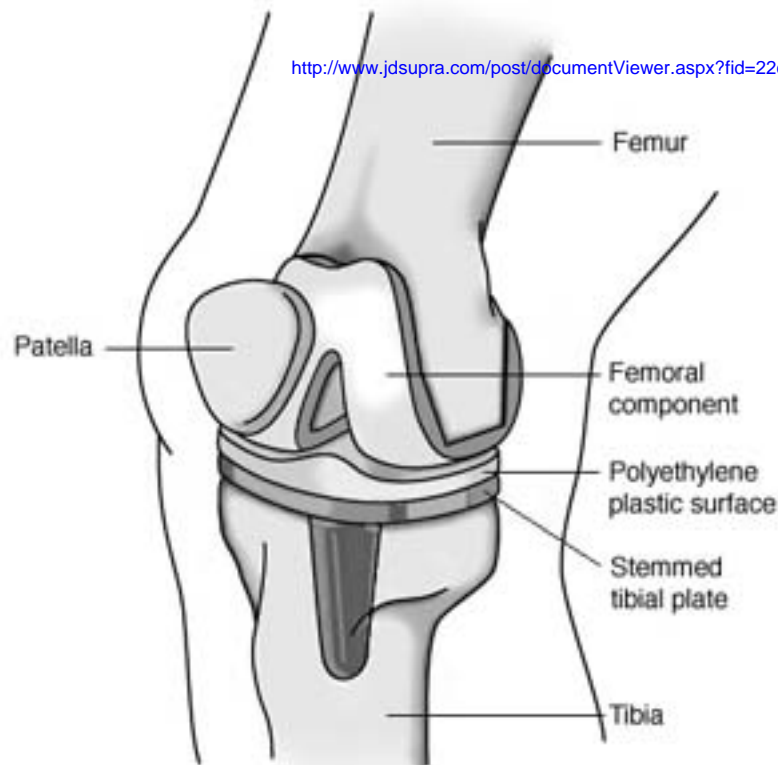
\$4.5 Million Jury Verdict for Cop Shot in Knee

Ouch! Bullet in the knee. But in [Alexander v. City of New York](#), **a cop shot himself!**

When Detective Anderson Alexander leaned back in a chair at his Brooklyn, New York precinct house, it didn't hold his weight and he stumbled out of the defective chair and his gun accidentally discharged. He sued the city for the defective chair and won when **the jury recently returned a \$4.5 Million verdict in his favor.**

Since the knee injury left him disabled, he was entitled to a pension from the NYC Police Department worth 3/4 of his last active duty salary. So with little to claim in lost earnings why did the jury award him millions? For his pain and suffering, that's why:

- 2 surgeries and many months of physical therapy
- at least one knee replacement surgery required in the future and **here's what that knee will look like after the knee replacement surgery:**



- only 49 years old with almost 40 more years life expectancy - all with pain, suffering and disabilities in his knee and leg
- must use cane to walk stairs
- cannot walk more than a few blocks
- cannot bend down

As with many very large personal injury verdicts, the question remains: **will the verdict stand up?** Will he be paid? The city has already said it will appeal. That could take about two years. Would the amount awarded in the jury verdict stand up on appeal? **Probably not if it's all for pain and suffering.**

While each bodily injury case is different, even unique, when analyzing verdicts for the same body part - here, the knee - there is never certain guidance or precedent from one case's jury verdict to the next. But there is some guidance so let's see what an important appellate court said recently regarding knee injury pain and suffering award amounts.

The **most recent significant knee injury appellate pain and suffering decision** is [Urbina v. 26 Court Associates, LLC](#), a case that began in New York Supreme Court and made its way up to the appellate court for that area, the Appellate Division First Department. On December 6, 2007, the appellate court ruled on the propriety of a jury's awards for a 31 year old electrician's assistant who fell from a scaffold and sustained an intra-articular fracture of his patella (kneecap) and a tear of his knee's lateral meniscus. After two surgeries and evidence that he would need a third, the jury determined that Mr. Urbina's past pain and suffering for his knee injury merited \$1,000,000 and for his future pain and suffering \$2,500,000. The appeals court disagreed and held that the past pain and suffering award should be

reduced to \$700,000 and the future pain and suffering award should be reduced to \$1,500,000 - ^{JD SUPRA}
\$2,200,000 .

<http://www.jdsupra.com/post/documentViewer.aspx?fid=22ce57c6-97f6-472c-a4b3-5a58ec7bef8c>

So what does all this mean for Detective Alexander? Nothing if the city wins its appeal on liability - the city will argue that it was not liable at all, especially in the absence of the actual chair for the jury to see at trial (a fact the detective says is the city's own fault).

If liability is affirmed, **the question remains: is \$4,500,000 too much?** Will the appeals court let it stand? Probably not, in view of the Urbina case. Don't get me wrong - I wouldn't take \$4,500,000 in exchange for a bullet shot into my knee, two surgeries, more to come, use of a cane, etc. No way. But this is not the standard the appeals court will apply. It will analyze these injuries and treatment and compare them with what's happened in other similar cases and what amounts have withstood appellate review in the past.

The appeals court hearing Detective Alexander's case will apply the following test, as set forth in CPLR 5501(c), New York's statute setting forth the standard regarding appellate claims that a jury award is excessive or inadequate: **did the amount awarded by the jury deviate materially from what would be reasonable compensation?**

We will follow this case as more details come out and as and if the appeals process continues.

For other cases involving jury verdicts and settlements in New York for pain and suffering in knee cases, see: [The Hochfelder Report on Knee Injuries](#).

Comments (0) Read through and enter the discussion with the form at the end

The Law Firm of John M. Hochfelder

81 Main Street

| White Plains, NY 10601

Phone:

914-686-0900 | 800-530-4660 | Fax 914-686-9048