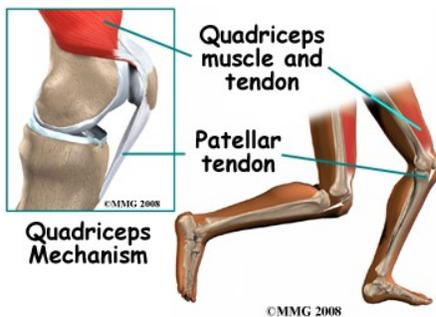


Rupture of Quadriceps Tendon Results in \$2,200,000 Pain and Suffering Jury Verdict; Reduced on Appeal to \$1,600,000

Posted on December 30, 2009 by [John Hochfelder](#)

The **quadriceps tendon** is located at the top of the patella and is attached to the quadriceps muscle. It is critical for ambulation because it allows the knee to move from a position of extension (straight) to a position of flexion (bent). When it ruptures, the patella loses its anchoring support in the thigh and one cannot stand up as the knee will buckle and give away.

Here, you can see the importance the quadriceps tendon and muscle:

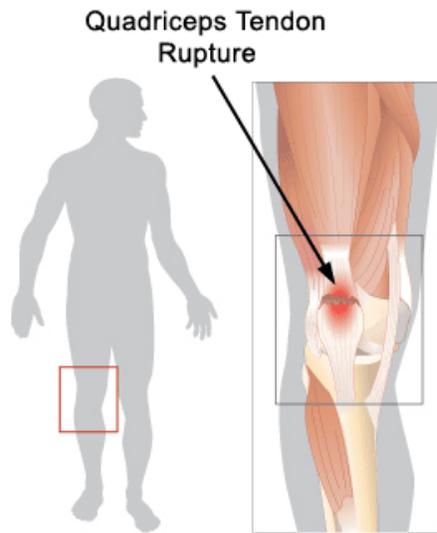


Recognizing how painful and debilitating a quadriceps tendon rupture can be, an **appeals court has now upheld almost 75% of a Bronx County jury's \$2,200,000 pain and suffering verdict** for a 45 year old woman who tripped and fell over a subway station's broken step.

On April 15, 2003, Juanita Clotter was returning home after a long day as a factory worker when she entered the subway station at 149th Street and the Grand Concourse in the Bronx (right by the courts and Yankee Stadium). She **fell down the stairs** when she tripped and later sued the New York City Transit Authority (the city agency that manages the subway and its station areas) claiming that she fell because the city negligently maintained the area and created a dangerous condition in that a significant chunk of a step was worn and broken away.

Unable to move from the bottom of the stairway, Ms. Clotter was taken by ambulance to a nearby hospital where she was diagnosed with a **ruptured quadriceps tendon**. The tendon in her right leg had literally torn away from her patella (the kneecap) and pulled away with it a small piece of the bone.

This is what a quadriceps tendon rupture looks like:



Surgery was required in which an **eight inch incision was made so a hole could be drilled through the bone and fiber wire run through the kneecap and secured**. At trial five years later, Ms. Clotter and her doctors testified that she was unable to walk without the use of crutches or a cane, could not return to work, had a seven inch disfiguring scar in front of her leg and had atrophy and swelling

After the jury returned its **\$2,200,000** pain and suffering verdict, the defendants appealed claiming it was excessive because plaintiff had only minimal treatment after the surgery and three months of physical therapy, she could not quantify her pain and made no efforts to improve her condition on her own. Plaintiff countered that her complaints of pain and disability were substantiated by her orthopedic surgeon, Jerry Lubliner, M.D., who testified in detail as to the severity of the trauma and the permanency of Ms. Clotter's injuries.

Last week, the appellate court pretty much agreed with the plaintiff in [Clotter v. New York City Transit Authority](#). While finding that \$2,200,000 was excessive, the judges stated that **\$1,600,000** (\$800,000 past - 5 years, \$800,000 future - 16 years) would be reasonable. That's a reduction of little more than 25%.

The only case cited by the court in its discussion of the proper amount for pain and suffering is **Orellano v. 29 East 37th Street Realty Corp.** (2004); however, that case is not very relevant. It dealt with a 47 year old man who sustained a comminuted fracture of his tibia and fibula, underwent several surgical procedures during a two month hospital stay and was left with a permanent, partial disability. On appeal, his **\$5,500,000** pain and suffering verdict was deemed excessive and the sum of **\$750,000** (\$375,000 past, \$375,000 future) was found to be appropriate. It's not at all clear why the judges in Clotter (dealing with a ruptured quadriceps tendon) thought that the Orellano decision (dealing with a tibia-fibula fracture) is pertinent or offers any guidance.

There were several recent cases that did deal with quadriceps tendon ruptures that were not but could and should have been discussed in Clotter not only by the judges but also by the lawyers. Here they are:

- [Verzivolli v. State of New York](#) (2002) - \$675,000 pain and suffering award by trial judge (\$125,000 past – 5 years, \$500,000 future – 33 years) for a 39 year old roofer whose quadriceps muscle was torn by a power saw. He underwent arthroscopic surgery to remove loose cartilage in his knee. He was left with a limp and needed a cane to walk.
- [Scott v. New York City Transit Authority](#) (2004) [court order silent on injury details - [affirmation of counsel, here, provides details](#)] - \$1,200,000 jury verdict for pain and suffering (\$600,000 past – 4 years, \$600,000 future – 18 years) for a 60 year old unemployed man who tripped and fell sustaining a rupture of his quadriceps tendon requiring surgery and leaving him with a limp and the need to wear a leg brace. The plaintiff had difficult liability issues on appeal and [this case settled for less than the verdict amount](#) while the defendant's appeal was pending.
- [Gainey v. City of New York](#) (2000) - \$600,000 jury verdict affirmed on appeal for pain and suffering (\$300,000 past, \$300,000 future) for a 34 year old unemployed man who tripped and fell on a city park's pathway and suffered a torn quadriceps tendon requiring surgery and leaving him in a permanently and progressively debilitated physical condition.

In view of the prior cases that dealt squarely with quadriceps tendon injuries, it appears that the plaintiff in Clotter has broken through to new heights in obtaining appellate court approval of a pain and suffering award of \$1,600,000.

Inside Information:

- The [original decision in Clotter](#) that was posted on the court's web site clearly stated at the outset that there was to be a reduction of the verdict from \$2,200,000 to \$1,600,000; however, the last sentence in the decision (before the concurring opinion) stated that [“\\$500,000” each for pain and suffering would be an appropriate award](#). This caused no small amount of confusion that day and calls to the court revealed that there was a typographical error and the corrected decision now has \$800,000 each in the body of the decision.
- While the [concurring opinion of Justice McGuire](#) states that he feels that the reduction of the jury verdict to \$1,600,000 did not go far enough, he did not state what he concluded would be the proper increased reduction. Insiders tell me that his figure was \$1,000,000 and that's why there was a reference to \$500,000 each (past and future) in the body of the opinion – there had been a back and forth between the majority and this justice that mistakenly made its way into the original decision.