

## New York Injury Cases Blog

Posted at 6:24 AM on January 22, 2009 by John Hochfelder

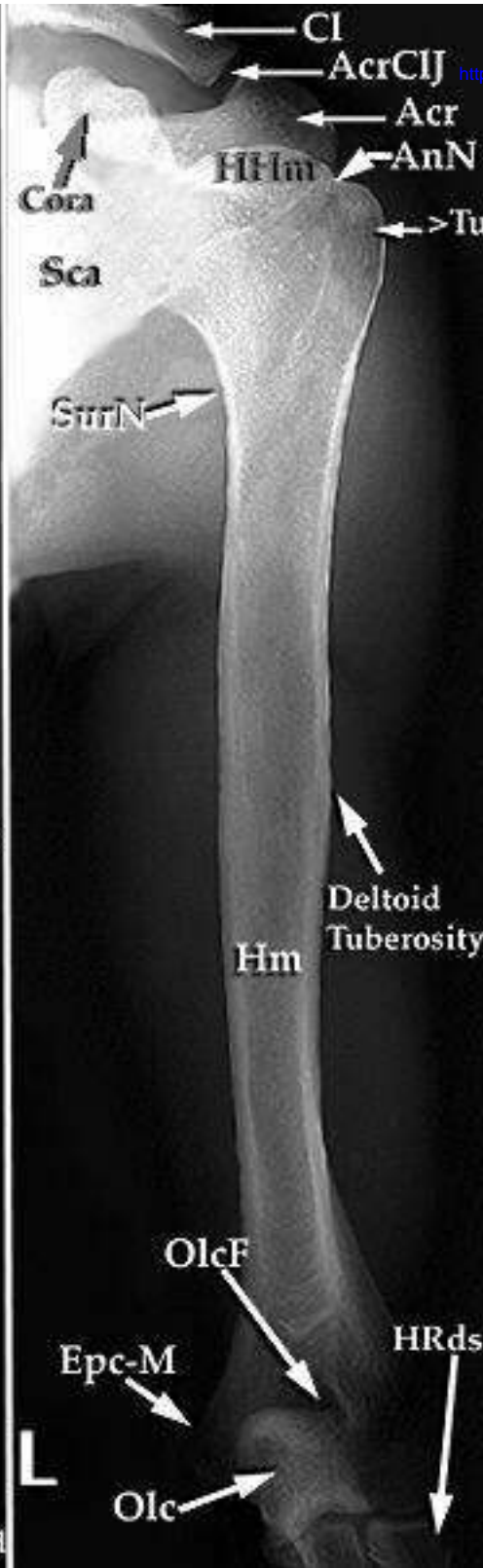
### Humerus Fracture Pain and Suffering Verdicts and Settlements from \$85,000 to \$980,000

It takes a whole lot of trauma to fracture the **humerus - the long bone of the upper arm** - and when it does happen there will likely be other injuries such as to the shoulder or wrist. So it's not easy to find cases that deal only with humerus fracture pain and suffering damages but we've dug up several that may be of interest and instructive.

First let's take a look at the humerus which, as you can see, is comprised of a shaft and two articular surfaces that form a part of the shoulder and elbow joints. We recently wrote about rotator cuff and other shoulder injury damage cases [here](#) and [here](#) and will in the future discuss elbow injuries.

**Here's an x-ray of the humerus:**

## Upper Arm AP View



Cl=Clavicle  
AcrCIJ=Acromio-  
clavicular Joint  
Acr=Acromion  
AnN=Anatomical  
Neck  
HHm=Head of  
Humerus  
Cora=Coracoid  
Process  
>Tu=Greater  
Tuberosity  
Sca=Scapula  
SurN=Surgical  
Neck  
Hm=Humerus  
OlcF=Olecranon  
Fossa  
Olc=Olecranon  
Epc-M=Medial  
Epicondyle  
HRds=Radial Head

In the most recent New York appellate court case to deal solely with humerus fracture damages, [Coker v. Bakkal Foods, Inc.](#) (Appellate Division, 2nd Dept., 6/24/08), a Suffolk County jury verdict of **\$200,000** was upheld for pain and suffering for a 46 year old seamstress who fell and sustained a comminuted fracture of her humerus. She underwent extensive physical therapy, had three steroid injections and was unable to work for two months. She did not undergo surgery but was left with permanent limited range of motion and a prognosis that included the probability of surgery.

When one is forced to undergo surgery, for a humerus fracture or in any other injury case, it's not surprising that the jury will evaluate the pain and suffering claim higher than in non-surgical cases and that the appellate courts will uphold the higher verdict. One might say that's a bit counter intuitive because the surgery is supposed to fix the patient. But the typical reaction of the jury in surgical cases is visible wincing (especially when shown by the surgeon how and where he cut and what the hardware inside the bones really looks like). And after the wincing, the money flows.

Here's a recent humerus fracture case that involved multiple complicated surgeries - [Baez v. New York City Transit Authority](#) (Appellate Division, 1st Dept., 2005). In this case, **\$980,000** for pain and suffering (\$600,000 past; \$380,000 future) was upheld in a Bronx County case for a 56 year old home health aide who was in a bus accident and sustained a comminuted fracture of her right dominant arm. She underwent open reduction internal fixation surgery to fix the humerus fracture but, thereafter, she had to undergo a second surgery to correct a malunion of the fracture.

- Insider Information: In this case the defendant's pre-trial offer to settle was only \$25,000 against the plaintiff's settlement demand of \$450,000. Hindsight is always 20/20 but it needs to be pointed out that the defendant paid \$530,000 more than was necessary!

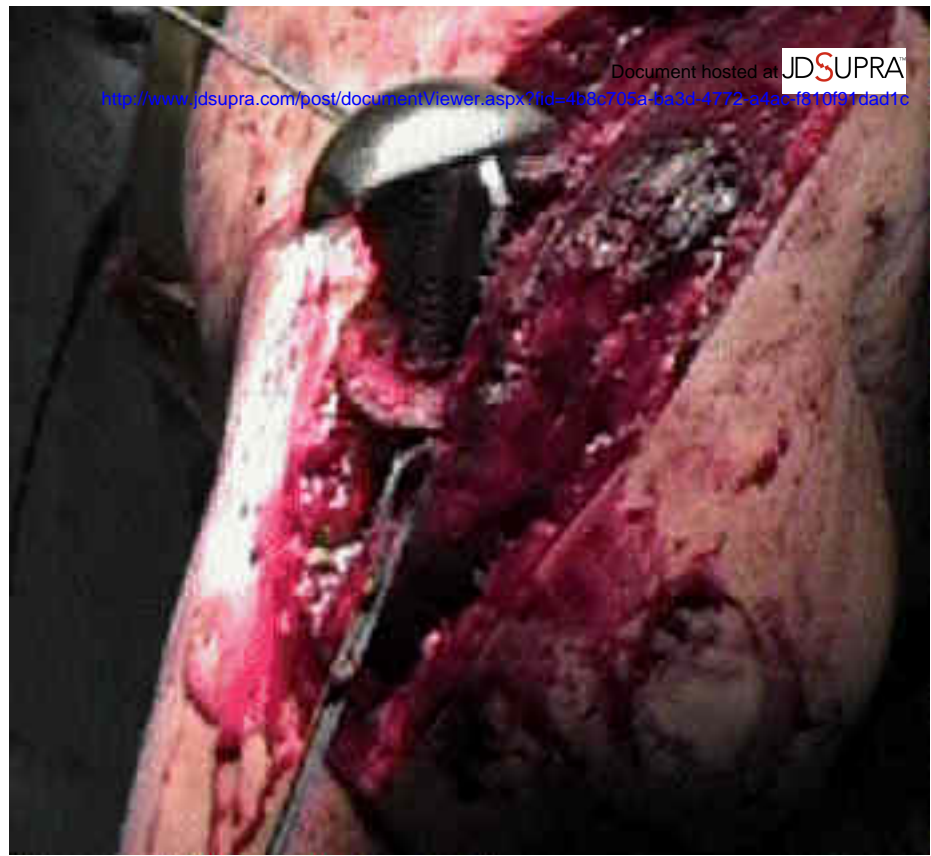
Here are some other recent New York jury verdicts involving humerus fractures:

- [Zambrano v. Abdalla](#) (Supreme Court, Kings County; Index # 413/06; 5/21/08) - **\$85,000** for a 59 year old hostess who sustained a non-displaced humerus fracture and did not need surgery
- [Robinson v. 3512 Oxford Avenue Tenants Corp.](#) (Supreme Court, Bronx County; Index # 25341/04; 2/11/08) - **\$700,000** pain and suffering split equally between past and future for a 68 year old semi-retired woman who sustained a comminuted fracture of her dominant arm's humerus in which the head split into two pieces and the shaft into a third. She underwent a hemiarthroplasty - reconstructive surgery to remove fracture fragments and insert permanent hardware secured by screws

And if you think that **\$700,000** was too much for what the 68 year old Mrs. Robinson went through in the case just mentioned, then take a look at what she went through in the operating room and what she'll live with for the rest of her life.

**Here's the hemiarthroplasty:**





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