

New York Injury Cases Blog

Posted at 4:56 PM on January 7, 2009 by John Hochfelder

\$8,500,000 for Eye Injury - Top 2008 Award against NYC

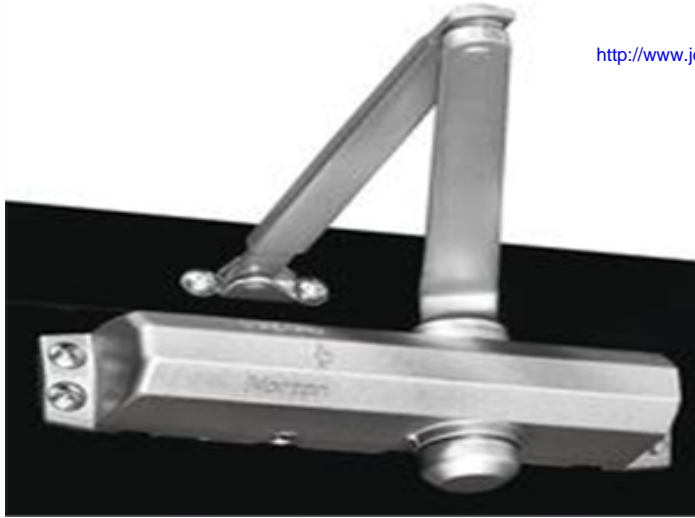
The New York City Law Department has released statistics regarding negligence lawsuits against it in 2008 and the top recovery was for an eye injury to a school guidance counselor in the case of [Villaseca v. City of New York](#).

The [New York Post](#) reports it this way:

"\$8.5 million to a guidance counselor Rodrigo Villaseca, who lost vision in this right eye after an emotionally disturbed kindergartner slammed a broken door in his face at PS 306 in The Bronx."

The **door was broken for over a year** after the city school knew that the door's hydraulic controller was not operational. This was a \$55 part that was specifically installed so that the door could not be slammed shut - a particularly useful device given that this was the only door into a room where the most uncooperative and unruly kids were placed until they calmed down.

Here's the piece of equipment that would have saved the city \$8,500,000 for a mere \$55 cost:



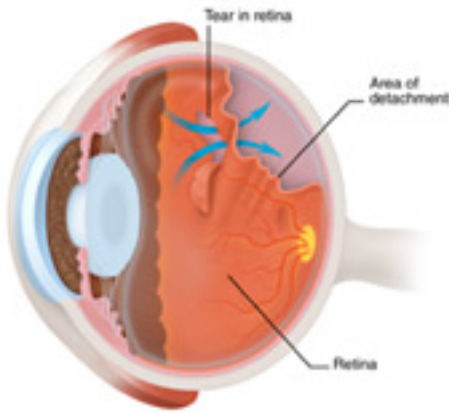
Source: [DrillSpot, Inc.](#)

In reporting on the \$403 million total of negligence awards against the city for last year, the paper mentions several other large suits as well and notes that the total is a 6% spike over the year before. I don't know whether the reporter was insinuating that the Villaseca case (and the others) are so-called runaway or excessive verdicts or whether she is suggesting, as others such as [The Pacific Research Institute](#) and [NYTortReformNow.org](#) do, that New York has an unfair and unreasonable litigation environment for defendants in negligence cases due in part to there being no limit (or "cap") on pain and suffering damage awards. I do know that issues such as whether there are too many or too few negligence lawsuits, whether plaintiffs are awarded too much or too little for their pain and suffering and whether damage caps would be fair or even accomplish what its advocates seek are all hotly disputed. For the plaintiffs' side of these issues see: [New York State Trial Lawyers Association](#) and [TortDeform.com](#)

In the Villaseca case, I can say with confidence that, as usual, a short media account cannot and will not explain even one-half of what happened and why such a multi-million dollar pain and suffering recovery makes sense.

Here are the injuries Mr. Villaseca suffered:

- [detached retina](#) of the right eye
- lost all vision in right eye after **9 surgeries**
- constant pain
- need for surgical implantation of false eye



Source: [Vitreoretinal Surgery, P.A.](#)

Enough? No, there's more:

- the teacher had a pre-existing macular hole condition in his other eye that left him with only peripheral vision in that other eye and the result was extremely limited vision of any kind at all
- inability to work
- need to have his wife help him move about

The Bronx County jury was apparently so impressed with and upset by these injuries that it awarded Mr. Villaseca \$8,000,000 for his pain and suffering damages alone. An appeals court found that **\$5,000,000 was the proper pain and suffering amount** (and with an additional \$3,500,000 mainly for lost earnings and medical expenses the total was therefore \$8,500,000).

Other recent cases involving significant pain and suffering damage awards for eye and vision injuries include:

- [Wilson v. Galicia Contracting & Restoration Corp.](#) (2008) - **\$700,000** pain and suffering award for a 16 year old boy who was struck in his left eye by a falling metal object. After surgery to remove the object, he was left with permanent retina damage.
- [Fresco v. 157 E. 72nd St. Condominium](#) (2003) - **\$2,000,000** pain and suffering verdict for a 35 year old laborer with complete blindness in one eye from a carpentry accident in which a nail flew into his eye. He had a pre-existing condition in his other eye with the result that he's now left nearly totally blind.
- [Torricelli v. Pisacano](#) (2004) - **\$500,000** pain and suffering medical malpractice award after cataract surgery failed requiring two more surgeries and significant overall vision deterioration.

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