

Westlaw

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Cadet v. City of New York
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N.Y.A.D.,1997.

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Marie Cadet et al., Respondents-Appellants,
v.
City of New York et al., Defendants, and New York City Transit Authority, Appellant-Respondent.
Supreme Court, Appellate Division, Second Department, New York

(April 14, 1997)

CITE TITLE AS: Cadet v City of New York

In an action to recover damages for personal injuries, the defendant New York City Transit Authority appeals, as limited by its brief, from so much of a judgment of the Supreme Court, Kings County (Moskowitz, J.), entered April 5, 1996, as, upon a jury verdict, awarded the plaintiff Marie Cadet \$200,000 for future pain and suffering, and the plaintiffs cross-appeal from so much of the same judgment as failed to award the plaintiff Marie Cadet damages for past pain and suffering.

Ordered that the judgment is reversed insofar as appealed from, on the law, by deleting the award of damages to Marie Cadet for future pain and suffering, and a new trial is granted on the issue of past and future pain and suffering damages for Marie Cadet only; and it is further,

Ordered that the judgment is affirmed insofar as cross-appealed from; and it is further,

Ordered that the New York City Transit Authority is awarded costs payable by the respondents-appellants.

The jury's award of \$200,000 for future pain and suffering is irreconcilable and inconsistent with its failure to award any damages for past pain and suffering (*see, Torres v City of New York, 226 AD2d 701*). Because the jury could not have reasonably concluded that Marie Cadet's injuries were worsening over time, the verdict rendered reflects substantial confusion on the part of the jury (*cf., Balmaceda v Perez, 182 AD2d 983, 984*). *369

In view of our determination we need not reach the parties' remaining contentions.

Bracken, J. P., Pizzuto, Florio and McGinity, JJ., concur.

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