

<b>Saft v Consolidated Edison Co. of N.Y., Inc.</b>
2015 NY Slip Op 00211
Decided on January 6, 2015
Appellate Division, First Department
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Decided on January 6, 2015

Mazzarelli, J.P., DeGrasse, Manzanet-Daniels, Feinman, Gische, JJ.

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**[\*1] Marcia Saft, Plaintiff-Appellant,**

**v**

**Consolidated Edison Company of New York, Inc., Defendant-Respondent.**

Law Office of Judah Z. Cohen, PLLC, Woodmere (Judah Z. Cohen of counsel), for appellant.

David M. Santoro, New York (Stephen T. Brewi of counsel), for respondent.

Judgment, Supreme Court, New York County (Cynthia S. Kern, J.), entered November 4, 2013, upon a jury verdict apportioning fault 50% against plaintiff and 50% against defendant, which, insofar as appealed from as limited by the briefs, awarded plaintiff \$17,000 for past pain and suffering, and \$8,000 for future pain and suffering, after

apportionment, unanimously reversed, on the facts, without costs, the awards for past and future pain and suffering vacated, and the matter remanded for a new trial on those damages only, unless within 20 days of service of a copy of this order, with notice of entry, defendant stipulates to increase the awards, before apportionment, to \$370,000 for past pain and suffering, and \$150,000 for future pain and suffering.

The award for past and future pain and suffering deviated materially from what would be reasonable compensation in light of awards approved in similar cases, the type of injury, the level and duration of pain suffered by plaintiff, the surgical procedure and physical therapy she underwent, her age and activity level, and the long-term effects and limitations on her life (*see Garcia v Queens Surface Corp.*, 271 AD2d 277, 278 [1st Dept 2000]; *Pinto v Gormally*, 109 AD3d 425, 427 [1st Dept 2013], *lv denied* 22 NY3d 862 [2014]).

THIS CONSTITUTES THE DECISION AND ORDER

OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: JANUARY 6, 2015

CLERK

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