

Hernandez v Consolidated Edison Co. of N.Y., Inc.
2016 NY Slip Op 07602
Decided on November 15, 2016
Appellate Division, First Department
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This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided on November 15, 2016

Mazzarelli, J.P., Andrias, Saxe, Feinman, Gische, JJ.

2207 301327/09

[*1] Gilbert Hernandez, Plaintiff-Appellant,

v

**Consolidated Edison Company of New York, Inc., Defendant, Danella Construction of
NY Inc., Defendant-Respondent. [And a Third Party Action]**

Pollack, Pollack, Isaac & DeCicco, LLP, New York (Brian J. Isaac of counsel), for
appellant.

Cozen O'Connor, New York (Eric J. Berger of counsel), for respondent.

Order, Supreme Court, Bronx County (Howard H. Sherman, J.), entered September 24,
2015, which granted defendant Danella Construction of NY, Inc.'s motion to reduce the
damages portion of the verdict and order a new trial of damages unless plaintiff stipulated to

accept the reduced damages, unanimously affirmed, without costs.

The jury's award for pain and suffering deviated materially from reasonable compensation for the injuries sustained by plaintiff (CPLR 5501[c]). The award for future medical expenses was not supported by the trial evidence (*see e.g. Hyatt v Metro-North Commuter R.R.*, 16 AD3d 218, 219 [1st Dept 2005]).

THIS CONSTITUTES THE DECISION AND ORDER

OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: NOVEMBER 15, 2016

DEPUTY CLERK

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