

<b>Obey v City of New York</b>
2017 NY Slip Op 03713
Decided on May 9, 2017
Appellate Division, First Department
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Decided on May 9, 2017

Tom, J.P., Friedman, Richter, Gische, Gesmer, JJ.

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**[\*1]Robert Obey, Plaintiff-Appellant,**

**v**

**The City of New York, Defendant, New York City Transit Authority, Defendant-  
Respondent.**

Sanders, Sanders, Block, Woycik, Viener & Grossman, P.C., Mineola (Mark R. Bernstein of counsel), for appellant.

Lawrence Heisler, Brooklyn, for respondent.

Upon remittitur from the Court of Appeals (\_NY3d\_, 2017 NY Slip Op 02590 [2017]), for consideration of issues raised but not determined on the appeal to this Court, order, Supreme Court, New York County (Geoffrey D. Wright, J.), entered May 22, 2014, insofar

as it denied plaintiff's motion to set aside the jury's award of damages for pain and suffering, unanimously affirmed, without costs.

The jury's award of \$450,000 for past and future pain and suffering did not differ materially from what is reasonable compensation, and plaintiff raises no challenge on appeal to the award for medical expenses. The cases relied on by plaintiff in support of his challenge to the pain and suffering award (*see e.g., Firmes v Chase Manhattan Auto. Fin. Corp.*, 50 AD3d 18 [2d Dept 2008], *lv denied* 11 NY3d 705 [2008]) are distinguishable, because in those cases plaintiff had significantly more surgery than occurred here. We see no reason to increase the jury's damages award or to order a new trial on damages.

THIS CONSTITUTES THE DECISION AND ORDER

OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: MAY 9, 2017

CLERK

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