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'Compassionate' Jury Awards \$13.5M for Motorist Injured in 2013 Collision

"I told the insurance company it's an eight-figure case. Their response was, 'No Orange County jury will ever give a verdict in eight figures, especially during COVID.' And my response was 'I guess we'll find out,'" plaintiff's attorney Andrew Finkelstein said.

By Andrew Denney | October 25, 2021



([//images.law.com/sites/newyorklawjournal/2021/10/25/compassionate-jury-hands-up-13-5m-award-for-motorist-injured-in-2013-collision/andrew-finkelstein/](https://www.law.com/newyorklawjournal/2021/10/25/compassionate-jury-hands-up-13-5m-award-for-motorist-injured-in-2013-collision/andrew-finkelstein/)) Andrew Finkelstein of the Newburgh, New York-based Finkelstein & Partners. Courtesy photo

Partly due to the COVID-19 pandemic, an attorney representing a car wreck victim in his first in-person trial since the start of the outbreak said he felt a greater sense of compassion for his client among potential and serving jurors than he might have in years past.

"I felt that they were far more compassionate toward my client's explanation of the injuries causing her isolation," Orange County attorney Andrew Finkelstein said of the first jury he faced since the start of an era when many became familiar with long hospital stays and loneliness.

Plaintiff Karen Noller, who has undergone 10 surgeries in the eight years since the 2013 rear collision, "basically came out of her work environment and spent so much of her time alone recuperating and rehabilitating and going to physical therapy," Finkelstein said. "I would say, anecdotally, it was my impression [jurors] could truly understand that."

At the end of a two-week trial to end the long-running personal injury suit, a jury of five women and one man on Oct. 8 awarded a \$13.5 million verdict for Noller that included \$8.5 million for pain and suffering, \$3 million for future medical expenses and \$2 million for past medical expenses.

Noller was injured after Edwin Holt, a distracted motorist traveling at 40 miles per hour, rear-ended her automobile while she was stopped. Holt testified that he took no evasive action to prevent the impact, Finkelstein said.

Noller, a home appraiser who was then 47 years old, was rushed to the emergency room and, while she did not suffer any broken bones, the impact aggravated an arthritic ankle and injured her shoulder.

In the years of litigation to follow, trial dates were postponed numerous times because of Noller's additional surgeries. She was deposed in the case on three separate occasions.

The last time the case was trial ready was March 2020, just before court functions grinded to a halt because of the pandemic.

Around that time, Red Hawk Fire & Security, the insurance company for Holt's employer, was pushing for Noller to take a settlement.

"I told the insurance company it's an eight-figure case," Finkelstein said. "Their response was, 'No Orange County jury will ever give a verdict in eight figures, especially during COVID.' And my response was 'I guess we'll find out.'"

Attorneys from Goetz Schenker Blee & Wiederhorn who represented Holt, and the insurance company did not respond to requests for comment.

Kenneth Fromson of Finkelstein & Partners also appeared for Noller at trial. Finkelstein said that all persons in the courtroom were masked up and that sitting jurors and their alternates were spaced apart to promote social distancing.

Noller's verdict comes as attorneys across practice areas are seeing trials resume and, some say, finding jury pools that have been altered in various ways (<https://www.law.com/newyorklawjournal/2021/10/21/a-shadow-over-science-how-the-pandemic-changed-or-didnt-change-jurors-389-147432/>) by a year and a half of pandemic.

For example, a plaintiffs attorney whose firm fights for ovarian cancer victims in talcum powder cases said recently after losing three trials that he senses a growing mistrust of science among some jurors.

Other attorneys say that they have observed wider polarization among jurors.

Additionally, some attorneys say that jurors' ideological leanings may be discerned by whether or not they are wearing masks, which became a politically divisive issue during the pandemic.

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