



MondayMonday

It's All About "The Game"

September 15, 2014

All good things come to an end and so it is that we find ourselves in our last year of traveling to Tennessee to see one or the other of our children at Vanderbilt University. Over these years, we have come to love the City of Nashville and its people, who have welcomed us with open arms and a healthy dose of, yes, southern hospitality.

We don't care what you say, but there is something different here. It's not just being nice. We like to think New Yorkers are the nicest people in the world to tourists (you have to live here for us to tell you off.) But in Nashville, they seem to honestly like having you around; welcoming you like the relative you can't wait to see again come Thanksgiving. In what has become a cosmopolitan, foodie-haven kind of a city, you can still sit at a picnic table on a deck outside of a restaurant and eat fried chicken with a ton of people who look nothing like you and feel like family.

In fact, maybe that's it. It's the fried chicken. Not the barbeque or the craft cocktails; not the steak or the locally-sourced trout. Any city can do that. But fried chicken is Nashville and fried chicken is either perfect or it's not. There's little if



any mid-ground. And once it is perfect, then it's the people you're eating it with that makes it all come together. We'll speak more about saying goodbye to our second home as the weeks move towards graduation, but as for now, our thanks to one or two celebs from the TV series "Nashville", a couple of visiting football players, one guy as big as we are, a large group of Vandy students, and Hattie B's Hot Fried Chicken for everything.

When we first started *MondayMonday*, we introduced a game we had played all our life as a personal injury lawyer: "What's It Worth?" We limited the cases we discussed to those appellate decisions that actually reported the particulars of injuries. This ensured, of course, that subsequent issues would not be overrun with "What's It Worth?" features, as such decisions are decidedly rare.

This week, we take the time to play the game with the Second Department's decision in *Abdelzاهر v. Salustio*, 2014 NY Slip Op 06040 (2d Dep't 9/10/14). As we relate the facts, appreciate the amount of work put in

by plaintiff's counsel to make it come out this way. That's where the real story is.

Plaintiff livery driver drove defendant's daughter home to her mother and her father. When a dispute arose over the fare, defendant father hit plaintiff with a baseball bat, fracturing plaintiff's left pinky finger and injuring his left knee. Defendant pleaded guilty to the assault, so only damages remained to be tried before the jury. The evidence showed that plaintiff was treated at the ER, then by two other doctors, receiving therapy for 2-3 months. Plaintiff was afraid to go out at night, couldn't work for 8 months, and though he was trained in the hotel industry, couldn't work there because he could not carry heavy luggage. Plaintiff's doctor testified how the fractured finger was immobilized in a cast for 6 weeks, with permanent limitation of motion preventing the carrying of heavy objects, even though a pre-existing injury to the other hand could well have limited his ability to carry heavy luggage. Now, in this Kings County case, it's time to play the game.

The jury gave plaintiff \$50,000 for past and \$125,000 for future pain and suffering, together with \$25,000 in punitive damages. The AppDiv sustained all but the future p+s award, which was reduced to \$75,000. Why? We don't know. Third base.

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