



## Preview -

### **\$585,000 VERDICT**

#### **Plaintiff diner patron assaulted over dispute regarding bills – Post-Traumatic Stress Disorder (PTSD); Soft tissue injuries to neck, back and dominant shoulder.**

Kings County, Supreme Court, NY (Mark Partnow, JSC)

The Plaintiff diner patron contended that as he left the defendant diner, after letting diner employees know that he was leaving to get cash from an ATM after the diner refused his credit card and said they were cash-only, the diner's security guard followed him to the street and summoned him to the diner to pay his bill. Upon Plaintiff's voluntary return to the diner, the security guard grabbed him, pulled him into the diner, slammed him to a counter, grabbed him by his neck, took him to the ground and pinned him down with his forearm in his throat, until other diner employees locked the diner's front door. The security guard and diner employees accused Plaintiff of running out on his bill. The incident between Plaintiff and the security guard as well as the actions of Plaintiff and the diner employees and other patrons both inside and around the diner were captured on the diner's security video.

The video showed that another diner patron, a white male, had run off and left without paying his bill just before the Plaintiff returned to the diner and the security unjustifiably attacked him over the tab. The plaintiff is a 48-year old gay black man. There was no claim that the plaintiff was the victim of discrimination, by the diner and its security guard, a white Hispanic.

The evidence and video showed that plainclothes New York City police officers were summoned by the diner employees and as Plaintiff was explaining to the officers how he was assaulted by the security guard, Plaintiff was further assaulted and choked by the police officers. The Plaintiff was then handcuffed, arrested and jailed for 18 hours. The criminal charges were dismissed approximately three months later.

The case was previously handled by a different firm and no civil rights allegations were made because of the officers' actions. The Plaintiff argued that the defendant diner should be liable for the actions of the security guard which led to the assault and arrest by the police officers. The court refused to send to the jury this aspect, holding that there was insufficient evidence that Plaintiff was maliciously prosecuted based on the false accusation that the Plaintiff did not pay his bill. The court also did not send to the jury Plaintiff's claims for false imprisonment and refused to allow the jury to consider punitive damages against the diner owners and the security guard.

The Plaintiff testified that he sustained soft tissue injuries which continue to cause pain and that the pain and restriction continued for some time. The Plaintiff further testified that he suffers and continues to suffer the symptoms of PTSD such as anger, anxiety, sleepless nights, flashbacks, and fear of police, which has required psychotherapy and which will continue for the foreseeable future.

The defendant's psychiatrist did not dispute that the plaintiff suffered PTSD but contended that the symptoms were mild and that he will require therapy for no more than three years, but not forever.

The jury found for the Plaintiff on a charge of battery, and awarded \$585,000, including \$275,000 for past pain and suffering, \$275,000 for future pain and suffering for 7 years and \$35,000 for future medical expenses (psychotherapy sessions) for 3 years.

### **REFERENCE**

Plaintiff diner patron vs. Defendant diner.

Attorney for Plaintiff : Samuel O. Maduegbuna and William W. Cowles of Maduegbuna Cooper, LLP