

**MOTOR VEHICLE**

Pedestrian — Crosswalk — Minivan

**Minivan backed up and struck woman crossing street****VERDICT (P)** **\$237,500**

**CASE** Rosa Garcia v. The New York & Presbyterian Hospital, also Known as New York Presbyterian Hospital, and Wilfredo Velez, No. 117793/02

**COURT** New York Supreme

**JUDGE** Michael V. Ajello

**DATE** 10/15/2003

**PLAINTIFF**  
**ATTORNEY(S)**

Law Offices of Kenneth  
A. Wilhelm, New York, NY

**DEFENSE**  
**ATTORNEY(S)**

David Persky, Jacobowitz, Garfinkel & Lesman, New York, NY

**FACTS & ALLEGATIONS** On April 19, 2002, plaintiff Rosa Garcia, 75, was struck by a minivan while crossing Broadway, near its intersection with West 169th Street in New York. The minivan was moving in reverse at the time of the accident.

Garcia sued the driver of the minivan, Wilfredo Velez, and his employer, New York Presbyterian Hospital. Garcia claimed that she was within the crosswalk, approximately two feet from reaching the curb, at the moment of impact. She also claimed that the pedestrian-traffic signal was green at the time of the accident.

Velez testified that he had driven through the crosswalk on West 169th Street, and that he momentarily stopped at a fire hydrant. He claimed that he intended to back up around the corner to park in a vacant space on Broadway, and that he was looking out the rear window of his minivan as he moved the vehicle in reverse. He contended that he immediately stopped the vehicle after it struck Garcia. He added that the rear of the minivan stopped six inches short of the crosswalk.

**INJURIES/DAMAGES** *aphasia; fracture, radius; hematoma; stroke*

Garcia sustained an oblique fracture of her right, dominant, distal radius. The fracture, which extended into the joint space, was treated with closed reduction and a cast. Garcia also claimed to have sustained a hematoma to her right occipital area.

Garcia suffered an ischemic stroke four weeks after the accident. She was admitted to New York Presbyterian Hospital, where she was diagnosed with Wernicke's aphasia. An EKG was performed shortly thereafter, and the test's results were positive for atrial fibrillation. A tissue plasminogen activator was administered to dissolve a blood clot.

Garcia subsequently relocated to Miami to live under the care of her adult son. She claimed that the stroke was causally related to the accident, and that she suffers from memory loss and confusion. She asked the jury to award \$1 million.

The defendants contended that Garcia's stroke was not related to the accident. They argued that the stroke had not caused any neurological brain damage.

**RESULT** The jury found that Velez was 100% liable for the accident. It awarded Garcia \$237,500.

<b>ROSA GARCIA</b>	\$125,000 past pain and suffering <u>\$125,000 future pain and suffering</u> \$250,000
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<b>DEMAND</b>	\$500,000
<b>OFFER</b>	\$100,000