

# VERBAL THRESHOLD UPDATE

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**Verbal Threshold Update** is a quarterly publication designed to keep the automobile insurance industry apprised of this rapidly developing area of New Jersey tort law.

The Honorable David W. Morgan granted summary judgment in favor of defendant in Kenney v. DeChristopher, et al., Superior Court of New Jersey, Law Division, Gloucester County, Docket No. GLO-L-1953-03. In Kenney, the plaintiff was involved in an automobile accident on December 27, 2001. The plaintiff presented to the hospital on the date of the accident complaining of neck and low back pain. She denied any leg pain. X-rays of her low back revealed degenerative disc disease at L5-S1. The diagnoses were cervical and lumbar sprain and strain.

The plaintiff then presented to Dr. Golden, her family doctor, on December 28, 2001 and was diagnosed with lumbar strain. She also received soft tissue physical therapy for her neck and back for six months.

An MRI of plaintiff's lumbar spine revealed disc desiccation from L2-S1 with associated disc degeneration at L5-S1. An EMG/NCS of her lower extremities was within normal limits.

The plaintiff was employed by ACME as a deli clerk working 20 to 50 hours per week at the time of the accident. The plaintiff missed six months from work immediately following the accident and then was medically cleared to return to work. Other than lifting heavy objects, the plaintiff did not have any limitations when she returned to work. The plaintiff also claimed that her injuries limited her ability to perform household chores and recreational activities. After reviewing all the evidence, the court granted defendant's motion for summary judgment on the verbal threshold.

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The Honorable Anne McDonnell granted defendant's Motion for Summary Judgment in Durdan Dursun v. The Estate of Francis Bair, Superior Court of New Jersey, Law Division, Gloucester County, Docket No. GLO-L-593-03. The plaintiff was involved in a automobile accident on April 11, 2001 and claimed neck and back injuries. Cervical and lumbar x-rays performed at the hospital were negative. A cervical x-ray performed on July 25, 2001 revealed minimal degenerative changes at C5-6 and C6-7. An MRI of plaintiff's cervical spine performed on August 18, 2001 revealed minimal C3-4 and C4-5 annular bulging. An MRI of plaintiff's lumbar spine performed on August 18, 2001 revealed lower lumbar degenerative disc disease with annular bulging and a midline L4-5 annular tear. The plaintiff was diagnosed with sprains and strains as well as bulging cervical and lumbar discs and was discharged from treatment on November 14, 2001. The physical therapist's reports revealed that the plaintiff achieved good results through her therapy sessions. The court found that the plaintiff's sprains and strains and bulging discs did not rise to the level of a serious and permanent injury and granted summary judgment in favor of defendant.

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