

Anchin Alert

Anchin, Block & Anchin LLP
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Conflicting Expert Opinions Preclude Summary Judgment Dismissal

Frequently, as part of our litigation, forensic and valuation services practice, we are called upon to issue expert reports. As can be imagined, it is common that the opinions expressed in the expert reports for each side are very different (reasonable professionals can disagree, right?). However, it is interesting to consider how much of an impact those different opinions can have on the case process.

As recently reported in the *New York Law Journal*, the defendants in *Beras v. Vigorito*¹ moved for summary judgment in an action stemming from an accident arguing that the plaintiffs did not sustain a “serious injury” as defined in Insurance Law 5102(d). In this case, the defendants’ expert found that the plaintiffs had pre-existing degenerative changes and did not have an orthopedic disability as a result of the subject accident. On the other hand, the plaintiffs’ expert related the plaintiffs’ diagnoses to the subject accident, opining they had a permanent disability as a result of the accident. The court found that the plaintiffs sufficiently raised triable issues of fact whether they sustained significant or permanent consequential injuries. Thus, the court ruled in light of conflicting expert findings and opinions by denying the defendants’ request for summary judgment against the plaintiffs, and consequently stating that a finder of fact must resolve conflicts in expert opinions.

For more information, please contact Anthony Bracco, David Beckman, Margaret Kolb, Dennis Neier, or Raymond Dragon of Anchin’s Litigation, Forensic and Valuation Services Group at 212.840.3456.

¹ *Beras v. Vigorito*, 154787/14 (May 31).



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1375 Broadway, New York, NY 10018
212.840.3456 • www.anchin.com

