

## Deposition Report w/ Provision for Lawyer's Analysis

Ms. X v. Y Restaurant, Inc.,

Case No.: [Redacted]

**Court Info.:** Case No.: [Redacted]  
Venue : [Redacted]  
Judge: [Redacted]

### *Name of the Deponent*

Ms. X

### *Synopsis of Testimony*

Ms. X was born February 1, 1950, in New York, NY. She has been widowed since January 15, 2008. She resides at 123 State Road, Albany, NY. She thinks that she has resided in New York for approximately eight years. She has a New York driver's license which has never been suspended or revoked for any reason.

At present, Ms. X is not employed. Her previous employer was Consolidated Edison in Albany, NY. She was hired by ConEd as a security officer in June 2002. She held a professional license for private police officer through the State of New York.

In 1967 or 1968, Ms. X was involved in an automobile accident. The driver of her vehicle slid going around a curve on a wet road and hit a tractor-trailer head-on. Her back broke the handle on the dashboard. She sustained bruises from that accident.

In July 2003, when Ms. X was a security guard, she stepped into a hole. As a result of the accident, she tore the tendons in her left ankle. She went to Mercy Hospital, Albany, where she was referred to an orthopedic doctor for treatment. She did not undergo any surgery during her treatment. In February 2004, Ms. X had another accident when she was coming down the stairs. On the last step, she felt something like a snap or a burning and tore her Achilles tendon in the right heel. She filed workers' compensation claim for both accidents, but received a weekly pay as compensation or settlement from either of those two compensation claims.

Sometime in the 1980s, Ms. X fractured her left wrist while playing softball. She lived in Canton, Ohio at the time; however, the accident occurred while visiting a friend in Kentucky. She received medical treatment at Mercy Hospital as a result of that accident and was casted for the fracture. She was in a cast for approximately six weeks.

Ms. X had a car accident in 2000 when she was on her way home from work. The accident occurred on I-95 in Milford, Connecticut. While the traffic was stopped, a car hit Ms. X's car from behind. The girl driving that car was talking on her cell phone. Ms. X did not receive any type of injuries or sores from that accident.

Other than the 2000 auto accident, Ms. X has been involved in one other auto accident. The accident occurred probably in 2000 or 2001; however, she does not know the exact date. The

traffic was stopped when her car was rear-ended. It was a pretty good hit which damaged only Ms. X's car. She did not receive any injuries due to the accident.

Ms. X has been hospitalized for heart problem at Good Samaritan Hospital, Buffalo, NY, and Mercy Hospital, in Albany. She underwent triple bypass at Mercy Hospital in June 2008. At present, she does not complain of any problems related to her heart.

Besides the present accident that occurred at the restaurant, Ms. X has not had any other slip-and-fall accidents.

Ms. X believes the present accident occurred at the restaurant on February 1, 2009 at around 7:00 p.m. or 7:20 p.m., or as mentioned in the report. She used to visit the restaurant on a regular basis for dinner. Ms. X was having dinner with her sister, Ms. T, and her sister's friend Ms. L. Ms. T heard about her fall. Ms. L was at another area of the restaurant at the time of her fall. Ms. X recalls that the weather on the day of the accident was fine; however, she is not certain. Ms. X does not remember whether it was raining on that day. Nobody took any photographs of the accident site that night.

Ms. X guesses that she went to the restaurant and got in line. The item she was looking for was on the other corner, and there were people in line. As she stepped out on the bare floor to walk around those people, her feet flew out from under her and she hit the floor. The floor was wet and felt greasy or soapy. She cannot remember the mat being there when she fell. The door (indicated and marked) was propped open, and the water was running through it. Ms. X was wearing sneakers with rubber soles. She does not know which way she went when she slipped and fell; it occurred very fast. She remembers hearing the manager asking for the "wet floor" signs to be put up after her accident. With respect to how would she categorize the restaurant, in general, in terms of cleanliness, Ms. X always thought that it was fine. She does not know anybody else who has been injured or slipped and fallen in the restaurant.

Ms. X wears glasses for reading and she thinks that they are regular bifocals. At the time of her fall, she was wearing her glasses. That morning she had taken her regular medication for heart. This medication did not give her any type of side effects.

During the night after the accident, Ms. X was feeling pain mostly in her right hip. When she woke up on the following day, her hip was hurting badly. She was stiff and sore and went to the emergency room at Mercy Hospital. Before the accident, she never had any type of injury to her hip. She has not had any type of surgeries; however, she is planning to have surgeries because her pain is getting worse instead of getting better. Surgery has been recommended by her internist, Dr. Z. She believes that she has seen Dr. Z about three times about this elective surgery. Currently, she is undergoing some physical therapy but that seems to help very little. Ms. X has physical therapy about once a week. As of the day of deposition, she feels pain (bad burning) in the nerve going down through her right leg.

With respect to her hobbies, Ms. X states that the main thing that she loves to do is to ride her ATV, and she keeps trying to ride. However, it hurts too badly to ride because it hits right on her hip. She has tried to ride several times, but it is too painful. She has been riding ATVs for close to 20 years.

At present, the condition of her hip and her lower leg is getting worse. It is getting to where she cannot sleep because of the burning down the back of her legs. She keeps trying to sleep with her legs straight out; however, it seems as if nothing works. In the beginning, she had to pay some of the medical bills out of her pocket. She has a list of her medical bills. She does not

remember how much she had to pay but it was to the extent of her co-pay.

*Lawyer to add:*

*-Deponent's Appearance as Witness*

*-Impact on Damages Analysis and Lawyer's Opinion of Value*

*-Impact on Resolution Strategy Analysis*

*-Impact on Litigation Plan*

*-Impact on Legal Expense Forecast*

*-Additional Remarks*