

The New York Jury Verdict Reporter

128 Carleton Avenue, East Islip, New York 11730

CIVIL JURY VERDICTS AND SETTLEMENTS THROUGHOUT NEW YORK STATE

1/99

XVI/27-33 **MOTOR VEHICLE – MOTORBIKE – WHICH VEHICLE CROSSED CENTER LINE AT ISSUE – DEFENSE VERDICT ON LIABILITY**

Joseph Swingle and Robert Overland v. Mary Ross and David Schultz 2990/95 4-day trial Verdict 11/25/98 Orange Supreme

Judge: Peter C. Patsalos

Verdict: **Defense verdict on liability (6/0)**

Pltf. Atty: Michael H. Forrester of Silver, Forrester, Schisano & Lesser, New Windsor, for Swingle
Michael E. Weinstein of Weinstein, Schneider & Kannebecker, Port Jervis, for Overland

Def. Atty: **William N. Cloonan of Cook, Tucker, Netter & Cloonan, Kingston**

Facts: Pltfs., both age 17 at the time, claimed that they were riding a motorbike eastbound on Bochlmer Rd. on the Town of Deer Park when they were struck head-on by Deft.'s vehicle, which was owned by Deft. Ross and driven by Deft. Schultz, as he crossed the center line. Pltf. Overland was a passenger on the motorbike, which was driven by Swingle. Deft.'s expert testified about the skid marks. The impact occurred at a sharp curve in the road. Deft. Argued that Pltf. was traveling on the wrong side of the highway, resulting in the collision. Photographs showed skid marks of Deft.'s vehicle in the correct lane at the time of impact.

Injuries: (not before the jury) Swingle: fractures of the left (nondominant)humerus, radius, ulna, left femur, tibia, fibula, ankle, and hip; concussion. Pltf. was hospitalized for one month. Overland: multiple fractures of the left femur, tibia, fibula and ankle. He was also hospitalized for one month.

Demonstrative evidence: photographs of the vehicle skid marks. Specials: \$250,000 for Overland. No offer; demand: \$150,000 for each Pltf. Jury deliberation: 25 minutes. Carrier: **USF&G.**

Pltf. Expert: There was no expert testimony for Pltf.

Def. Expert: **Richard Hermance, engineer, Tillson.**