

LONG ISLAND/NASSAU

# Long Beach to pay rest of \$3.5M to man run over by police SUV

Oceanside resident was in a lounge chair when the officer drove over him while responding to a report of a swimmer in distress in 2010.



The Long Beach police vehicle that struck a man on the beach on May 26, 2010, is driven from the scene by a detective. Photo Credit: James Carbone

**By John Asbury**

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Long Beach City Council members will vote next month to pay the remainder of a \$3.5 million judgment awarded to a man who was run over on the beach by a city police officer in 2010.

Marshall Starkman, then 43, of Oceanside, was lying on a lounge chair when he was struck by a Long Beach police Dodge Durango sport utility vehicle driven by Officer Paul DeMarco, who was responding to a swimmer in distress on May 26, 2010.

Starkman suffered three broken ribs and three fractured vertebrae. He also had a degenerative spine condition with several herniated discs and an abrasion to his heart, causing an irregular heartbeat, his attorney, Neil H. Greenberg of Westbury, said.

“That day was right before the unofficial start of summer on Memorial Day weekend. He was sitting in a beach chair with a radio next to him listening to the Mets game,” Greenberg said. “Then the officer saw someone in the water was swimming to a jetty and the officer turned his head and ran over him.”

A Nassau County jury awarded Starkman \$2.2 million in 2014 after a monthlong trial. Damages included medical expenses, future loss of earnings and \$750,000 for pain and suffering, plus interest.

Starkman appealed to the New York Appellate Division in Brooklyn, arguing the judgment was not reasonable compensation for his pain and suffering. A four-judge panel ruled in March that Starkman was entitled to an additional \$1.3 million for his injuries.

Starkman underwent two multilevel cervical fusion surgeries nearly two years after the accident and still suffered neck and back pain. The court ruled the jury's award "deviated materially from what would be reasonable compensation."

"He doesn't know how it will affect his life and the limitations on the rest of his life warranted a larger verdict," Greenberg said. "He still has positive outlook and feels lucky to be alive."

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Long Beach City Council members will vote Dec. 5 on \$656,000 in bonds to cover the remaining amount owed as part of the judgment against the city. The bonds will pay the portion of the judgment not covered by the city's insurance policy.

Long Beach police were involved in a similar accident in the summer when a police pickup truck ran over two people

on the beach. Long Beach police Officer David Walpole said he did not see the couple lying on a blanket while making a three-point turn at less than 5 mph the evening of July 16 as he responded to reports of after-hours swimmers. The unidentified victims were a man, 48, and a woman, 36, officials said. The man suffered broken ribs and bruised lungs and the woman injured a leg and broke a finger.

### By John Asbury

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John Asbury covers the Town of Hempstead and the City of Long Beach. He has been with Newsday since 2014 and previously covered crime for nine years for The Press-Enterprise in Riverside, Calif.