

TRIALS DIGEST®

THE COMPREHENSIVE SOURCE FOR CALIFORNIA CIVIL TRIAL RESULTS

JULY 31, 2006

Vol. 9, No. 31

SETTLEMENT RESULT: \$303,750

VEHICLE NEGLIGENCE

31 TD 9th 27

SETTLEMENT—Driver suffers injuries in rear-ender

VEHICLE NEGLIGENCE

Motor Vehicle v. Motor Vehicle/Rear-End/Parked/Stalled/
Stopped Vehicle

No COURT/UNFILED SETTLEMENT

King v. Delaloza. Settlement date: 1/19/2004.

SETTLEMENT RESULT: \$303,750

The case was mediated before Jeffrey Krivis, Esq., of First Mediation.

COUNSEL

Plaintiff: Scott J. Corwin, Law Offices of Scott J. Corwin, Los Angeles.

Defendant: Steven J. Joffe, Wilson, Elser, Moskowitz, Edelman & Dicker, Los Angeles.

FACTS/CONTENTIONS

According to plaintiff: On October 24, 2002, plaintiff, a 28-year-old pharmaceutical sales representative, had just come to a stop while traveling eastbound on Mar Vista Street in order to make a left turn, when defendant, who was also eastbound on Mar Vista Street, rear-ended his vehicle.

Plaintiff alleged that defendant was negligent in the operation of a motor vehicle and that all of his injuries were a direct result of the accident.

Defendant admitted liability but disputed the nature and extent of plaintiff's claimed injuries.

Defendant UIM carrier The Hartford disputed the nature and extent of plaintiff's injuries, contending that plaintiff suffered only a minor soft tissue sprain and strain injury and that he did not require surgery.

The Hartford further contended plaintiff had a long history of cervical spine disease and that he had been previously treating with a chiropractor for neck and radiating arm pain for three months prior, right up until four days before the subject motor vehicle accident.

The Hartford further contended through its medical experts that the MRI findings were minor in nature, degenerative, were years old, and were a result of plaintiff's prior history of being a gymnast in junior high and high school, more than ten years prior to the accident.

CLAIMED INJURIES

According to plaintiff: Plaintiff sustained cervical and lumbar strain and sprain requiring four months of chiropractic treatments. MRI studies revealed disk protrusions at C4-C5 measuring 4 mm and C5-C6 measuring 6 mm. Plaintiff is a candidate for surgical intervention in the form of discectomy and fusion at C4-C5 and C5-C6.

CLAIMED DAMAGES

According to plaintiff: \$20,172 past medical; \$60,000 future medical; \$1,153 lost income; \$9,994 future income.

SETTLEMENT DISCUSSIONS

According to plaintiff: Plaintiff demanded the \$100,000 third-party policy limits from defendant, which were tendered within six weeks. Plaintiff demanded the sum of \$500,000 new money, which was later lowered to \$200,000 new money at mediation from defendant UIM carrier.

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31 TD 9th 27 (continued)

Defendant UIM carrier refused to make a settlement offer for over seven months, first requiring depositions of plaintiff and all three of her treating doctors as well as an IME.

At the mediation, defendant UIM carrier initially offered \$50,000 new money, which was raised to \$198,750 new money, which was accepted by plaintiff. \$5,000 in medical payments had previously been paid by defendant UIM carrier, making the global settlement \$303,750.

EXPERTS

Plaintiff: ChiShing Zee, M.D., neuroradiologist, USC, Los Angeles (323) 442-8572.

Defendant: Stephen L.G. Rothman, M.D., neuroradiologist, Torrance (310) 326-8744. Richard C. Rosenberg, M.D., orthopedic surgeon, Tarzana (818) 996-6800.

COMMENTS

According to plaintiff: The third party insurance carrier was Auto Club.

Trials Digest, a Thomson West business, 425 Market Street, 4th Floor, San Francisco, CA 94105
415-344-6000 (ph) 415-344-4950 (fax) trialsdigest@thomson.com west.thomson.com/trialsdigest/