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SETTLEMENT RESULT: \$200,000

VEHICLE NEGLIGENCE

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Vehicle rear-ended while stopped for traffic on freeway

VEHICLE NEGLIGENCE

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

LOS ANGELES COUNTY SUPERIOR COURT

Nine v. Downes, Docket number: LC081676, Van Nuys.
Judge: Arbitration Judge. Trial type: Arbitration.
Arbitration date: 11/8/2009.

ARBITRATION: \$200,000

COUNSEL

Plaintiff: Scott J. Corwin, A Professiona Law Corporation, Los Angeles.

Defendant: Daniel Smoke, Weiner & Associates, Glendale.

FACTS/CONTENTIONS

According to plaintiff: On September 7, 2006, plaintiff Lynn Nine, a 71-year-old retired truck driver, was operating his 1989 Honda eastbound on the 101 Freeway when traffic suddenly stopped. While at a complete stop, plaintiff's vehicle was rear-ended by defendant Downes's 2006 Cadillac. Plaintiff's vehicle had approximately \$1,000 in cosmetic damage.

Plaintiff alleged that defendant driver was negligent in the operation of a motor vehicle and that all of plaintiff's claimed injuries were a direct result of the subject motor vehicle accident. Defendant accepted liability but disputed the nature and extent of plaintiff's claimed injuries. Defendant claimed that plaintiff had a longstanding history of multiple other orthopedic problems that required surgeries to both knees and the opposite shoulder prior to the subject accident and that plaintiff would have required

right shoulder surgery even if the subject accident had not occurred. Defendant disputed the need for a repeat right shoulder surgery. Defendant further contended that this was a minor-impact accident that could not have caused plaintiff's claimed injuries.

CLAIMED INJURIES

According to plaintiff: Plaintiff suffered injury to his neck, shoulders, and back. Plaintiff received physical therapy to the injured areas. Because of ongoing pain, plaintiff's orthopedist prescribed a right shoulder MRI. The MRI revealed a full-thickness rotator cuff tear. Plaintiff underwent a right shoulder arthroscopic surgery. Plaintiff continued to have right shoulder symptoms and had a right shoulder CT arthrogram, which confirmed a recurrent rotator cuff tear. Plaintiff's orthopedist advised plaintiff he may require a second right shoulder arthroscopic surgery.

CLAIMED DAMAGES

According to plaintiff: \$97,083 medical.

SETTLEMENT DISCUSSIONS

According to plaintiff: Plaintiff demanded \$300,000. Defendant offered \$5,000. Shortly before trial, the parties agreed to a binding arbitration before the Hon. Bruce Sottile (Ret.) with a \$10,000 low and \$200,000 high, with the limits to be undisclosed to the arbitrator. At the arbitration, defendant's orthopedic expert admitted that he agreed with plaintiff's orthopedist that the need for the surgery was a direct result of the motor vehicle accident. The arbitrator awarded \$300,000. The high limit of the arbitration of \$200,000 was paid by defendant.

EXPERTS

Plaintiff: Alexander Raskin, M.D., orthopedic surgeon, Encino. Roy Gottlieb, M.D., radiologist, Thousand Oaks.

Defendant: Jeffrey L. Korchek, M.D., orthopedic surgeon, North Hollywood (818) 760-4470. Deborah Forrester, M.D., radiologist, Los Angeles (323) 226-7242.

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