

# TRIALS DIGEST®

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JULY 31, 2006

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**SETTLEMENT RESULT: \$225,000**

## VEHICLE NEGLIGENCE

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### SETTLEMENT—Husband and wife injured when their stopped vehicle is rear-ended

#### VEHICLE NEGLIGENCE

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

#### LOS ANGELES COUNTY SUPERIOR COURT

*Probert v. McKitterick*, No. KC018442, Pomona. Robert D. Fratianne. Settlement date: 12/1/1995.

**SETTLEMENT RESULT: \$225,000**

#### COUNSEL

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

Defendant: Confidential.

#### FACTS/CONTENTIONS

According to plaintiff: On December 16, 1993, plaintiffs, a 50-year-old retired industrial worker, and his wife, a 45-year-old telephone operator, were traveling east on Colima Road. Plaintiff's vehicle stopped and was struck from behind by defendant's vehicle.

Plaintiff husband alleged that the accident exacerbated pre-existing lower back injuries, requiring him to undergo surgery for the removal of a bone stimulator, a surgery for the implantation of a dorsal column stimulator, and the need for a future thoracic discectomy procedure.

Plaintiff wife contended that, as a result of the accident, she would need a L5-S1 discectomy and fusion in the future.

Defendant contended that the impact was minor, with less than \$1,500 in damage to plaintiffs' vehicle, and plaintiffs' claimed injuries were pre-existing and not caused by the accident.

#### CLAIMED INJURIES

According to plaintiff: Plaintiff husband sustained a T6-T7 disk bulge and exacerbation of pre-existing lower back injuries, requiring two surgeries and the necessity of a future surgery. Plaintiff wife sustained a L5-S1 disk herniation, requiring physical therapy and potential future L5-S1 discectomy surgery.

#### CLAIMED DAMAGES

According to plaintiff: \$48,000 medical (husband); \$3,557 medical (wife); \$1,500 damage to vehicle.

#### SETTLEMENT DISCUSSIONS

According to plaintiff: Demand: \$375,000. Offer: \$115,000. The case settled at a voluntary settlement conference.

#### EXPERTS

Plaintiff: Stuart Baumgard, M.D., orthopedic surgeon, Mauna Loa, HI (310) 395-2829. James C. Thomas, M.D., orthopedic surgeon, Las Vegas, NV (702) 839-1203.

Defendant: Edward A. Abraham, M.D., orthopedic surgeon, Santa Ana (714) 835-3031.

#### COMMENTS

According to plaintiff: The settlement was reached approximately one year after the case was filed.

This case was filed December 13, 1994.