

# TRIALS DIGEST®

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SETTLEMENT RESULT: \$280,000

## VEHICLE NEGLIGENCE

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### Driver rear-ended on I-5 while on the job

#### VEHICLE NEGLIGENCE

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

#### INSURANCE

Automobile Policy/Uninsured/Underinsured Motorist

#### LABOR & EMPLOYMENT

Workers Compensation

#### No COURT/UNFILED SETTLEMENT

*Michaels v. Ramirez*, Trial type: Settlement. Settlement date: 11/14/2009.

#### SETTLEMENT: \$280,000

Defendant paid the available \$15,000 policy limit, which plaintiff demanded. Plaintiff tendered a demand for the \$235,000 balance (\$250,000 UIM policy) on her UIM policy. Plaintiff's counsel worked with plaintiff's workers' compensation attorney to bring the workers' compensation claim to a conclusion through a compromise and release. The workers' compensation carrier paid a total of \$73,973 in benefits to plaintiff, which left a balance of \$161,027 in available UIM benefits, which was paid by the UIM carrier as a policy limits UIM settlement.

Plaintiff had an excess UIM policy with Pacific Specialty for an additional \$25,000 in available limits, which was paid by the excess UIM carrier. Additionally, plaintiff recovered \$5,000 in medical payments coverage, making her total recovery \$280,000 policy limits for this claim.

#### COUNSEL

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

Defendant: None.

#### FACTS/CONTENTIONS

According to plaintiff: On August 7, 2007, plaintiff Michelle Michaels, a 42-year-old criminal defense attorney, was operating her 2001 Acura vehicle north on Interstate 5 when traffic slowed and then came to a complete stop. Defendant Ramirez, driving a 2000 Mitsubishi Galant, was unable to stop and struck the rear of another vehicle, which was pushed into the rear of plaintiff's vehicle, resulting in about \$6,300 in property damage. Plaintiff was in the course and scope of her employment at the time of the accident, and there was a related workers' compensation claim.

Plaintiff alleged defendant 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 agreed and tendered his \$15,000 insurance policy limits.

Plaintiff proceeded with an underinsured motorist claim. Plaintiff's underinsured motorist carrier would not proceed with the UIM claim due to the pendency of the workers' compensation claim, pursuant to Insurance Code § 11580.2, which requires exhaustion of all workers' compensation remedies before proceeding with an underinsured motorist claim.

#### CLAIMED INJURIES

According to plaintiff: Neck; shoulders; back; hip; physical therapy.

Plaintiff underwent a right hip arthroscopic debridement for a right hip labral tear. Plaintiff was also advised that she may require right shoulder rotator cuff surgery in the future.

#### CLAIMED DAMAGES

According to plaintiff: \$34,707 past medical expenses; \$28,000 future medical expenses; \$62,348 loss of earnings.

#### SETTLEMENT DISCUSSIONS

Not reported.

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**EXPERTS**

None.

**COMMENTS**

According to plaintiff: The insurance carrier was Infinity Insurance; the adjuster was Evelyn Bunger. The underinsured motorist carrier was Allstate Insurance Company; the adjuster was Gracie Gonzalez.