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AUGUST 14, 2006

Vol. 9, No. 33

SETTLEMENT RESULT: \$150,000

VEHICLE NEGLIGENCE

33 TD 9th 24

SETTLEMENT—Driver who slowed for right-turning vehicle rear-ended by bus

VEHICLE NEGLIGENCE

Motor Vehicle v. Motor Vehicle/Rear-End/Bus

LOS ANGELES COUNTY SUPERIOR COURT

Blagman v. City of Santa Monica, No. BC260129, Downtown. Settlement date: 9/27/2002.

SETTLEMENT RESULT: \$150,000

Defendant City offered \$135,000 and defendant Epstein offered her \$15,000 policy limits. The total of \$150,000 was accepted by plaintiff.

COUNSEL

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

Defendant: Lance S. Gams, Office of City Attorney, Santa Monica. Timothy J. O'Shea, Early, Maslach, Price & Baukol, Los Angeles.

FACTS/CONTENTIONS

According to plaintiff: On March 16, 2000, plaintiff Blagman, a 48-year-old real estate broker, was traveling westbound on Pico Boulevard in the number two of two lanes and was rear-ended by defendant, operating a Santa Monica City bus, also westbound on Pico Boulevard. Defendant Epstein was traveling westbound on Pico Boulevard in the number two of two lanes, just ahead of plaintiff. She slowed to make a right turn into a driveway, forcing plaintiff to slow his vehicle, which was then subsequently struck by the bus.

Defendant City of Santa Monica disputed liability, claiming that defendant Epstein suddenly stopped short for no reason and that defendant Epstein was substantially comparatively negligent. Defendant City also contended that plaintiff was driving recklessly while talking on his cell phone and braking on multiple occasions for no reason for approximately 10 minutes before the accident. Defendant further contended that plaintiff's lower back injuries were the result of long-standing pre-existing degenerative changes, as well as a prior auto accident about eight years previously. Defendant City further contended that plaintiff did not require lower back surgery, as well as disputing the causation of plaintiff's claimed bi-lateral knee injuries, especially since plaintiff did not complain about knee pain until several months after the accident. Defendant City also claimed that it had sub rosa surveillance video that revealed that plaintiff was not as severely injured as he claimed. However, defendant never revealed the contents of the alleged claimed sub rosa surveillance.

Defendant Epstein contended that she was not negligent and that 100 percent of the cause of the accident rested with defendant City.

CLAIMED INJURIES

According to plaintiff: Plaintiff sustained cervical and lumbar strain and sprain injuries, requiring physical therapy; internal derangement of both his left and right knees for which he underwent bilateral arthroscopic knee surgeries. Plaintiff also sustained a 6 mm disk protrusion at L4-L5 and 4-5 mm disk protrusion at L5-S1, with outer annular fiber tears, for which plaintiff was recommended a multi-level discectomy and fusion surgery.

CLAIMED DAMAGES

According to plaintiff: \$85,771 past medical; \$70,000 future medical.

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33 TD 9th 24 (continued)

SETTLEMENT DISCUSSIONS

According to plaintiff: The case was mediated before Jeffrey Krivis, Esq. of First Mediation. The case did not settle at mediation; however, through the mediator's continued intervention, the case settled six weeks before trial.

EXPERTS

Plaintiff: Not reported.

Defendant: Chadwick F. Smith, M.D., orthopedic surgeon, Los Angeles (213) 481-1122.

COMMENTS

According to plaintiff: Lance S. Gams represented defendant City. Timothy J. O'Shea represented defendant Epstein.

This case was filed October 19, 2001.