

TRIALS DIGEST®

THE COMPREHENSIVE SOURCE FOR CALIFORNIA CIVIL TRIAL RESULTS

AUGUST 14, 2006

Vol. 9, No. 33

SETTLEMENT RESULT: \$175,000

VEHICLE NEGLIGENCE

33 TD 9th 27

SETTLEMENT—Driver injured in collision with vehicle that ran red light

VEHICLE NEGLIGENCE

Motor Vehicle v. Motor Vehicle/Signal Violation

VICARIOUS LIABILITY

LOS ANGELES COUNTY SUPERIOR COURT

Besaw v. Clauson, No. SC045767, Santa Monica.

Settlement date: 4/6/1998.

SETTLEMENT RESULT: \$175,000

COUNSEL

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

Defendant: Thomas B. McNutt, Sedgwick, Detert, Moran & Arnold, Los Angeles. Bruce Shanahan, Sedgwick, Detert, Moran & Arnold, Los Angeles. Jeffery J. Carlson, Carlson, Messer & Turner, Los Angeles. Patrick Jacobs, Carlson, Messer & Turner, Los Angeles. David Kaminski, Carlson, Messer & Turner, Los Angeles.

FACTS/CONTENTIONS

According to plaintiff: On April 3, 1996, plaintiff Besaw, a 54-year-old customer service representative, was traveling southbound on Pacific Coast Highway, attempting to negotiate a left turn onto West Channel Road in Santa Monica on a green arrow. Defendant Clauson, an insurance company nurse, while in the course and scope of her employment, ran the red light on northbound Pacific Coast Highway at 45 mph, colliding with plaintiff's vehicle. Plaintiff was treated at the scene by paramedics, transported to the local hospital emergency room, and released the same day, with an initial diagnosis of soft tissue injuries only. She initiated treatment with her chiropractor, who sub-

sequently referred her to both an internist and an orthopedic surgeon due to persistent symptoms. She brought this action against defendant based on a negligence theory of recovery.

Plaintiff alleged defendant was negligent in the operation of a motor vehicle.

Defendant admitted liability. Defendant disputed the nature, extent, and causation of plaintiff's claimed injuries. She contended plaintiff sustained only soft tissue injuries that required only three months of chiropractic treatment and physical therapy. Defendant disputed plaintiff's neuroradiologist's readings of the MRIs and disputed that she required low back surgery. Defendant further contended that plaintiff's obesity (100 pounds overweight) and her pre-existing low back complaints, for which she had been receiving chiropractic care for a five-year period prior to the subject accident, were in fact the cause of her low back and knee injuries. Defendant further disputed the reasonableness of \$16,000 in chiropractic and physical therapy bills. Defendant further disputed that the knee surgery was related to the accident.

CLAIMED INJURIES

According to plaintiff: Plaintiff was initially diagnosed with strain and sprain injuries to her neck, low back, knees, right shoulder, and a right breast contusion that was treated with chiropractic manipulation and physical therapy. Six months following the accident, a left knee MRI revealed chondromalacia and a torn lateral meniscus, for which plaintiff underwent arthroscopic surgical repair. Nearly one year after the accident, she underwent a series of three lumbar MRI and CT scans, which revealed severe degenerative disk disease at L4-L5 and L5-S1, along with 4 mm disk protrusions at both levels with possible compressions of the exiting nerve roots. Plaintiff had low back surgery 20 years prior, and scar tissue hampered the MRI scans. Plaintiff claimed future surgery for her low back and right thumb, as well as additional knee surgery. Defendants disputed that these were related to the accident.

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CLAIMED DAMAGES

According to plaintiff: \$59,502 past medical.

SETTLEMENT DISCUSSIONS

According to plaintiff: The initial demand was \$250,000. Defendant made no offers for more than one year. After the suit was filed, defendant initially offered \$81,385. No further settlement discussions were held until six weeks prior to the trial date.

EXPERTS

Plaintiff: Stuart Baumgard, M.D., orthopedic surgeon, Mauna Loa, HI (310) 395-2829. Bradley A. Jabour, M.D., neuroradiologist, Santa Monica (310) 829-7086. Cynthia Watson, M.D., internist, Santa Monica (310) 343-0937. George E. Wilkinson, M.D., general surgeon, Los Angeles.

Defendant: Alfred D. Chichester, vocational rehabilitation consultant, Analytic Rehabilitation Inc., Mentone Beach (909) 794-7306. A. Jubin Merati, Ph.D., economist, Merati Economic Group Inc., Beverly Hills (310) 888-0078. Raymond E. Merala, accident reconstructionist, Piziali & Associates, San Carlos (650) 802-5930. Keith Lieberman, M.D., orthopedic surgeon, Los Angeles.

COMMENTS

According to plaintiff: The case settled approximately one year and three months after the complaint was filed on January 27, 1997, and three and a half weeks prior to trial.

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