

# TRIALS DIGEST®

THE COMPREHENSIVE SOURCE FOR CALIFORNIA CIVIL TRIAL RESULTS

NOVEMBER 29, 2010

SETTLEMENT RESULT: \$115,000

Vol. 13, No. 47

## VEHICLE NEGLIGENCE

47 TD 13TH 28

### Driver rear-ended while stopped on freeway

#### VEHICLE NEGLIGENCE

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

#### INSURANCE

Uninsured/Underinsured Motorist

#### No COURT/UNFILED SETTLEMENT

*Nedwick v. Vasquez*, Trial type: Settlement. Settlement date: 1/12/2009.

#### SETTLEMENT: \$115,000

The case was mediated before mediator Janet Fields, Esq., and the UIM carrier paid an additional \$100,000, thereby resulting in a total settlement of \$115,000.

#### COUNSEL

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

Defendant: John A. Peterson, Early, Maslach & Van Dueck, Los Angeles.

#### FACTS/CONTENTIONS

According to plaintiff: On April 2, 2007, plaintiff Michael Nedwick was driving his 2000 S500 Mercedes Benz in stop-and-go traffic southbound on the 101 Freeway just before the Hollywood Boulevard exit in Los Angeles, California. Plaintiff came to a stop and was rear-ended by defendant Rosa Vasquez in her 1998 Honda Accord. Plaintiff's vehicle sustained minor property damage.

Plaintiff alleged that 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 her \$15,000 insur-

ance policy limit. Plaintiff then presented an underinsured motorist claim.

Plaintiff's underinsured motorist carrier disputed the nature and extent of plaintiff's claimed injuries and the need for surgery. Plaintiff's UIM carrier further contended that all of plaintiff's current cervical symptoms were a result of the prior slip-and-fall mirror injury, less than one-year-old major auto accident, and longstanding degenerative conditions and that plaintiff's own medical records supported the UIM carrier's contentions. The UIM carrier also contended that this was a minor impact and could not have resulted in any significant injury to plaintiff at all.

#### CLAIMED INJURIES

According to plaintiff: Plaintiff suffered injuries to his neck, shoulders, and lower back for which he received physical therapy. Plaintiff also underwent two cervical epidural injections with no significant improvement in his symptoms. Plaintiff had a previous 7 mm L4-L5 herniated disc diagnosed approximately 6-7 years previously, sustained when he twisted his back picking up a heavy mirror. Plaintiff also had a previous cervical spine herniated disc as the result of a fall at a ski resort two years previously. Plaintiff also was involved in a motor vehicle accident with major property damage less than one year previously on May 20, 2006. Plaintiff's pre-existing complaints had essentially resolved prior to the subject April 2, 2007 accident. Plaintiff claimed the subject accident exacerbated his pre-existing cervical condition. Plaintiff was advised he might require cervical spine surgery as a result of the current accident. Plaintiff elected not to have surgery at this time.

#### CLAIMED DAMAGES

According to plaintiff: \$19,458 past medical; \$38,000 future medical; \$0 loss of earnings; \$2,908 property damage.

#### SETTLEMENT DISCUSSIONS

According to plaintiff: Defendant paid his \$15,000 liability policy limits. Plaintiff's UIM carrier did not want to offer any additional sums of money to settle the UIM claim.

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**EXPERTS**

Plaintiff: None.

Defendant: Hillel Sperling, M.D., orthopedic surgeon,  
Encino (818) 906-0177.

**COMMENTS**

According to plaintiff: Plaintiff's UIM carrier was  
Farmers Insurance.