

# TRIALS DIGEST®

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**SETTLEMENT RESULT: \$100,000**

## VEHICLE NEGLIGENCE

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### SETTLEMENT—Driver rear-ended in stop-and-go traffic

#### VEHICLE NEGLIGENCE

Motor Vehicle v. Motor Vehicle/Rear-End

#### SANTA BARBARA COUNTY SUPERIOR COURT

*Hecht v. Goda*, No. 227978, Central.

Settlement date: 2/18/1999.

**SETTLEMENT RESULT: \$100,000**

#### COUNSEL

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

Defendant: None.

#### FACTS/CONTENTIONS

According to plaintiff: On January 8, 1998, plaintiff, a 47-year-old screenwriter and director, was traveling north on the 101 Freeway in the number two of three lanes in stop-and-go traffic, when defendant rear-ended plaintiff. Defendant was traveling at about 50 mph when defendant struck plaintiff's vehicle.

Defendant admitted liability but disputed the nature, extent, and causation of plaintiff's claimed injuries. Defendant disputed that plaintiff required surgery. Defendant further claimed that plaintiff had a pre-existing 4 mm disk protrusion at L4-L5 from an accident that occurred 10 years previously; plaintiff's present 5 mm disk protrusion was simply the natural progression of that pre-existing disk protrusion, and the accident did not cause any further protrusion.

Defendant's IME doctor agreed that plaintiff required surgery, that plaintiff was asymptomatic for at least eight years prior to the subject accident, and that the need for the present surgery was entirely caused by the accident. Defendant's IME doctor further found that plaintiff required a fusion in addition to a laminectomy and diskectomy as a result of the accident.

#### CLAIMED INJURIES

According to plaintiff: Plaintiff sustained cervical and lumbar strain and sprain and protrusion of a pre-existing disk at L4-L5 with nerve root impingement, which would require a future laminectomy and diskectomy.

#### CLAIMED DAMAGES

According to plaintiff: \$11,162 past medical; \$30,000 future medical.

#### SETTLEMENT DISCUSSIONS

According to plaintiff: Plaintiff demanded \$100,000 (policy limits). Defendant failed to make any offers for seven months and then offered \$30,000, despite the findings of its IME doctor agreeing with plaintiff's contentions. The case was mediated before Jeffrey Krivis, Esq. of First Mediation, who recommended payment of the \$100,000 policy limits to defendant. Defendant did not increase its offer at the mediation, but one month subsequent tendered its \$100,000.

#### EXPERTS

Plaintiff: None.

Defendant: Steven J. Nagelberg, M.D., orthopedic surgeon, Downey (562) 803-6116.

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