

# TRIALS DIGEST®

THE COMPREHENSIVE SOURCE FOR CALIFORNIA CIVIL TRIAL RESULTS

OCTOBER 2, 2006

Vol. 9, No. 40

**SETTLEMENT RESULT: \$100,750**

## CASE TYPE

40 TD 9th 21

### **SETTLEMENT—Mother suffers injuries in rear-ender on freeway during stop-and-go traffic**

#### **VEHICLE NEGLIGENCE**

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

#### **LOS ANGELES COUNTY SUPERIOR COURT**

*Yagle v. McAtee*, No. LC045495, Van Nuys.

Settlement date: 9/9/1998.

#### **SETTLEMENT RESULT: \$100,750**

Plaintiff's daughter's case settled for \$750 as she had no physical injury.

#### **COUNSEL**

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

Defendant: Paul A. Elkort, Early, Maslach, Price & Baukol, Los Angeles.

#### **FACTS/CONTENTIONS**

According to plaintiff: On June 8, 1998, plaintiff, a 42-year-old customer service manager and mother, was traveling southbound in her 1994 Honda Accord on I-405 in the number four lane, just south of the Ventura Boulevard exit, in Sherman Oaks. Her three-year-old daughter was also a passenger in a rear child-safety seat. Plaintiff was slowing down for stop-and-go traffic ahead.

Defendant, driving a 1997 GMC Jimmy, also was southbound on I-405 in the number four lane, directly behind plaintiff's vehicle. Defendant said she was driving at 60 mph, looked to her left, and saw a car in the next lane trying to merge into her lane. Defendant said her attention was focused on the car to her left, and when she looked back to the traffic ahead in her lane it had slowed.

Defendant slammed on her brakes but could not stop in time and rear-ended plaintiff, resulting in the total loss of plaintiff's vehicle.

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

Defendant admitted liability but disputed the nature and extent of plaintiff's claimed injuries and need for future surgeries. Defendant further contended that there was no traumatic brain injury and minimized the other claimed injuries.

#### **CLAIMED INJURIES**

According to plaintiff: Plaintiff sustained cervical and lumbar strain and sprain injuries, requiring physical therapy. Plaintiff also sustained a head injury, post-concussive syndrome, and claimed traumatic brain injury, although there was no loss of consciousness. Plaintiff required neurological consultation. The traumatic brain injury left no permanent residuals after three months. She also sustained left shoulder supraspinatus syndrome, impingement syndrome, and subacromial bursitis, requiring a future arthroscopy and subacromial decompression. She further sustained a torn left lateral meniscus, requiring a future knee arthroscopy. Plaintiff also sustained TMJ syndrome. She further sustained a 4 mm L4-L5 disk protrusion with displacement of the left L5 nerve root with radiculopathy, requiring a future laminectomy and discectomy.

#### **CLAIMED DAMAGES**

Not reported.

#### **SETTLEMENT DISCUSSIONS**

According to plaintiff: Plaintiff made a CCP § 998 settlement demand for \$100,000 policy limit. Defendant made a CCP § 998 offer of compromise for \$75,000, then increased offer to \$99,000. Plaintiff would not budge from her \$100,000 demand which was ultimately tendered along with an additional \$750 for her minor child.

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## 40 TD 9th 21 (continued)

### EXPERTS

Plaintiff: None.

Defendant: Milton E. Ashby, M.D., orthopedic surgeon,  
Los Angeles (213) 977-0450.

### COMMENTS

According to plaintiff: Plaintiff filed suit three weeks after the accident. Defendant settled the case three months after suit was filed and before she produced her first medical expert.

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