

# TRIALS DIGEST<sup>®</sup>

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**SETTLEMENT RESULT: \$415,000**

## VEHICLE NEGLIGENCE

**7 TD 13TH 26**

### 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

*Affeld v. Gardner*, Trial type: Settlement. Settlement date: 6/20/2008.

#### SETTLEMENT: \$415,000

The UIM claim was ultimately resolved for \$400,000 in new money, making a total settlement of \$415,000.

#### COUNSEL

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

Defendant: None.

#### FACTS/CONTENTIONS

According to plaintiff: On October 13, 2007, plaintiff David Affeld, a 48-year-old business litigation attorney, was driving his 1999 convertible 325i BMW westbound on Sunset Boulevard when traffic slowed and then came to a complete stop. Plaintiff was struck from behind by defendant Gardner, an off-duty Beverly Hills police officer, driving her 1999 Toyota 4-Runner.

Plaintiff alleged that defendant was negligent in the operation of a motor vehicle and that all of his claimed injuries were a direct result of the subject motor vehicle accident. Defendant tendered her \$15,000 liability policy limits, and plaintiff proceeded with an underinsured motorist claim. The UIM carrier disputed the nature and extent of

plaintiff's claimed injuries and the need for future surgery. The UIM carrier claimed that plaintiff's cervical disc bulge was minor, pre-existing, degenerative in nature, and that it certainly did not require surgery.

#### CLAIMED INJURIES

According to plaintiff: Plaintiff suffered injury to his neck, shoulders, and lower back, which were treated conservatively with physical therapy and chiropractic adjustments. A cervical spine MRI demonstrated a 3 mm C6-C7 disc protrusion causing bilateral neural foraminal stenosis. Plaintiff had one cervical epidural injection with no significant improvement. Plaintiff was advised by his orthopedist that he might require an anterior cervical discectomy and fusion in the future.

#### CLAIMED DAMAGES

According to plaintiff: \$5,534 past medical; \$43,000 future medical; \$200,000 loss of earnings.

#### SETTLEMENT DISCUSSIONS

According to plaintiff: Plaintiff initially demanded \$600,000 from his UIM carrier, which initially offered \$250,000 in new money.

#### EXPERTS

Plaintiff: None.

Defendant: Tony Feuerman, M.D., neurosurgeon, Encino (818) 905-9642.

#### COMMENTS

According to plaintiff: The insurance carrier for defendant was USAA; the adjuster was Nancy Fisher. The UIM carrier was Amica Insurance; the adjuster was Gregory A. Dashed.

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