

# TRIALS DIGEST®

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October 15, 2012

**SETTLEMENT RESULT: \$120,000**

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## MOTOR VEHICLE

**41 TD 15TH 26**

**Driver suffers lumbar sprains following rear-end collision**

### VEHICLE NEGLIGENCE

Motor Vehicle v. Motor Vehicle/Rear-End

### NO COURT/UNFILED SETTLEMENT

Harvey v. Torres, Docket number: Not reported. Judge: Not reported. Trial type: Settlement. Settlement date: 7/27/2012.

**SETTLEMENT: \$331,705**

### COUNSEL

Plaintiff: Scott J. Corwin, Law Offices of Scott J. Corwin, Los Angeles.  
Defendant: None.

### FACTS/CONTENTIONS

According to plaintiff: On April 6, 2012, plaintiff Cleveland Harvey, a 28-year-old administrative clerk, was driving a 2007 Nissan Sentra west on Carmenita Road stopped at a red light at the intersection of Trumbull Street in Whittier, Calif. Defendant Noemi Torres, who was driving a 1997 Jeep Grand Cherokee west on Carmenita Road, rear-ended plaintiff's vehicle.

Plaintiff alleged defendant driver Noemi Torres was negligent in the operation of her vehicle and all of plaintiff's claimed injuries were a direct result of said negligence.

Defendants accepted liability.

The UIM carrier defendant contended none of the plaintiff's lower back injuries were a result of the accident, as plaintiff only had neck and shoulder complaints at the emergency room and for the first two weeks following the accident. Defendant further contended any lower back injuries must have been pre-existing.

### CLAIMED INJURIES

According to plaintiff: Plaintiff sustained cervical and lumbar strains and sprains that were treated with physical therapy and sustained right shoulder sprain/impingement syndrome. Plaintiff had a lumbar MRI that revealed a 6-mm L5-S1 disc with annular disruption and S1 compression. Due to ongoing lumbar pain, plaintiff underwent four lumbar spinal epidural injections. Plaintiff was a candidate for surgery in the form of a two-level laminectomy and discectomy fusion.

### CLAIMED DAMAGES

According to plaintiff: \$81,705 past medical; \$75,000 future medical.

### SETTLEMENT DISCUSSIONS

According to plaintiff: Plaintiff demanded defendant driver Torres' \$15,000 policy, which was tendered in settlement. Then plaintiff demanded the balance of the \$235,000 UIM policy. Plaintiff also demanded the UIM carrier tender the full \$81,705 in medical payments under the terms of the policy.

### EXPERTS

None.

### COMMENTS

According to plaintiff: Defendant Torres was insured by State Farm Insurance Co., and State Farm was the UIM carrier. Elissa Noh was the adjuster for State Farm for the underlying claim; Rodney Brennan was the adjuster for State Farm for the UIM claim.

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