

# TRIALS DIGEST®

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

## VEHICLE NEGLIGENCE

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### SETTLEMENT—Stopped driver rear-ended by vehicle traveling in reverse

#### VEHICLE NEGLIGENCE

Motor Vehicle v. Motor Vehicle/Rear-End/  
Reverse Collision/Parked/Stalled/Stopped Vehicle

#### INSURANCE

Uninsured/Underinsured Motorist

#### No COURT/UNFILED SETTLEMENT

*Mossberg v. Auto Club (I)*. Settlement date: 9/30/1996.

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

#### COUNSEL

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

Defendant: Confidential.

#### FACTS/CONTENTIONS

According to plaintiff: On July 17, 1995, plaintiff, a 48-year-old concrete finisher, was traveling southbound on Cabrillo Avenue. Plaintiff had come to a complete stop at a stop sign when an uninsured motorist who had been traveling in reverse southbound on Cabrillo Avenue slammed into the rear of plaintiff's vehicle. The uninsured driver fled the scene of the accident. Plaintiff chased down the driver and learned that he did not have insurance. Plaintiff brought this uninsured motorist claim against defendant based on negligence theories of recovery.

Plaintiff alleged that the uninsured driver was negligent in the operation of the motor vehicle and that all of plaintiff's claimed injuries were caused by the accident.

Defendant uninsured motorist carrier admitted negligence on the part of the uninsured driver but disputed the nature, extent, and causation of plaintiff's claimed injuries.

Defendant carrier contended that plaintiff's two prior automobile accidents and one prior workers' compensation injury resulted in low back injuries and were the cause of plaintiff's problems. Defendant carrier also contended that plaintiff had been treating for over 12 years straight with the same chiropractor for low back injuries prior to the subject accident.

#### CLAIMED INJURIES

According to plaintiff: Plaintiff claimed that he sustained cervical, thoracic, and lumbar strain and sprain injuries, requiring chiropractic treatment. A low-field scan lumbar MRI was performed seven months after the accident and revealed what appeared to be two herniated disks, approximately 4 mm at L4-L5 and L5-S1 with apparent nerve root compression. Plaintiff subsequently underwent an agreed second high-field scan MRI 13 months after the accident at the request of the defendant uninsured motorist carrier in order to clarify the disk injuries. That second MRI revealed that the L4-L5 herniation was actually 5-6 mm with compression.

#### CLAIMED DAMAGES

According to plaintiff: \$11,133 medical.

#### SETTLEMENT DISCUSSIONS

According to plaintiff: The defendant carrier initially offered \$500 to settle plaintiff's claim prior to retaining counsel. Plaintiff initially demanded the full \$100,000 policy limits. After the first MRI, defendant carrier tendered a \$10,000 unconditional advance payment. Plaintiff demanded binding arbitration, and the case settled for the balance of the full \$100,000 policy limits, approximately three weeks prior to the binding arbitration, after the second MRI was taken.

#### EXPERTS

Plaintiff: Harold L. Segal, M.D., neurosurgeon, Santa Monica (310) 829-5888. Bradley A. Jabour, M.D., neuroradiologist, Santa Monica (310) 829-7086.

Defendant: Phillip J. Kanter, M.D., orthopedic surgeon, Beverly Hills (310) 659-6662. Stephen Rothman, M.D., orthopedic surgeon, Los Angeles (310) 326-8744.

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