

# TRIALS DIGEST®

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SEPTEMBER 25, 2006

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**SETTLEMENT RESULT: \$109,586**

## VEHICLE NEGLIGENCE

**39 TD 9th 28**

### **SETTLEMENT—Driver injured when vehicle rear-ended by intoxicated driver**

#### **VEHICLE NEGLIGENCE**

Motor Vehicle v. Motor Vehicle/Rear-End/Excessive Speed/Impaired Driver: Alcohol/Intersection

#### **No COURT/UNFILED SETTLEMENT**

*Mendelsohn v. Doorbar*. Settlement date: 3/13/1998.

**SETTLEMENT RESULT: \$109,586**

#### **COUNSEL**

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

Defendant: None.

#### **FACTS/CONTENTIONS**

According to plaintiff: On October 3, 1997, plaintiff, a 34-year-old attorney, was traveling westbound on Sunset Boulevard at the intersection of Beverly Drive in Beverly Hills and stopped at a red light. Defendant, also traveling westbound on Sunset Boulevard, rear-ended plaintiff at high speed and pushed plaintiff's vehicle 10 to 15 feet into the intersection. Defendant was reportedly arrested and convicted for driving under the influence of alcohol at three times the legal limit.

Plaintiff alleged that defendant was negligent in the operation of a vehicle and that all of his claimed injuries were a direct result of the accident. Plaintiff also alleged that defendant was driving under the influence of alcohol and, therefore, was grossly negligent.

Defendant admitted liability but disputed the nature and extent of plaintiff's claimed injuries. Defendant also contended that plaintiff had two prior low back surgeries in 1990 and 1991 at the exact same level and that the disk injury was a recurrent disk due to scar tissue formation. Defendant's insurer further disputed plaintiff's claim that it would be liable for punitive damages for defendant's gross negligence and reckless conduct.

#### **CLAIMED INJURIES**

According to plaintiff: Plaintiff sustained cervical and thoracic strain and sprain injuries, requiring physical therapy. Due to continuing and severe low back pain and pain radiating into his right leg, plaintiff underwent a lumbar MRI study. The study revealed an L5-S1 6 mm herniated disk with extrusion of disk material into the lateral recess, with additional inferior migration, resulting in severe lateral recess stenosis and compression of the right, S1 nerve root. Plaintiff was recommended by three orthopedic surgeons to undergo future laminectomy and discectomy surgery.

#### **CLAIMED DAMAGES**

According to plaintiff: Plaintiff claimed medical expenses of \$10,154 and future medical expenses of \$35,000.

#### **SETTLEMENT DISCUSSIONS**

According to plaintiff: Plaintiff made a settlement demand for \$100,000 (policy limits), which was eventually tendered by defendant. An additional \$9,586 was recovered from plaintiff's medical payments carrier, making the total settlement \$109,586.

#### **EXPERTS**

Plaintiff: Michael A. Kropf, M.D., orthopedic surgeon, The Spine Institute, Santa Monica (310) 828-7757.

Defendant: None.

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