

# TRIALS DIGEST®

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February 6, 2012

**SETTLEMENT RESULT: \$370,000**

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## VEHICLE NEGLIGENCE

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**Pedestrian struck in parking lot by reversing vehicle**

### VEHICLE NEGLIGENCE

Pedestrian/Reverse Collision/Parking Lot

### NO COURT/UNFILED SETTLEMENT

Weinberg v. Gonzalez, Trial type: Settlement. Settlement date: 9/14/2011.

**SETTLEMENT: \$370,000**

### COUNSEL

Plaintiff: Scott J. Corwin, Law Offices of Scott J. Corwin, Los Angeles.  
Defendant: Normand Ayotte, Jones & Ayotte, Pasadena.

### FACTS/CONTENTIONS

According to plaintiff: On June 10, 2011, plaintiff Lillian Weinberg, an 89-year-old retiree, had just exited her friend's car and was walking in the parking lot of a small strip mall and Coldwater at Magnolia Boulevard in Sherman Oaks, California. Defendant Raul Garcia, driving a 1997 Toyota owned by his employer, defendant Irma Gonzalez, while in the course and scope of his employment with defendant Tony's Mexican Grill, backed out of a parking space and knocked plaintiff to the pavement.

Plaintiff alleged that defendant Garcia was negligent in the operation of his vehicle and that all of plaintiff's claimed injuries were a direct result of said negligence. Plaintiff further contended that defendant Garcia was in the course and scope of his employment with Tony's Mexican Grill at the time of the collision.

Defendants disputed liability, claiming that plaintiff negligently "hopped" out of her vehicle, not paying attention, and walked directly behind the defendant's vehicle while it was already in motion.

### CLAIMED INJURIES

According to plaintiff: Plaintiff sustained a fractured left humerus, left shoulder, cervical and lumbar strain and sprain injuries. Plaintiff was hospitalized for five days and released. No surgery was required.

### CLAIMED DAMAGES

According to plaintiff: \$69,702 medicals.

### SETTLEMENT DISCUSSIONS

According to plaintiff: Plaintiff demanded defendant Garcia's \$15,000 policy and defendant Gonzalez's \$100,000 policy, which were both tendered. Plaintiff settled with Tony's Mexican Grill for an addition \$250,000, making the total reported settlement of \$370,000.

### EXPERTS

None.

### COMMENTS

According to plaintiff: The insurance carrier for defendant Garcia was Access General; the adjuster was Jason Arnold. The insurance carrier for defendant Tony's Mexican Grill was Farmers Insurance; the adjuster was Michela Hendrickson.

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