

# TRIALS DIGEST®

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**SETTLEMENT RESULT: \$102,000**

## VEHICLE NEGLIGENCE

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### SETTLEMENT—Driver injured in chain-reaction rear-ender

#### VEHICLE NEGLIGENCE

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

#### VENTURA COUNTY SUPERIOR COURT

*Leventhal v. Bassett*, No. 201868, Ventura.  
Settlement date: 9/26/2001.

**SETTLEMENT RESULT: \$102,000**

#### COUNSEL

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

Defendant: Donna D. Geck, Hager & Dowling,  
Santa Barbara.

#### FACTS/CONTENTIONS

According to plaintiff: On March 10, 2000, plaintiff, a 37-year-old Ventura County Deputy District Attorney, was traveling as a passenger in a vehicle westbound on Telephone Road. The car which plaintiff was in, stopped because of stopped traffic. Defendant, who was also traveling westbound on Telephone Road, rear-ended another vehicle that was stopped behind plaintiff and pushed that vehicle into plaintiff's vehicle.

Plaintiff alleged defendant was negligent in the operation of a motor vehicle and that all of plaintiff's claimed injuries were a direct result of the accident.

Defendant admitted liability, but disputed the nature and extent of plaintiff's claimed injuries and the need for future surgery. Defendant further contended that plaintiff's lumbar disk herniation not only was pre-existing, having been diagnosed with an MRI only two months before the

present accident, but the MRI following the accident showed that the disk herniation had become smaller, measuring 5-6 mm, indicating that it had been reabsorbed.

Defendants further contended that, if plaintiff needed surgery, it was not from this minor, low-impact accident that resulted in under \$1,300 in cosmetic property damage to plaintiff's vehicle, but rather that plaintiff's need for surgery was due to an injury sustained two months earlier when plaintiff was moving furniture, resulting in the reported 8-9 mm disk herniation shown on the MRI prior to the accident.

#### CLAIMED INJURIES

According to plaintiff: Plaintiff sustained cervical strain/sprain and lumbar sprain/strain injuries, requiring physical therapy. Plaintiff also sustained exacerbation of a pre-existing and previously documented 8-9 mm L3-L4 disk protrusion encroaching on the right lateral recess, requiring a future lumbar discectomy and laminectomy.

#### CLAIMED DAMAGES

Not reported.

#### SETTLEMENT DISCUSSIONS

According to plaintiff: Plaintiff demanded defendant's \$50,000 policy limits on January 2, 2001, before filing the lawsuit. Following extensive discovery, a defense medical examination, and deposition of plaintiff, defendant tendered its policy limits one week prior to the expiration of plaintiff's CCP § 998 offer. Plaintiff then presented an underinsured motorist claim to his carrier and demanded an additional \$50,000 in UIM benefits on September 18, 2001, which the UIM carrier tendered on September 27, 2001, nine days later. \$2,000 was collected in medical payments, making the total recovery \$102,000.

#### EXPERTS

Plaintiff: None.

Defendant: Gerald Paul, M.D., orthopedic surgeon,  
Tarzana.

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