

TRIALS DIGEST[®]

THE COMPREHENSIVE SOURCE FOR CALIFORNIA CIVIL TRIAL RESULTS

October 14, 2013

SETTLEMENT RESULT: \$500,000

Vol. 16 , No. 39

MOTOR VEHICLE

39 TD 16TH 21

Hit-and-run driver causes rollover collision

VEHICLE NEGLIGENCE

Motor Vehicle v. Motor Vehicle/Hit-and-Run/Rollover/
Rear-End/Passenger/Interstate/Freeway

NO COURT/UNFILED SETTLEMENT

Folkman v. Automobile Club of Southern California,
Docket number: Not reported. Judge: Not reported. Trial
type: Settlement. Settlement date: 3/12/2013.

SETTLEMENT: \$500,000

\$500,000 policy limits to plaintiffs for damages

COUNSEL

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

FACTS/CONTENTIONS

According to plaintiff: On Sept. 4, 2011, plaintiff Howard Folkman, a 58-year-old agriculture and landscape architect and contractor, was driving a 2002 Toyota Highlander north on the 101 freeway in Calabasas, Calif., in the number five lane when defendant driver, driving a Nissan Altima, rear-ended plaintiff's vehicle, causing plaintiff to hit the guardrail. Plaintiff's vehicle then veered back into the lanes and flipped onto its roof. Plaintiff Howard Folkman has two passengers in the vehicle, his daughter, plaintiff Chorisia Folkman, and his nephew, plaintiff Lance Oksner.

Plaintiffs said the defendant fled the scene of the accident and alleged defendant was negligent in the operation of his vehicle and plaintiff's claimed injuries were a direct result of said negligence.

CLAIMED INJURIES

According to plaintiff: Plaintiff Howard Folkman sustained cervical and lumbar strains and sprains treated with physical therapy and a right shoulder rotator cuff tear. Due to ongoing lumbar pain, plaintiff underwent a lumbar MRI that revealed 4 to 5 mm L1-L2 disc bulges and 4 to 5 mm L4-L5 and L5-S1 disc bulges. Plaintiff had a lumbar spine epidural injection. Plaintiff was a candidate for a two-level fusion of the lumbar spine at L4-L5 and L5-S1. Plaintiff will also require a right shoulder arthroscopy.

Plaintiff Oksner was transported by ambulance to Los Robles Regional Medical Center for emergency room treatment for three days. Plaintiff sustained cervical and lumbar strains and sprains treated with physical therapy, traumatic impingement syndrome of the right and left shoulder SLAP lesion, and right and left knee sprains. Plaintiff was a candidate for right shoulder surgery.

Plaintiff Chorisia Folkman was pregnant and in her second trimester. She was transported by ambulance to Los Robles Regional Medical Center for emergency room treatment. She sustained cervical and lumbar strains and sprains and cuts to both knees and legs from glass. Plaintiff Chorisia Folkman had followup visits with her ob/gyn and no further treatment.

CLAIMED DAMAGES

According to plaintiff: Plaintiff Howard Folkman: \$29,453 past medical; \$80,000 future medical. Plaintiff Oksner: \$87,962 past medical; \$25,000 future medical. Plaintiff Chorisia Folkman: \$39,774 past medical.

SETTLEMENT DISCUSSIONS

According to plaintiff: Defendant Auto Club refused to make any offers of settlement for about one year, disputing the nature and extent of claimed injuries and causation of those injuries as to all of the plaintiffs. Defendant Auto Club took the position that no future surgeries were required and that the injuries were moderate in nature, only requiring a few weeks of physical therapy.

Trials Digest, a Thomson West business, 425 Market Street, 4th Floor, San Francisco, CA 94105
415-344-6000 (ph) 415-344-4950 (fax) trialsdigest@thomson.com west.thomson.com/trialsdigest/

Plaintiffs demanded and GEICO tendered its \$100,000 per accident uninsured motorist limits maintained by the registered owner of the vehicle, plaintiff Oksner. Ultimately the case settled for the addition \$400,000, making the total settlement for all three plaintiffs \$500,000.

EXPERTS

Plaintiff: Not reported.

Defendant: William H. Dillin, M.D., orthopedic surgeon, Kerlan-Jobe Orthopedic Clinic, Los Angeles (310) 665-7200.
Ronald S. Kvitne, M.D., orthopedic surgeon, Kerlan-Jobe Orthopedic Clinics, Los Angeles (310) 665-7200.

CLAIMED DAMAGES

According to plaintiff: Defense expert William Dillin, M.D., examined plaintiff Howard Folkman. Defense expert Ronald Kvitne, M.D., examined plaintiff Oksner.

COMMENTS

According to plaintiff: The UM Insurance carrier for plaintiff Howard Folkman was Automobile Club of Southern California, and the adjuster was Bruce Tellez. The UM Insurance carrier for plaintiff Oksner was GEICO, and the adjuster was Candy Bache.

Trials Digest, a Thomson West business, 425 Market Street, 4th Floor, San Francisco, CA 94105
415-344-6000 (ph) 415-344-4950 (fax) trialsdigest@thomson.com west.thomson.com/trialsdigest/