

# TRIALS DIGEST®

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November 5, 2012

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

Vol. 15 , No. 44

## MOTOR VEHICLE

44 TD 15TH 32

**Left-turning driver strikes pedestrian**

### VEHICLE NEGLIGENCE

Pedestrian/Intersection/Jaywalking/Left Turn

### NO COURT/UNFILED SETTLEMENT

Tompkins v. Modafferi, Docket number: Not reported.  
Judge: Not reported. Trial type: Settlement. Settlement date: 9/12/2012.

### SETTLEMENT: \$100,000

Plaintiff demanded defendant tender the \$100,000 insurance policy. After conducting an accident reconstruction, defendant's insurer concluded it was not possible to rule out the possibility that defendant driver could have seen plaintiff and therefore the insurer tendered its policy in settlement of the

### COUNSEL

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

### FACTS/CONTENTIONS

According to plaintiff: On the evening of March 12, 2012, plaintiff John Tompkins, a 43-year-old sound engineer crossed the street at the intersection of Ash and Ninth Street in San Diego. When plaintiff was more than halfway through the intersection, defendant Stephen Modafferi driving a 2004-Toyota Highlander north on Ninth Street and making a left turn onto westbound Ash, reportedly struck plaintiff.

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

Defendant denied liability and contended plaintiff was 19 feet outside of the intersection and crossing on the side of the street that did not have a crosswalk. The police report allegedly put

### CLAIMED INJURIES

According to plaintiff: Plaintiff sustained a right knee lateral tibial plateau fracture, which was treated with open reduction and internal fixation, a left knee lateral tibial plateau fracture, which was treated with open reduction and internal fixation, and a soft tissue injury to the right foot/ankle involving ligament damage. Plaintiff said he might require future total knee replacement surgeries for both knees.

### CLAIMED DAMAGES

According to plaintiff: \$121,821 past medical; \$100,000 future medical; \$30,000 lost earnings.

### SETTLEMENT DISCUSSIONS

Not Reported.

### EXPERTS

None.

### COMMENTS

According to plaintiff: The insurance carrier was State Farm Insurance; the adjuster was Andrew Snowden.

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