
Pima County Superior Court Jury Trials

THE TRIAL REPORTER of Southern Arizona

January, 2006

1/5/06 - Judge JOHN F. KELLY -
CV 2004-3275 - BROWN (Thomas M. Bayham
of Wilkes & Bayham, P.L.L.C.) v GARDNER
(Douglas W. Glasson of Law Offices of Edythe
Kelly & Associates) - PERSONAL INJURY -
REAREND. *Case being tried on Dfnt's appeal
of Plntf's \$8,373 arbitration award.* Plntf, male,
age 53, a construction laborer, was a passenger
in a sport utility vehicle. Plntf alleged that,
while stopped for a traffic signal, vehicle was
rear-ended by Dfnt. Dfnt, female, age 26, a
telecommunications office manager, who was six
months pregnant, admitted negligence, but argued
causation. Plntf alleged he sustained cervical,
thoracic, and lumbar soft tissue injuries; plus
injuries to the arm and head. Plntf also alleged
he sustained an aggravation of his preexistent
back condition, and has ongoing lumbar
complaints. Plntf called Joseph L. Greer, D.C.,
who testified Plntf's injuries were causally
related, and his treatment was reasonable and
necessary. Dfnt argued impact was minor, and
Plntf was not injured. Dfnt called Robert D.
Anderson, B.S.E., a biomechanist, who testified
the forces generated in the collision were insuf-
ficient to cause injury. It was Mr. Anderson's
opinion that, based on crash test research, the
trauma Plntf was subjected to was similar to
daily living activities. Prayer: Just and reason-
able compensatory damages; \$3,000 (per P) or
\$2,589.70 (per D) medical expenses; plus \$4,800
to \$7,200 lost wages (per D). Plntf made a
pretrial demand of \$8,000 (per P) or \$8,645.80
(per D) - Dfnt made a \$3,500 offer of judgment
(P & D). (Carrier: State Farm Insurance.)
During closing arguments, Plntf's counsel asked
jury to award Plntf \$15,000. Defense counsel
suggested \$3,000 to \$4,000 was adequate
compensation, if Plntf was injured in the instant
collision. Two day trial. Jury out one-plus
hours. FOUND FOR DFNT. 6 - 2.
