
Pima County Superior Court Jury Trials

THE TRIAL REPORTER of Southern Arizona

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3/12/15 - Judge D. DOUGLAS METCALF - CV 2013-5588 - CARDENAS (J. Stephen Dix and Robert J. Forman of Dix & Forman, P.C.) v TORRES (Douglas W. Glasson of Curl & Glasson, P.L.C.) - PERSONAL INJURY - REAREND. *Case being tried on Dfnt's appeal of Plntf's \$46,602 arbitration award.* Plntf, female, age 47, a bus driver, who was in the course and scope of her occupational duties operating a bus for non-party SunTran, alleged Dfnt, who was operating a BMW sedan, executed an unsafe lane change into the dedicated bus lane on Broadway Boulevard. Plntf also alleged she was unable to stop the bus, in order to avoid the collision, and rear-ended Dfnt's vehicle. Dfnt, male, age 52, an entrepreneur, admitted he executed an improper lane change, but argued causation. Dfnt also argued Plntf was comparatively at fault for failure to slow down and brake harder to avoid the accident. Dfnt called Robert D. Anderson, M.S., a biomechanist, who was of the opinion that Plntf only braked at sixty percent of the bus' capacity, and the maximum Delta V forces Plntf experienced in the collision were 1.4 miles-per-hour. Plntf alleged she jammed her right foot into the brake pedal as hard as she could, which caused her body to turn to the right in an unnatural position, and caused her to sustain multiple soft tissue injuries on the right side of her body. Plntf also alleged she sustained cervical, thoracic, and lumbar soft tissue injuries; plus an injury to the right ankle. Plntf used the deposition of her treating physician, Hector L. Garcia, M.D., an internist, who was of the opinion that Plntf's muscle spasms experienced during his examination were an objective finding. Plntf also used the videotape deposition of Sheldon E. Gingerich, M.D., a pain management specialist, who treated Plntf with injections and physical therapy. It was Dr. Gingerich's opinion

that Plntf's muscle spasms were an objective finding. Dfnt argued the accident was minor and Plntf was not injured. Dfnt called Frederick T. Strobl, M.D., a neurologist, who reviewed Plntf's medical records. It was Dr. Strobl's opinion that it was highly unlikely that Plntf was injured, based on Mr. Anderson's report and the video from Plntf's bus which reflected no direct trauma to Plntf. It was also Dr. Strobl's opinion that theoretically there was a mechanism for injury, because there was a collision, but it did not appear any injury occurred. Additionally, it was Dr. Strobl's opinion that muscle spasm is a subjective finding, and it was unreasonable for Plntf to allege she was unable to work for five months. Prayer: Just and reasonable compensatory damages; \$12,495 medical expenses; plus \$13,652.64 lost wages. Plntf made a pretrial demand of \$46,602 - Dfnt made a \$10,000 offer of judgment (D). (Carrier: State Farm Insurance.) During closing arguments, Plntf's counsel asked jury to award Plntf \$50,000. Defense counsel argued the accident was minor and Plntf was not injured. In the alternate, defense counsel argued that, if Plntf was injured, she sustained only a minor strain and sprain, which should have resolved within one or two months. Three day trial. By stipulation, nine jurors deliberated. Jury out one-plus hours. FOUND FOR DFNT. 6 - 3.

3/19/15 - Judge CHARLES V. HARRINGTON - CV 2009-9898 - VAN TASSELL (JoJene E. Mills, a sole practitioner) v UNIVERSITY MEDICAL CENTER CORPORATION (Richard Davis of Mesch, Clark & Rothschild, P.C.) - WRONGFUL DEATH - MEDICAL MALPRACTICE - NURSING STAFF - VIOLATION OF ADULT PROTECTIVE SERVICES ACT.