
Pima County Superior Court Jury Trials

THE TRIAL REPORTER of Southern Arizona

April, 2006

4/6/06 - Judge LESLIE B. MILLER -
CV 2004-0702 - CUSICK (Earl F. "Sam"
Daniels, III, of McEvoy, Daniels & Darcy,
P.C.) v CHESHER (Douglas W. Glasson of
Law Offices of Edythe H. Kelly & Associates) -
PERSONAL INJURY. We were unable to
obtain complete details of this trial prior to our
publication deadline. Rather than err, we will
report this trial in depth in a forthcoming issue.
Prayer: Just and reasonable compensatory
damages; plus an unspecified amount in medical
expenses. Three day trial. Jury out ? hours.
VERDICT UNKNOWN.

Addendum & Erratum

THE TRIAL REPORTER of Southern Arizona

May, 2006

Following is a report of a trial about which we were unable to obtain complete details prior to our publication deadline for the April 2006 issue of THE TRIAL REPORTER of Southern Arizona.

4/6/06 - Judge LESLIE B. MILLER - CV 2004-0702 - CUSICK (Earl F. "Sam" Daniels, III, of McEvoy, Daniels & Darcy, P.C.) v CHESHER (Douglas W. Glasson of Law Offices of Edythe H. Kelly & Associates) - PERSONAL INJURY - AUTOMOBILE COLLISION. Plntf, female, alleged that, while travelling on Sunrise Drive, Dfnt negligently caused collision. Plntf called the investigating police officer; and Patrick R. DeJonghe, an accident reconstructionist. Dfnt, female, denied liability. In the alternate, Dfnt argued Plntf was comparatively at fault. Dfnt called Robert E. Roller, an accident reconstructionist. Plntf alleged she sustained soft tissue injuries. Plntf called James M. Winberry, D.C. Plntf used the depositions of David Jacobs, M.D., a physiatrist. Dfnt called John S. LaWall, M.D., a neurologist. Prayer: Just and reasonable compensatory damages; plus an unspecified amount in medical expenses. Three day trial. Jury out three-plus hours. AWARDED PLNTF \$2,100 COMPENSATORY DAMAGES. UNANIMOUSLY. (Found Plntf to be ninety-five percent at fault, and Dfnt to be five percent at fault; therefore, Plntf's award to be reduced to \$105.)

Addendum & Erratum

THE TRIAL REPORTER of Southern Arizona

September, 2006

Following is some additional information about a trial previously reported in the April 2006 issue of THE TRIAL REPORTER of Southern Arizona. The additional information is in bold italic type.

4/6/06 - Judge LESLIE B. MILLER - CV 2004-0702 - CUSICK (Earl F. "Sam" Daniels, III, of McEvoy, Daniels & Darcy, P.C.) v CHESHER (Douglas W. Glasson of Law Offices of Edythe H. Kelly & Associates) - PERSONAL INJURY - **INTERSECTION - CONTROLLED - TRAFFIC SIGNAL - LEFT TURN.** Case being tried on Dfnt's appeal of Plntf's \$24,000 arbitration award. Case also being tried on comparative fault. Plntf, female, age 49, a housekeeper/companion for an elderly gentleman, alleged that, while travelling west-bound on Sunrise Drive, northbound Dfnt negligently ran red light, executed a left turn, into Plntf's path, and caused collision. Plntf called the investigating police officer. Plntf also called Patrick R. DeJonghe, an accident reconstructionist, *who testified there was insufficient information to complete a full reconstruction, or to determine the status of the traffic signal, but the evidence was consistent with Plntf's account that she saw the impending collision and took evasive action.* Mr. DeJonghe also testified that Plntf had only 2.6 seconds to avoid the collision, after Dfnt presented herself as a danger. Dfnt, female, age 52, an engineer, denied liability, advancing the defense that her light was green, and Plntf ran red light, as Dfnt was completing the left turn. Dfnt alleged Plntf moved from the right lane into the left lane, and collided with Dfnt's vehicle. Dfnt argued the collision occurred west of the intersection, and eastbound traffic was stopped when Dfnt began her left turn. In the alternate, Dfnt

argued Plntf was comparatively at fault. Dfnt called Robert E. Roller, an accident reconstructionist, *who concurred there was insufficient information to complete a full reconstruction, or determine the status of the traffic signal.* Mr. Roller also testified that, based on Plntf's account of the collision, Plntf would have had more than six seconds to stop or take evasive action. Plntf alleged she sustained soft tissue injuries; *plus an aggravation of her preexistent fibromyalgia and diabetes.* Plntf called her treating physician, James M. Winberry, D.C., who testified he treated Plntf for ten months post-collision. Dr. Winberry also testified Plntf had sustained subluxations at three levels in the cervical and thoracic spine, and referred Plntf to David Jacobs, M.D., a physiatrist. Plntf used the deposition of Dr. Jacobs, who treated Plntf with trigger point injections, and recommended Plntf continue treatment with Dr. Winberry. Dfnt called John S. LaWall, M.D., a neurologist and psychiatrist, who testified Plntf sustained cervical and lumbar strains and sprains, which required only a brief course of physical therapy or chiropractic care, consisting of fifteen visits. Dr. LaWall also testified Plntf had no objective findings of serious injury, only subjective complaints, and she may be misattributing her fibromyalgia symptoms to the collision. Dr. LaWall opined that Plntf's MRI scans, epidural injections, and nerve conduction studies were unreasonable and unnecessary. Prayer: Just and reasonable compensatory damages; \$10,234.60 medical expenses; \$1,440 lost wages; plus \$3,000 property damage. Plntf made a \$9,999 pretrial offer of judgment - Dfnt refused to make an offer (D). (Carrier: State Farm Insurance.) Three day trial. Jury out three-plus hours. AWARDED PLNTF \$2,100 COMPENSATORY DAMAGES. UNANI-

MOUSLY. (Found Plntf to be ninety-five percent at fault, and Dfnt to be five percent at fault; therefore, Plntf's award to be reduced to \$105.)
