
Cochise County Superior Court Jury Trials

THE TRIAL REPORTER of Southern Arizona

May, 2016

5/20/16 - Judge KARL D. ELLEDGE - CV 2014-00692 - PROSSER (James J.D. Campbell of Kinerk, Schmidt & Sethi, P.L.L.C.) v BOGATAY (Douglas W. Glasson of Curl & Glasson, P.L.C.) - PERSONAL INJURY - MOTORCYCLE MISHAP. Case being tried on comparative fault. Plntf, female, was a passenger on an off-road motorcycle, operated by her spouse, travelling on Juniper Flats Road, an unpaved mountain road outside of Bisbee, Arizona, during a sightseeing tour of southern Arizona. Plntf alleged that, while stopped outside Dfnt's property to observe the scenery of the area, Dfnt's two dogs ran in a threatening manner from Dfnt's private drive toward Plntf's motorcycle. Plntf also alleged that, as Plntf's spouse attempted to accelerate in an effort to flee from Dfnt's dogs, he lost control of the motorcycle, which fell on Plntf's leg. Additionally, Plntf alleged Dfnt failed to control his dogs on his property. Plntf called the investigating

police officer. Dfnt, male, denied liability, advancing the defense that non-party Smith, who was Dfnt's tenant and resided in a separate free-standing building, was the dogs owner. Dfnt argued Plntf, Plntf's spouse, and non-party Smith were at fault. Plntf sustained a fractured femur of the left leg, which required open reduction. Plntf used the videotape deposition of Jason R. Wild, M.D., an orthopod. Prayer: Just and reasonable compensatory damages; plus \$105,593.58 medical expenses. (Carrier: Unknown.) Four day trial. Jury out one-plus hours. AWARDED PLNTF \$225,000 COMPENSATORY DAMAGES. 6 - 2. (Found Plntf to be zero percent at fault, found Plntf's spouse to be fifteen percent at fault, found non-party Smith to be forty-two-and-one-half percent at fault, found Dfnt to be forty-two-and-one-half percent at fault; therefore, Plntf to recover \$95,625 from Dfnt.)
