
Pima County Superior Court Jury Trials

THE TRIAL REPORTER of Southern Arizona

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8/6/14 - Judge D. DOUGLAS METCALF - CV 2013-2046 - OROZCO (David A. Vasquez, a sole practitioner) v HALLIER (David L. Curl of Curl & Glasson, P.L.C.) - PERSONAL INJURY - REAREND - FREEWAY MISHAP. Plntf, male, age 45, a resident support specialist at HOPE (a behavioral health and substance abuse service provider), alleged that, while stopped on Interstate 10, due to construction near Valencia Road, he was rear-ended by Dfnt. Dfnt, female, age 21, a retail clerk, denied liability, advancing the defense that Plntf began to exit the freeway at Alvernon Way, then moved back onto the freeway, executed a sudden lane change without signalling as she began to exit, and caused the collision. In the alternate, Dfnt argued Plntf bore the majority of fault. Dfnt used the videotape deposition of Robert D. Anderson, M.S., a biomechanist, who was of the opinion that the Delta V forces generated by the collision were four miles-per-hour. Plntf alleged he sustained a dislocated shoulder, which required surgical repair; an annular tear and herniated lumbar disk at L-4, L-5 and a three-millimeter bulging lumbosacral disk at L-5, S-1, which required two surgical procedures; plus cervical, thoracic, and lumbar soft tissue injuries with secondary headaches. Plntf also alleged he has severe residual pain. Additionally, Plntf alleged that, as a result of his injuries, he is unable to take his son fishing or to baseball games. However, on cross, Plntf admitted that the first day missed from his employment was three months post-accident, when he missed two days, and he did not miss any additional time from work until two years later, when he underwent the surgeries. Plntf called Scott E. Weary, D.C., who was of the opinion Plntf sustained injuries to the left shoulder and lumbar spine, with pain radiating into the hip. Plntf used the deponitor of Richard M. Petronella,

M.D., a physiatrist, who was of the opinion that Plntf's treatment was causally related. Plntf also used the deposition of his treating physician, Bennet E. Davis, M.D., a pain management specialist, who was of the opinion that Plntf's herniated and bulging disks, as well as his treatment, were causally related. Additionally, Plntf used the deposition of his treating physician, Carol L. Henricks, M.D., a neurologist, who was of the opinion that her treatment of Plntf was causally related. Plntf used the videotape deposition of Kai-Uwe Lewandrowski, M.D., an orthoped, who was of the opinion that, based on his review of Plntf's medical records, Plntf's dislocated left shoulder and herniated lumbar disk, as well as the surgeries performed, were causally related. It was also Dr. Lewandrowski's opinion that all of Plntf's treatment was causally related, and his medical expenses were reasonable. Plntf also called Scott G. Stratmann, D.C. Dfnt argued that, one year post-accident, Plntf worked part-time as a roofer for nine months. Dfnt also argued Plntf's duties included painting roofs and climbing ladders. Dfnt alleged that, one year post-accident, Plntf worked two different jobs at the same time, went fishing, and worked out two to five days per week for two years. Dfnt called Zoran Maric, M.D., an orthoped, who performed an independent medical examination of Plntf's spine. It was Dr. Maric's opinion that Plntf's herniated lumbar disk did not manifest symptoms until two years post-accident, and was unrelated. It was also Dr. Maric's opinion that Plntf's bulging lumbosacral disk was not abnormal, and the annular tear was an incidental finding. Additionally, it was Dr. Maric's opinion that, when a MRI was performed two years post-accident, there was no mention of an annular tear at L-4, L-5. Dfnt also called Jon T. Abbott, M.D., an orthoped, who performed

an independent medical examination of Plntf's shoulder. It was Dr. Abbott's opinion that Plntf did not make shoulder complaints until five months post-accident, and his shoulder complaints were unrelated. Dfnt used the deposition of Plntf's treating physician, Brian P. Callahan, M.D., a neurosurgeon, who was unaware that Plntf had been involved in an accident when he treated Plntf two years post-accident. Dfnt also called Nicholas Giacoma, D.C. Prayer: Just and reasonable compensatory damages; \$77,308 past medical expenses; \$18,000 future medical expenses; plus \$1,186.65 lost wages. Plntf made an \$80,000 pretrial offer of judgment - Dfnt made a \$7,500 offer of judgment. During trial, Plntf made a \$77,308 offer of judgment (D). (Carrier: State Farm Insurance.) During closing arguments, Plntf's counsel asked jury to award Plntf \$250,000 to \$300,000. Defense counsel argued Plntf was not injured. Six day trial. Jury out one-plus hours. FOUND FOR DFNT. UNANIMOUSLY. (Post-trial, Dfnt filed a Rule 68 motion in the amount of \$51,980.10.)
