

2/17/00 - pro tem Judge CLIFFORD B. ALTFELD - CV 324070 - TURNER (David J. Dwyer of Grabb & Durando, P.L.C.) v STORRS (David L. Curl of William B. Blaser & Associates) - PERSONAL INJURY - REAR-END. Plntf, male, age 49, retired, declared by Social Security Administration to be disabled, due to a mental disorder, alleged he was rear-ended by Dfnt. Dfnt, male, age 70, retired, admitted negligence, but argued the impact to the car was minor, in that he was travelling less than five-miles-per-hour, there was no damage to Dfnt's vehicle, and minor damage only to Plntf's back bumper. Plntf alleged he sustained an aggravation of his preexistent stenosis and osteoarthritis, has tingling in his right leg, and is unable to sit for any length of time. Plntf alleged he is forced to wear a back brace to alleviate his back pain. Plntf called Jorge J. O'Leary, M.D., a family practitioner, who testified Plntf's complaints were causally related. On cross, Dr. O'Leary agreed the stenosis and osteoarthritis were degenerative in nature and not caused by the motor vehicle accident. Dr. O'Leary also agreed the tingling into the legs, reportedly starting in 1993, was symptomatic of a bulging disk. He also agreed that the radiologist stated the bulging disk was not of any clinical significance. Further, Dr. O'Leary testified he had not been given any of Plntf's prior medical records, and that the cause of Plntf's back pain was not the stenosis or the arthrosis, but rather a sprain of the ligaments in the low back, and he did not know the actual mechanics of how the low back was injured in the accident. Plntf also called Robert D. Wallace, P.T., a physical therapist, who testified the physical therapy administered was reasonable and necessary. On cross, Mr. Wallace agreed that the findings from the MRI were degenerative and not caused by the motor vehicle accident. Dfnt used twenty minutes of surveillance video showing Plntf sitting down at his son's basketball game. Dfnt then read portions of Plntf's deposition, wherein he stated he could

not sit, and watched TV while standing. Dfnt also argued Plntf had signed a statement in his Social Security records that he had weakness in his legs, in 1983. Prayer: Just and reasonable compensatory damages; plus \$11,990 medical expenses. Plntf made a pretrial demand of \$7,500 - Dfnt offered \$5,000 (P & D). (Carrier: State Farm Insurance.) Two day trial. Jury out one hour. AWARDED PLNTF \$763.85 COMPENSATORY DAMAGES (REPRESENTING AMBULANCE AND EMERGENCY ROOM BILLS). UNANIMOUSLY.

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