
Huma County Superior Court Jury Trials

THE TRIAL REPORTER February, 2013

2/19/13 - Judge JOHN NEFF NELSON -
CV 2011-00542 - LOUD (Carol A. Bowman of
Bowman & Smith, P.C.) v AGRAZ (David L.
Curl of The Curl Law Firm, P.L.C.); and
CEBULAK (Robert E. Schmitt of Murphy,
Schmitt, Hathaway & Wilson, P.L.L.C.) -
PERSONAL INJURY - PARKING LOT
MISHAP. Case being tried on comparative
fault. Plntf, female, age 26, a call center
employee and homemaker, was passenger in a
Ford Explorer, operated by Dfnt Cebulak,
travelling northbound in an abandoned Mervyn's
parking lot. Dfnt Agraz was travelling west-
bound in the lane of travel in front of the store.
Plntf alleged that, as Dfnt Cebulak pulled into
the intersection of the parking lot, the right front
tire of his vehicle was struck by Dfnt Agraz.
Plntf also alleged that either or both Dfnts
caused the collision. Dfnt Agraz, female, age
30, a homemaker, and Dfnt Cebulak, male, age
28, a call center employee, both admitted negli-
gence, and agreed that fault should be appor-
tioned fifty percent to each Dfnt, but argued
causation. Plntf alleged she sustained cervical,
thoracic, and lumbar soft tissue injuries; plus an
injury to the knee. Plntf used the medical
report of Douglas W. DeVries, D.C., who was
of the opinion that Plntf had sustained cervical,
thoracic, and lumbar strains and sprains; and all
of Plntf's medical expenses were reasonable,
necessary, and causally related. Dfnts argued
Plntf was not injured. Dfnts called Robert D.
Anderson, M.S., an accident reconstructionist and
biomechanist, who testified that the Delta V
forces generated in the collision were approxi-
mately four miles-per-hour. It was Mr.
Anderson's opinion that the minimal forces

generated were not sufficient to have injured Plntf, unless she was unusually susceptible to injury. Dfnts used the medical report of S. Steven Baker, D.C., who was of the opinion that a number of Dr. DeVries' charges were improper and unnecessary, and only \$1,820 in chiropractic expenses were reasonable. Prayer: Just and reasonable compensatory damages; \$21,061.38 (per D Curl) or \$20,200 (per D Schmitt) medical expenses; plus \$1,440 lost wages. Plntf made a pretrial demand of \$52,496.49 - Dfnt Agraz made a \$10,000 offer of judgment; Dfnt Cebulak offered \$12,000 less

\$10,000 med-pay offset (D Curl & Schmitt). (Both Dfnts' Carrier: State Farm Insurance.) During closing arguments, Plntf's counsel asked jury to award Plntf her specials, plus \$15,000 for pain and suffering. Both defense counsel argued Plntf was not injured. In the alternate, Dfnt Cebulak's counsel suggested that, if jury found Plntf's emergency department expenses were reasonable, than only \$1,800 in chiropractic expenses were reasonable (per D Curl). One day trial. Jury out twenty-five minutes. FOUND FOR DFNTS. UNANIMOUSLY.
