

3/14/07 - Judge LESLIE B. MILLER - CV 2005-4964 - NOLAN (Gabriel D. Fernandez, a sole practitioner) v TUMBLIN (David L. Curl of Barassi & Curl, P.L.C.) - PERSONAL INJURY - BICYCLE/AUTO MISHAP - BIKE LANE. *Case being tried on Dfnt's appeal of Plntf's \$10,000 arbitration award.* Case also being tried on comparative fault. Plntf, male, age 23, a civil engineer with the U.S. Air Force, was riding a bicycle. Plntf alleged Dfnt negligently executed a right turn, across Plntf's path in a marked bicycle lane, and collided with Plntf. Dfnt, male, a weather reporter for the U.S. Air Force, admitted negligence, but argued comparative fault. Dfnt argued Plntf should have recognized that Dfnt was preparing to execute a right turn. Dfnt called Robert E. Roller, an accident reconstructionist, who testified Plntf had sufficient time to recognize that Dfnt's braking meant Dfnt would execute a right turn into a parking lot. Plntf sustained a fractured clavicle, which required three months of physical therapy. Plntf called his treating physicians, who testified Plntf's treatment was reasonable and necessary. Prayer: Just and reasonable compensatory damages; \$2,663.54 medical expenses; \$1,440 lost wages; plus \$137.54 property damage. Plntf made a \$10,000 pretrial offer of judgment - Dfnt offered \$5,200 (P). (Carrier: State Farm Insurance.) During closing arguments, Plntf's counsel argued Dfnt was one-hundred percent at fault, and asked jury to award Plntf \$18,641. Defense counsel argued comparative fault, and also argued Plntf had recovered within six weeks. Defense counsel suggested \$2,663.54 in medical expenses, plus \$5,000 for pain and suffering, was adequate compensation. Two day trial. Jury out one-plus hours. AWARDED PLNTF \$11,441.08 COMPENSATORY DAMAGES. UNANIMOUSLY. (Found Plntf to be twenty percent at fault, and Dfnt to be eighty percent at fault; therefore, Plntf's award to be reduced to \$9,152.86.)
