
Pinna County Superior Court Jury Trials

THE TRIAL REPORTER of Southern Arizona

July, 2009

7/9/09 - Judge CARMINE CORNELIO - CV 2008-3248 - GUTIERREZ (Michael Edmund Larkin, a sole practitioner) v LEGLEU (David L. Curl of Barassi, Curl & Abraham, P.L.C.) - PERSONAL INJURY - PRIVATE DRIVE - LEFT TURN MISHAP. *Case being tried on Dfnt's appeal of Plntf's \$25,000 arbitration award.* Plntf, male, a painter, travelling south-bound on Stone Avenue, south of Lee Street, alleged oncoming Dfnt negligently executed a left turn, into a private drive, into Plntf's path, and caused collision. Dfnt, female, admitted negligence, but argued damages. Plntf alleged he sustained a right wrist injury; an injury to the right shoulder, with radiating pain into the hand; as well as cervical, thoracic, and lumbar soft tissue injuries; plus an injury to the right knee, which required prolotherapy. Plntf also alleged the knee injury aggravated his preexistent asymptomatic osteoarthritis. Additionally, Plntf alleged he developed an anxiety disorder, and has residual ongoing knee and lumbar pain. Plntf called his treating physician, Richard H. Gerhauser, M.D., a physiatrist, who testified Plntf's treatment was supported by research in laboratory animals which demonstrated tissue growth of ligaments and tendons, stimulated by prolotherapy injections of a dilute solution including dextrose. Dr. Gerhauser also testified that other studies, including double-blind studies involving human subjects, demonstrated the efficacy of prolotherapy. Additionally, Dr. Gerhauser testified that the treatment of chronic musculoskeletal pain by prolotherapy has been in use for decades, and has been endorsed by a former Surgeon General. Plntf used the deposition of John W. McGettigan, Jr., M.D., an emergency medicine specialist. Plntf also called Richard J. Gellerman, Ph.D., a psychologist. Dfnt argued Plntf's treatment was unreasonable and excessive. Dfnt called Jon T. Abbott,

M.D., an orthopod, who was of the opinion Plntf's knee injury was not causally related, but rather was related to his preexistent degenerative arthritis. Prayer: Just and reasonable compensatory damages; plus \$10,169.63 medical expenses. Plntf made an \$18,500 pretrial offer of judgment - Dfnt made a \$15,000 offer of judgment. (Carrier: State Farm Insurance.) Three day trial. Jury out two-plus hours. AWARDED PLNTF \$22,500 COMPENSATORY DAMAGES. UNANIMOUSLY.
