
Pima County Superior Court Jury Trials

THE TRIAL REPORTER of Southern Arizona

August, 2012

8/1/12 - Judge RICHARD E. GORDON - CV 2010-8794 - RAGLE (Tammy R. Carter of Goldberg & Osborne) v PORTER (David L. Curl of The Curl Law Firm) - PERSONAL INJURY - REAREND. *Case being tried on Dfnt's appeal of Plntf's \$13,000 arbitration award, with a finding that Dfnt was one-hundred percent at fault.* Case also being tried on comparative fault. Plntf, female, age 49, a developmental aide for handicapped and disabled clients, alleged that as she was stopped northbound on Oracle Road at Pusch View Lane, for a yellow traffic signal, she was rear-ended by Dfnt. Plntf also alleged the impact caused her forehead to strike the steering wheel. (Plntf planned to call Patrick R. DeJonghe, an accident reconstructionist, but did not do so.) Dfnt, female, age 20, employed as a server, admitted she rear-ended Plntf's vehicle, but argued the traffic signal was green and Plntf came to a stop in the intersection for no reason. (Dfnt planned to call Robert D. Anderson, M.S., an accident reconstructionist, but did not do so.) Plntf alleged she sustained cervical, thoracic, and lumbar soft tissue injuries, which required chiropractic treatment for ten weeks; plus a facial laceration above the right eyebrow. Plntf called her treating physician, Scott E. Weary, D.C., who was of the opinion that Plntf had sustained a new injury, based on changes in Plntf's X-rays. Dr. Weary testified that Plntf was more susceptible to injury, due to her preexistent injuries. However, on cross, Dr. Weary conceded that Plntf had residual complaints from her prior injuries and did not have full range of motion prior to the instant accident. Dfnt argued Plntf was not injured. Dfnt also argued Plntf had a long history of soft tissue complaints, and her complaints were related to her preexistent condition. Prayer: Just and reasonable compensatory damages; \$7,226.50

medical expenses; \$144.32 lost wages; \$965.76 property damage; plus \$69 for glasses. Plntf made a \$13,000 pretrial offer of judgment - Dfnt made a \$5,000 offer of judgment (D). (Carrier: State Farm Insurance.) During closing arguments, Plntf's counsel asked jury to award Plntf her specials of \$8,405.58, plus a fair and reasonable amount for pain and suffering, and suggested \$2,500 per month, or \$500 to \$1,000 per week, for ten weeks. Defense counsel argued Plntf should take nothing. In the alternate, defense counsel suggested \$2,398.50 for medical expenses, plus \$965.76 property damage, was adequate compensation. Two day trial. By stipulation, nine jurors deliberated. Jury out one-plus hours. AWARDED PLNTF \$3,000 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 \$2,400.)

8/1/12 - Judge JAN E. KEARNEY - CV 2010-6256 - WILSON (Charles D. Onofry of Schneider & Onofry, P.C.; and Adam C. Kent, a sole practitioner) v SCHOFIELD (Lisa A. Duran of Law Offices of Lisa A. Duran & Associates) - PERSONAL INJURY - PRIVATE DRIVE MISHAP. *This trial actually ended July 31, 2012, but did not come to light until after our publication deadline. Therefore, we have changed the trial's ending date to conform to our citation system.* Plntf, male, age 54, a network technician, operating a Chevrolet pickup truck, travelling eastbound on River Road, near its intersection with Campbell Avenue, alleged Dfnt, operating a BMW, negligently attempted to merge onto eastbound River Road, after he exited the post office, and caused collision. Dfnt, in his late eighties, a retired dentist,