

11/3/06 - Judge MICHAEL OWEN MILLER - CV 2005-6672 - ASPINALL (Anthony D. Terry, a sole practitioner) v STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY (David L. Curl of Barassi & Curl, P.L.C.) - PERSONAL INJURY - FIRST PARTY BAD FAITH BY AN INSURANCE PROVIDER. *Prologue: Plntf was involved in two separate collisions. Second collision aggravated Plntf's injuries sustained in the first collision. Arbitrator found in excess of \$170,000 damages in the first collision, resulting in an award of \$100,000 policy limits. Arbitrator found the damages in the second collision were covered by offsets for workers' compensation and primary insurance of \$15,000, and found in favor of Dfnt. Case being tried on Plntf's appeal of the defense finding on the second collision, and Dfnt's appeal of Plntf's award for the first collision.* Plntf, female, age 41, a caregiver for the sick and elderly, alleged she sustained permanent injuries in the two collisions. Fault was admitted in both collisions, and liability was not an issue. Dfnt argued causation and damages. Plntf alleged she sustained permanent injuries to the cervical, thoracic, and lumbar spine; with chronic pain. Plntf also alleged that, as a result of her injuries, she is now totally disabled. Plntf called Susan B. Fleming, M.D., a pain management specialist, who testified regarding Plntf's total disability and chronic pain. Plntf also called Richard V. Barnes, M.D., a psychiatrist, who testified Plntf was truthful regarding her chronic pain. Additionally, Plntf called Staci L. Schonbrun, M.S., C.R.C., C.D.M.S., a labor market expert, who testified regarding Plntf's lifetime damages. Plntf used the report of John E. Buehler, Ph.D., an economist, which reflected the present-day value of Plntf's lost earnings and future medical expenses. Dfnt called John S. LaWall, M.D., a neurologist, who performed an independent medical examination. It was Dr. LaWall's opinion Plntf was not injured. Prayer for first collision: Just and reasonable compensatory damages; \$38,897.50 medical expenses; \$74,472.45 future medical expenses; \$40,740 lost wages; plus \$108,418 future lost wages. Prayer for second collision: Just and reasonable compensatory damages; \$20,070.43 medical expenses; \$74,472.45 future medical expenses; \$40,740 lost wages; plus \$108,418 future lost wages. Plntf made a pretrial demand of \$100,000 - Dfnt

refused to make an offer (P). During closing arguments, Plntf's counsel argued Plntf's damages should be split fifty-fifty between the two collisions, and asked jury to award Plntf over \$400,000 in total. Defense counsel argued \$2,000 for the first collision, and zero for the second collision, was adequate compensation. Four day trial. Jury out three hours. AWARDED PLNTF \$192,500 COMPENSATORY DAMAGES FOR THE FIRST COLLISION, AND AWARDED PLNTF \$98,500 COMPENSATORY DAMAGES FOR THE SECOND COLLISION. 7 - 1.
