
1/28/99 - Judge DEBORAH BERNINI - CV 318566 - WALTERS (Stephen M. Weiss of Karp, Heurlin & Weiss, P.C.) v LUNDQUIST (David L. Curl of William B. Blaser & Associates) - PERSONAL INJURY - U-TURN MISHAP. Case being tried on comparative fault. Plntf, male, age 19, a University of Arizona student, operating a motorcycle, alleged oncoming Dfnt started to make a U-turn, stopped for a vehicle executing a right turn, then proceeded to make one or two more stops, which, ultimately, caused Plntf to collide with the passenger side of Dfnt's vehicle. Plntf alleged Dfnt admitted, at the scene, that the accident was her fault. Plntf called an independent eyewitness to support his position. Dfnt, female, a wedding consultant and elder care giver, alleged she was executing a U-turn, when she was confronted by a vehicle executing a right turn, blocking and preventing her from clearing the intersection. Dfnt called Robert E. Roller, an accident reconstructionist, who testified the distance from crosswalk to crosswalk at River Road and First Avenue is two hundred forty feet. It was Mr. Roller's opinion that a U-turn takes four to six seconds, and, after full braking, it would have taken Plntf seventy-eight feet to stop, plus one and one-half seconds of reaction time, for a total of one hundred thirty feet. It was Mr. Roller's opinion the point of no return, at forty miles per hour, was the

westbound lane of River Road and if Plntf was traveling twenty miles per hour, the point of no return was the eastbound lane of River Road. It was also Mr. Roller's opinion that, had Plntf made the decision to stop at those two points, he could have done so without striking Dfnt's vehicle. Plntf then called Patrick De Jonghe, an accident reconstructionist, in rebuttal. Mr. De Jonghe concurred with Mr. Roller, but opined Dfnt had a clear line of sight for one hundred twenty feet, from where she was sitting, and should have been able to see the right-turning vehicle before it became a hazard. Dfnt denied she stated, at the scene, that the accident was her fault. Plntf sustained a lacerated spleen, a possible meniscus tear, road burns, and scars to both legs. Plntf used deposition of Michael J. Esser, M.D., a general surgeon, now of Wisconsin, who opined Plntf had sustained a grade II laceration to the spleen, from which he should have recovered after six weeks to three months. Plntf also called Francisco G. Valencia, M.D., an orthoped, who testified he initially believed Plntf had sustained a torn meniscus, but, six months post-accident, Plntf had fully recovered. Plntf also called Jessica Belongia, P.T., a physical therapist, who testified regarding the physical therapy administered and the home exercises recommended, and the fact that, although she found no objective evidence, Plntf continued to complain of pain. Prayer: Just and reasonable compensatory damages; \$13,387 medical expenses; plus \$980 property damage. Plntf made a pretrial demand of \$45,000 - Dfnt made a \$15,000 offer of judgment. (D). (Carrier: State Farm Insurance.) During closing arguments, Plntf's counsel asked jury to award Plntf his specials, plus \$35,000 for pain and suffering. Defense counsel argued liability and argued Plntf had no evidence of a permanent impairment. Two day trial. Jury out one hour. AWARDED PLNTF \$25,000 COMPENSATORY DAMAGES. UNANIMOUSLY. (Found Plntf to be forty percent at fault, and Dfnt to be sixty percent at fault; therefore, Plntf's award to be reduced to \$15,000.)
