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# Pima County Superior Court Jury Trials

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THE TRIAL REPORTER of Southern Arizona

March 15, 1999

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3/1/99 - Judge STEPHEN C. VILLARREAL - CV 314191 - LEE (Colleen L. Kinerk of Kinerk, Beal, Schmidt & Dyer, P.C.) v BENNETT (David L. Curl of William B. Blaser & Associates) - PERSONAL INJURY - INTERSECTION - CONTROLLED - TRAFFIC SIGNAL. *This trial actually ended February 25, 1999, 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. Case being tried on Dfnt's appeal of Plntf's \$7,500 arbitration award.* Plntf, male, age 46, police officer, in course and scope of his occupational duties, responding to an "officer in need" call, alleged he was traveling northbound on Tucson Boulevard at Grant Road, with lights and siren in operation. At the intersection, Plntf's light was red. Plntf alleged he stopped, then slowly proceeded into the intersection, after ascertaining that oncoming traffic was yielding. Plntf alleged eastbound Dfnt was inattentive, failed to notice Plntf's lights and siren, and collided with Plntf, as he crossed the median lane of traffic. Further, Plntf alleged, Dfnt executed a sudden lane change, from the curb lane to the median lane, around a stopped vehicle, and failed to yield to Plntf. Dfnt, male, age 55, a maintenance man, argued Plntf failed to adhere to police guidelines and Plntf came from behind some vehicles and struck Dfnt, who was travelling through the intersection on a green light. Further, Dfnt denied hearing sirens or seeing emergency lights, until just before the impact. Plntf called an independent eyewitness, to support his position, as well as the investigating officer. Investigating officer testified Dfnt apologized for the accident and stated the accident was his fault. On cross, investigating officer admitted Plntf assisted in the investigation, even though participants to an accident are never allowed to participate.

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Investigating officer also testified Tucson police procedures required that an officer stop at an intersection until all traffic lanes were accounted for. Additionally, investigating officer testified, police officers who are found responsible for damage to city property are held responsible for the damage. Dfnt also called three independent eyewitnesses who supported his position. Dfnt called Larry Lawrence, an accident reconstructionist, who testified Pntf was travelling approximately fourteen miles per hour and Dfnt was travelling thirty-seven miles per hour. Dfnt played an eighteen minute surveillance tape, made of Pntf on June 5, 1996, which was nine days before Pntf returned to the doctor complaining of a stiff neck. Pntf alleged he sustained cervical, thoracic, and lumbar soft tissue injuries, plus headaches. Pntf used videotape deposition of Caryl S. Brailsford, M.D., specializing in occupational medicine, who stated Pntf's injuries were causally related and his treatment was reasonable and necessary. On cross, Dr. Brailsford testified Pntf made no complaints of headaches in 1995 and did not complain of headaches until 1996. Prayer: Just and reasonable compensatory damages; plus \$2,100 medical expenses. Pntf made a pretrial demand of \$7,500 - Dfnt offered \$3,000 (D). (Carrier: State Farm Insurance.) During closing arguments, Pntf's counsel asked jury to award Pntf \$7,000 to \$10,000. Defense counsel argued liability and, in the alternate, suggested \$700 for reasonable medical expenses and \$700 for pain and suffering as adequate compensation. Three day trial. Jury out one hour. FOUND FOR DFNT. 6 - 2.

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