

\*\*\*\*\*

\*\*\*\*\*

6/17/99 - Judge CLARK W. MUNGER - CV 316869 - ALLEGRO (Steven A. Cohen of Levenbaum & Cohen) v LOPEZ (David L. Curl of William B. Blaser & Associates) - PERSONAL INJURY - PARKING LOT MISHAP. Plntf, in her twenties, a student at the University of Arizona, alleged Dfnt backed out of a parking space, in a parking lot, and collided with the rear of Plntf's vehicle. Plntf alleged her vehicle was hit with such force that the hood popped up. Dfnt, female, age 39, a patient coordinator, alleged Plntf did not tell the investigating officer, who was an off-duty police officer working at Dillard's the day of the accident, that Dfnt backed into her. Additionally, Dfnt alleged, Plntf used foul language, which intimidated her, and Plntf had come to the window of Dfnt's vehicle, and pounded on the window. Plntf denied profanity or pounding on Dfnt's truck window. Dfnt called Joseph D. Peles, Ph.D., a biomechanical engineer, who testified regarding the Delta V forces. It was Dr. Peles' opinion that the collision occurred at less than five miles per hour, and there was no mechanism of injury to the pronator teres, of the arm, that would have caused any swelling in the area indicated in Dr. Madden's report. On cross, Dr. Peles admitted his bill for testifying in the case was \$4,100, and that he testifies for Dfnts in ninety percent of his cases. Plntf, who was athletic in volleyball, basketball, biking, swimming, and camping, alleged she sustained a cervical strain and sprain and an injury to her right hand. Dfnt read deposition of a witness, who was passenger in Plntf's vehicle, who stated the seven-month-old baby in Plntf's vehicle slept through the accident. Early on, Plntf treated with Jeffrey N. Weinstein, D.C., for cervical,

thoracic, and lumbar soft tissue injuries, but her right hand and wrist pain worsened and she was referred to Christopher P. Demas, M.D., a hand surgeon, who made a diagnosis of carpal tunnel syndrome. Plntf alleged her arm and wrist condition continued to worsen and she was forced to ask for an aide, to take notes for her during classes. Plntf was referred to John W. Madden, M.D., a hand surgeon, who performed surgery. On direct, Plntf mentioned she asked Dfnt for her license, insurance, and registration. Dfnt's motion for mistrial denied. Plntf used deposition of Dr. Demas, who stated Plntf's carpal tunnel syndrome was causally related. Dfnt used second deposition of Dr. Demas, wherein he stated the pronator teres syndrome was not as clear as Dr. Madden opined. Dr. Demas stated he did not see how Plntf could have injured her pronator teres in the accident, and opined that her problems were in her wrist, not in the forearm. Plntf used deposition of Dr. Madden, who opined Plntf had a nerve entrapment in the pronator teres area. It was Dr. Madden's opinion that it was congenital, but was made symptomatic, as a result of the accident. On cross, Dr. Madden admitted that his causation was based entirely on history provided by Plntf. Plntf called Henry Wilson, D.C., who interpreted the records of Dr. Weinstein and opined Plntf's injuries were causally related and Dr. Weinstein's treatment was reasonable and necessary. Dfnt argued Plntf gave two different versions of where her hands were at the time of the impact. Additionally, Dfnt argued, Plntf verified, in her interrogatories, she was working at Checker Auto at the time of the accident, which was untrue. Further, Dfnt argued Plntf verified, in her answers to interrogatories, she was applying for a position at the post office, at the time of the accident, which was also untrue. Prayer: Just and reasonable compensatory damages; plus \$18,000 medical expenses. Plntf made a \$50,000 pretrial offer of judgment - Dfnt made a \$2,500 pretrial offer of judgment (D).

\*\*\*\*\*

(Carrier: State Farm Insurance.) During closing arguments, Plntf's counsel asked jury to award Plntf \$85,000. Defense counsel argued liability and suggested, in the alternate, that no matter who was at fault, Plntf was not injured. Dfnt also argued Plntf was at least fifty percent at fault, for not backing up. Additionally, Dfnt argued Plntf's chiropractic records were contradictory, and Plntf hired an attorney the day of the accident. Three day trial. Jury out fifteen minutes. FOUND FOR DFNT. UNANIMOUSLY.

\*\*\*\*\*